process. They will discuss a letter to the Secretary of Commerce on a fishing capacity reduction program, and will review the red snapper rebuilding plan regulatory amendment scoping document.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act), those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson Act, provided the public has been notified of the Council's intent to take final action to address the emergency. A copy of the Committee schedule and agenda can be obtained by calling (813) 228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 30, 2002.

Dated: August 23, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service

[FR Doc. 02–21973 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080802A]

Endangered Species; File No. 1316

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Jeffery R. Schmid, The Conservancy of Southwest Florida, 1450 Merrihue Drive, Naples, Florida 34102, has requested an amendment to scientific research Permit No. 1316.

DATES: Written or telefaxed comments must be received on or before September 27, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1316, issued on July 16, 2001 (66 FR 39014) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1316 authorizes the permit holder to capture, measure, flipper and PIT tag, attach radio/sonic transmitter and time/depth recorders and release 20 Kemp's ridley turtles in the Ten Thousand Islands, Florida. The permit holder requests authorization to increase this number to 30.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 21, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21810 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability of final report.

SUMMARY: Notice is hereby given of the availability of the final report ''Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries.'' The report describes the methodology by which NOAA will assess fair market value for submarine cables in national marine sanctuaries. In doing so, the report presents an overview of the relevant economic issues, including standard approaches to valuation, the market for cable rights of way and industry trends in telecommunications. It also provides the current range of fees that NOAA will consider to determine a final fee for fair market value.

DATES: August 28, 2002.

ADDRESSES: Copies of the final report are available from the NMSP's Web site (*www.sanctuaries.nos.noaa.gov*) or by contacting Matt Brookhart at the National Marine Sanctuary Program, 1305 East West Highway, N/ORM6, #11512, Silver Spring, MD 20910, (301) 713–3125 x140, or *matt.brookhart@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Matt Brookhart at (301) 713–3125 x140.

SUPPLEMENTARY INFORMATION:

I. Background

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*) allows the Secretary of Commerce (Secretary) to issue special use permits (SUPs) for specific activities within a national marine sanctuary (16 U.S.C. 1441). If a SUP application is issued, the NMSA also authorizes the Secretary to collect fees for the conduct of any activity under a SUP. If a fee is assessed, the fee amount must be equal to the sum of the cost incurred or expected to be incurred for issuing the permit, fees for activities directly related to the conduct of the permitted activity (including costs of monitoring the activity), and an amount that represents the fair market value of the use of sanctuary resources.

To date, the NMSP has issued two SUPs for submarine fiber optic cables in

national marine sanctuaries: One at the Olympic Coast National Marine Sanctuary (NMS) off of Washington State and the other at Stellwagen Bank NMS off the coast of Massachusetts. These SUPs allow for the long-term presence of cables in the sanctuaries and were issued in conjunction with an authorization of United States Army Corps of Engineers (ACOE) permits. The ACOE permits allow for the cable's installation, maintenance, and, when necessary, repair and/or rebuttal.

At the time of issuance of both of these SUPs, fees for the administrative costs of issuing the permits and for activities directly related to the permits were assessed. However, no amount representing the fair market value fee for a submarine cable in a NMS had been determined by the NMSP. As such, NOAA economists began drafting a methodology for determining the fair market value of these cable projects in December 1999. The draft report was published in the **Federal Register** for public comment on two separate occasions: first on January 5, 2001 (66 FR 1092) and then again on August 17 2001 (66 FR 43135). The comment period closed on October 16, 2001. Approximately 30 comments were submitted in total, 10 of which requested a time extension on the first comment period. Substantive comments have been reviewed and summarized by NOAA and are presented with responses in Section III of this notice.

II. Summary of Report

When a SUP is issued, the NMSA authorizes the Secretary to collect a fee equal to the fair market value for the use of sanctuary resources. The determination of fair market value for the presence of a fiber optic cable in a sanctuary is analyzed in the report entitled ''Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries.'' The report presents an overview of the relevant economic issues, including standard approaches to valuation, the market for cable rights of way, industry trends in telecommunications, and protection of sanctuary resources in the context of economic value.

The report recommends a valuation methodology based on analysis of previous right-of-way purchases. As fiber-optic cable networks have been developed and expanded over the past two decades, telecommunications companies have purchased numerous easements to extend cable over many thousands of miles (details of some of these transactions, or market ''comparables,'' are publicly available). By understanding the market conditions and business incentives that characterized previous transactions, the available data can be used to determine fair market value for rights to a given cable route. In the fair market value report, prices that prevail in the open market are applied to a SUP.

In the context of sound economic policy, any public benefits and losses associated with cables in sanctuaries need to be considered. Generally, the benefits of fiber-optic cables are in the form of internet access and other telecommunications good sold in consumer markets. The value of these benefits is estimated and accounted for by the party seeking a sanctuary permit. The cost of allowing cables in sanctuaries includes the expense of environmental monitoring and certain non-market losses associated with intrusions in a protected area. Only if total benefits exceed total costs should a cable be placed in a sanctuary. While estimating the non-market losses difficult, they are certainly greater than zero since many people would prefer to route cables around sanctuaries whenever possible. Economic efficiency (as well as market value with respect to a willing seller) requires that this non-market value be included in the price of sanctuary access, putting a lower bound on the fair market fee. This lower bound has not been estimated.

The telecommunications market has changed since a draft of the fair market value report was first released in September 2000. The current economic slowdown has led to a decline in the pace of fiber optic network expansion, and some evidence indicates that right of way values are lower. The revise report acknowledges the slowdown, but recent data on current market comparables is scarce. It is clear that the rapid expansion of fiber networks observed in the 1990s is no longer driving right-of-way values upward. But the report cites projections by industry analysts indicating that the pace of fiber deployment will rebound when the economy recovers, and will exceed previous levels by 2004. Analysis of market comparables in the current economic climate should consider the full range of observed prices, emphasizing long-term averages over short-term trends.

The report emphasizes the need to consider additional information that becomes available, while noting that many of the comparables used in the report represent high-profile projects, similar to a sanctuary crossing, transacted with the expectation of public awareness and scrutiny. Unfavorable economic conditions militate against selecting a value much higher than the long-term average, while reasonable stewardship of sanctuary resources weighs against the use of a value that is too low.

III. Recommendations

The authors of this report recommend the analysis of comparable previous transactions as the appropriate approach to determining fair market value. Most appraisers have rejected land-based, across-the-fence methods as inadequate to address current market conditions in the fiber-optic communications market. While the scenario of the willing buyer and seller emphasizes build-around cost as an upper bound on market value for rights of way, the information required to evaluate build-around cost, particularly for submarine cables, is prohibitive. Income-based analysis also requires substantial information that is not readily available in most cases. Furthermore, expectations about future income are already incorporated into previous market transactions.

The comparable transactions methodology leads to a current range of $40,000 to $100,000 per mile for the fair market value of a sanctuary permit. Valuation on a per-mile basis reflects common practice in the private right-of-way market. The range of values reflects the variability in fees observed over time and from case to case, as presented in Figure 1 of the report. Any figure within that range would be considered appropriate from the standpoint of economic valuation, and it is left to the judgment of the decision makers involved to weigh any relevant policy considerations in making a final determination.

The fair market value of a permit will change over time. The set of comparable transactions used to assess fair market value should be updated to reflect current conditions at the time an assessment is made. As in the current assessment, emphasis should be place on selected transactions that are particularly relevant to the case of a sanctuary permit. For example, long-haul routes, especially submarine cable routes, are important market comparables. Recent transactions and those involving an informed buyer and seller should be emphasized. Also, adjustments in value should be made based on the number of conduits installed in a given right of way, and the term length of the contract. Finally, in a market characterized by rapid change and wide variation in transactions data, average price trends over time are an important indication of fair market value.

IV. Summary of Comments and Responses

The following section presents NOAA's responses to the substantive comments received on the report during the public comment periods.

Comment 1: Charging for fair market value (FMV) fees in addition to other costs outlined in the SUP results in economic inefficiency.

Response: The NMSA stipulates that the NMSP may collect fees when issuing a SUP. If a fee is assessed, it must include among other things, an amount equal to the fair market value of the use of sanctuary resources. To the extent that economic efficiency is a policy goal, it would be unlikely to significantly change the appropriate fee. Efficiency requires that the fair market fee should equal the full marginal cost of access to a sanctuary. This would include permitting and monitoring costs, as well as an estimate of marginal environmental cost and public loss resulting from the cable intrusions. It is reasonable to assume that were these losses calculated and included in the fair market fee, the sum of costs alone (''competitive price'' would fall within the range of market prices contained in the report's analysis.

Comment 2: Because there is no scarcity of cable routes, the FMV should be zero or null.

Response: The notion that there is no scarcity of cable routes or rights of way presumes unconstrained access to sanctuaries for those seeking undersea cable routes. NOAA believes this is not the case, as a matter of law and as a matter of economics. A scarcity of cable routes does exist, not because cables might cover the ocean floor, but because other uses compete for the same resources. These uses include private ones, such as fishing, and public ones, such as resource protection. Although it may be true that ''the number of usable routes across a sanctuary is likely to be far greater than the number likely to be demanded,'' NOAA believes the public does not view the sanctuary as a limitless supply of cable routes.

Comment 3: The report's methodology leads to ''super-competitive'' fees flowing from an exercise of market power.

Response: The concept of ''fair market value'' refers to the value that would be observed under conditions that prevail in a free and open market. It is probably true that many of the transactions used in the FMV analysis involve the exercise of market or ''monopoly'' power by the seller. This is true of virtually all prices throughout the U.S. economy, where ''pure'' competition exists only in rare cases, such as the market for agricultural products or other commodities. Confining the report's methodology to the constraints of pure competition is not called for by the NMSA and is not what economists commonly understand when they refer to ''fair market value.''

In the case of a sanctuary permit, a price based on market power would use the concept of ''build-around'' cost. This is the cost to a telecommunications company of using the next best alternative route around a sanctuary. In other words, the power to exclude cables is the basis for a seller's market power, so a seller who fully exploits his market power would charge a price almost as high as the buyer's next best alternative. NOAA explicitly chose not to use this valuation method, avoiding reliance on market power in the calculation of fair market value. Also note that when the full public costs of allowing cables in sanctuaries are accounted for, an analysis of pure competition absent any market power is likely to lead to results similar to those of the draft report's methodologies (see response to Comment #1).

Comment 4: The goal of the draft report is to generate a right-of-way fee reflecting noncompetitive market conditions. The report specifically selects previous right-of-way transactions that involve a captive buyer.

Response: This was not the goal or method of the report. Data used in the report included all available transactions for underground fiber-optic rights of way greater than five miles in length. Proposed transactions and general fee policies were not included, only consummated transactions. As noted previously in Comment 3, noncompetitive conditions may be a characteristic of the market for fiber-optic cable rights of way.

Comment 5: Mitigation and monitoring fees should be deducted from any fair market value fee.

Response: Under the NMSA, if a fee is collected for issuance of SUP, that fee must include: (1) Costs incurred, or expected to be incurred, for the issuance of the permit; (2) costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and (3) an amount which represents the fair market value of the use of a sanctuary resource.

The methodology has been developed to determine the third condition above (an amount which represents fair market value). Because fees or monitoring and damage mitigation would be addressed by condition two, they would not be included in the determination of fair market value, but handled as separate costs incurred for the issuance of the permit.

Comment 6: The draft report does not attempt to adjust for differences between comparable transactions and the sanctuary right-of-way fee.

Response: The report does adjust for differences between comparable transactions. For example, shorter routes commanding a high price per lineal foot are excluded from the analysis. The reasons for this adjustment, along with support for other similar adjustments, are provided in the report.

The report does not follow the practice, common in the appraisal profession, of using a single similar transaction as a starting point. According to this practice, differences are accounted for between the chosen comparable and the transaction that is the subject of the valuation. As noted in the report, NOAA believes that information about the market value for a sanctuary permit is best obtained using data from numerous transactions. The report develops a methodology by analyzing trends in the market and understanding the conditions and characteristics that create right-of-way value. It should be noted that among the available data, the comparable transaction most similar to a sanctuary right of way would be the undersea cable permit issued by the California Coastal Commission. It was one of the most expensive routes observed anywhere.

Comment 7: NOAA should use rural routes adjacent to low-value lands as the most realistic comparables. Corridor values should not be included in the NOAA analysis. Routes serving major markets like New York City are more valuable than rural routes.

Response: Many of the routes included in the report's analysis are rural, long-haul routes connecting urban markets, similar to undersea cables. Based on the available data and the opinions of many market analysts, NOAA concludes that market value for long-haul routes does not significantly depend on the value of adjacent lands. It is not clear that excluding urban routes would be appropriate, nor that it would significantly change the methodology's results. To exclude corridor values from the analysis would be to accept the price of adjacent land as the appropriate measure of value, which, as stated, does not reflect market conditions. To the extent that urban market are associated with high-priced high-capacity routes with many fiber conduits, an adjustment has been made

in report's analysis: the price of a route is divided over the several conduits installed, resulting in a lower pro-rated for cable capacity.

Comment 8: The public benefits associated with development of the nation's telecommunications infrastructure should be taken into account in the fair market fee.

Response: Economic efficiency requires that all costs and benefits of a transaction be reflected in the transaction price. This includes costs and benefits reflected in market prices, such as the revenue fiber-optic carriers collect from consumers. It also includes costs and benefits not reflected in the market. The most significant non-market cost that should be included in the right-of-way fee is the environmental loss associated with having fiber-optic cables in national marine sanctuaries. The only non-market benefits included in the right-of-way fee should be those specifically associated with laying a cable through a sanctuary (as opposed to some other route). There is no information available to NOAA indicating that such benefits exist.

Comment 9: The economic state of the telecommunications industry is less favorable today than is reflected in the draft report.

Response: Periodic updates of the fee are envisioned in the report and additional efforts to update the report based on recent economic conditions has been undertaken. Additional criteria may also be considered when applying the methodology to determine the fee, including Federal telecommunications policy as established by the Department of Commerce and current market trend data.

Comment 10: The California State Land Commission (CLC) transactions of $280,000 per mile are a more appropriate basis for a fair market fee than the land-based transactions compiled in the report.

Response: More than a single transaction is needed to establish a reasonable basis for fair market value. Multiple transactions are required so that unusual circumstances of any given transaction do not unduly influence the establish fee. Furthermore, the CLC fees are for rights of way of only four miles in length. The report's analysis focuses on rights of way greater than five miles in length in order to obtain results most relevant to long-haul sanctuary routes.

Comment 11: The fee set for a submarine cable permit by the NMSP should be deliberately high to discourage companies from seeking routes through sanctuaries.

Response: The NMSP is authorized to collect fair market value for special uses of sanctuary resources. It does not use the fair market fee as a disincentive to those seeking to obtain a permit. The decision to grant, deny or place conditions on the permit is the proper mechanism for limiting use of sanctuary resources in the interest of resource protection.

Comment 12: Because no market exists for access to national marine sanctuaries, fair market valuation is inappropriate.

Response: Any fair market valuation must rely on market information absent the transaction being valued. While there is no open market trading for access to sanctuaries, there is a market for fiber-optic rights of way, and it is this market on which the report relies.

Comment 13: The income approach to valuation is inappropriate because the company receiving a sanctuary permit does not obtain complete ownership of the right of way and because there is no way to allocate the value of the right of way use to the right of way itself.

Response: The report does not recommend the income approach for valuation of sanctuary permits. A description of the approach is included in the report for completeness, based on use of the income approach in some right-of-way transactions and in asset valuation generally. However, it should be noted that the issues of incomplete ownership and allocation of value are not insurmountable, since they are specifically accounted for in some market transactions.

Comment 14: The report does not consider all possible environmental impacts from a specific cable project (such as marine mammal entanglement, strumming, release of drilling fluids, etc.)

Response: Environmental impacts of undersea fiber optic cables in marine sanctuaries are addressed in an environmental review that is part of the cable permitting process. The purpose of the fair market value analysis is to determine the fee for sanctuary access in those cases when a permit is issued. The determination of fair market value does not rely on an analysis of environmental impacts, and the fair market value report only addresses environmental impacts in an economic context, as a related issue.

Comment 15: NOAA's use of terrestrial examples as comparable transactions are inappropriate due to the fundamental difference between marine and terrestrial environments and differences in impacted user groups (*e.g.*, fishers).

Response: The market value for fiber-optic rights of way is not significantly tied to land values, but rather depends on constraints and incentives in the telecommunications industry and the role of a right of way in a larger fiber-optic network. These conditions are not dependent on the terrestrial or marine environment where the right of way is located. Also, the information available for submarine cables indicates that right-of-way transaction fees are similar in the two environments.

Comment 16: Any evaluation methodology for FMV should be based on the concept of the sanctuary as a non-willing seller (and nothing else).

Response: The concept of the willing buyer and willing seller is central to determining fair market value. The basis of fair market value is the price that would prevail in a free market transaction between a willing buyer and a willing seller. By examining previous transactions, the methodology used in the report follows this commonly accepted approach.

Comment 17: The methodology does not consider all types of rights of way and any Federal fair market value analysis should be conducted separately from those in the private sector.

Response: The NMSA requires that any fee collected by NOAA include fair market value for the use of sanctuary resources when issuing a special use permit (16 U.S.C. 1441(d)). By definition of fair market value, this requirement necessitates the use of market data involving buyers and sellers of privately owned assets. Transactions involving public entities are included in the analysis to the extent that they reflect values determined through private market incentives.

Comment 18: The NOAA FMV analysis ignores the intrinsic value of sanctuaries as pristine habitats and provides a windfall to businesses seeking to use them for private gain.

Response: It is true that the methodology endorsed in the report does not specifically rely on the calculation of environmental amenity value. The report considers such values, and concludes that they are correctly viewed as a lower bound on the appropriate fair market fee.

Comment 19: The two concepts of value used in the report (''fair market value'' and ''amenity value'') must be clearly distinguished.

Response: Fair market value refers to the price that would be agreed upon by a willing buyer and seller in an open market transaction. Amenity value refers to the importance placed on protecting the sanctuaries from the intrusion of cable and the loss associated with allowing a fiber-optic project. The report has been revised and

an attempt has been made to clarify this distinction.

Comment 20: The methodology must figure the cost of monitoring cable installation, cable burial, and damage mitigation fees into a final FMV fee (if such conditions are not agreed to in a permit).

Response: If a fee is collected for issuance of special use permit, that fee must include: (1) Costs incurred, or expected to be incurred, for the issuance of the permit; (2) costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and (3) an amount which represents the fair market value of the use of a Sanctuary resource.

The methodology has been developed to determine the third amount above (an amount which represents fair market value). Because fees for monitoring and damage mitigation would be addressed by condition two, they would not be included in the determination of fair market value.

Comment 21: Because the NMSP does not hold title to the seabed in a sanctuary (and is not, therefore, a property owner), it cannot be compared to the landowners used by the report in its comparable transaction analysis.

Response: As stated in the response to Comment #17, the NMSA authorizes NOAA to collect a fee when issuing a SUP. If a fee is collected, that fee must include among other things, an amount equal to the fair market value for the use of sanctuary resources. By definition of fair market value, this requirement necessitates the use of market data involving buyers and sellers of privately owned assets. Transactions involving public entities are included in the analysis to the extent that they reflect values determined through private market incentives.

Comment 22: The NOAA methodology is contrary to the Telecommunications Act of 1996, which supports a cost-based approach and mandates ''fair and reasonable'' fees for the installation and maintenance of telecommunications projects.

Response: NOAA believes that the methodology contained in the report will lead to fair and reasonable fees. A cost-based approach must include economic costs, not just accounting costs. For this reason, municipalities have considered disruptions to the flow of traffic when setting a reasonable fee for cable installation on public streets. The protected nature of a sanctuary also presents costs associated with cable installation, but these costs are difficult to evaluate. For this reason, NOAA believes that market values can be reasonably applied to the presence of cables in a sanctuary and that more conservation accounting measures of cost should be avoided.

Comment 23: Any FMV fee should be prorated over the period of the permit and paid on an annual basis (rather than a one-time, up front fee).

Response: NOAA intends to determine the FMV fee for any permit issued up front and in full. The payment schedule for such a fee, however, would be negotiated on a case-by-case basis between NOAA and the permittee. Any payment schedule that is not a one-time fee would be adjusted for inflation. Any negotiated payment schedule would also include safeguards (e.g., performance bond) to ensure that full payment is made to NOAA. For any future SUPs issued for a cable in national marine sanctuary, all payment schedules and payment safeguards will be included as permit conditions.

Comment 24: the NMSP should consider reducing individual fees on a per-cable basis for cables located within an approved corridor.

Response: At this time, NOAA is developing a policy on the installation of submarine cables in national marine sanctuaries. Cable corridors are one of the issues that will be considered while developing this policy.

Comment 25: It is inaccurate for NOAA to assume in the report that all cables can be successfully buried.

Response: The fair market value report deals with environmental impacts as a matter of general background and in the limited context of economic efficiency (see responses to comments #8 and #14. Since the methodology presented does not rely on an assessment of environmental impacts, the report does not attempt to describe the impacts in a complete and thorough manner. NOAA agrees, however, that submarine cables are not always successfully buried and that burial might not be possible in some locations.

Comment 26: Under restrictions imposed by the NMSA, special use permits cannot be used to generate income for NOAA and the Federal government.

Response: NOAA agrees. Any fair market value fee would not be used to generate extraneous income for the NMSP or the Federal government. It would, rather, be used wholly in accordance with the NMSA as ''expenses for managing National Marine Sanctuaries'' (16 U.S.C. 1441(d)(3)(B).)

Comment 27: The use of the term ''fair market value'' is contrary to certain Federal telecommunications and security policies that lift governmental barriers to the facilitation of communications networks for reasons of both economy and national security.

Response: NOAA disagrees. Please see the responses to Comments #22 and #40.

Comment 28: NOAA's imposition of exorbitant fees on cable operators is contrary to the Department of Commerce's mission of strengthening and safeguarding the country's economy.

Response: The mission of the Department of Commerce is comprised of three basic tenets: (1) Build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the nation's economic infrastructure; (2) Keep America competitive with cutting-edge science and technology and an unrivaled information base; and (3) Provide effective management and stewardship of the nation's resources and assets to ensure sustainable economic opportunities.

To date, no fees have been established or imposed regarding FMV for submarine cables in national marine sanctuaries. However, when the FMV fees are applied to the existing special use permit holders, they will be taken from a range of current comparable transactions (many of which focus on the telecommunications industry). NOAA believes this range ensures that any FMV fees are sound, fair, and reasonable and do not promote a contradiction of any of the tenets of the DOC mission statement.

Comment 29: The report's methodologies will result in exceedingly high fees compared to the negligible impact of cable installation.

Response: As mentioned in the response to Comment #28, methodologies employed by the report ensure fees remain with a range of current comparable transactions from a variety of different examples.

Comment 30: NOAA's FMV fees are wholly unrelated to its mission of protection of sanctuary resources.

Response: The NMSA authorizes the NMSP's collection of fair market value for the use of sanctuary resources. Should NOAA allow the cable and issue a SUP, such amounts will be used for ''expenses of managing national marine sanctuaries'' (16 U.S.C. 1441(d)(3)(B)).

Comment 31: NOAA has no experience in the telecommunications industry and, therefore, has little business setting fee structures regarding fiber optic cables.

Response: NOAA economists, working in conjunction with a number of contracted non-Federal economists, have produced a comprehensive report that uses several approaches to determining fair market value, including recent comparables from various telecommunications industry transactions. The collective experience of these economists with valuation is extensive. Furthermore, the report was submitted for peer review to two leading economic analysts: Dr. Richard Schmallensee, Dean of the MIT Sloan School of Business and the KMI Corporation, a consulting firm in the telecommunications industry that has evaluated the right of way market on several occasions and does on-going research on undersea cables and the transoceanic fiber optic market. Both analysts concluded that the methodology was sound, fair, and reasonable.

Comment 32: NOAA should not implement a fee-setting methodology for special use permits before it determines whether the issuance of such permits is appropriate.

Response: NOAA has developed the FMV analysis as part of its process for developing an overall policy concerning the installation of submarine cables in national marine sanctuaries that have already been issued. These permits were issued as independent, site-specific actions and would not be affected retroactively by any future programmatic policy or regulations the NMSP may develop on submarine cables. The fair market value fee will be applied to both of the current special use permit holders and to any other cable that may receive a special use permit in a national marine sanctuary in the future.

Comment 33: Administrative law condemns retroactive application of any FMV fee.

Response: NOAA will not assess FMV fees retroactively. NOAA will apply the methodology in the report to determine the FMV fee for current special use permit holders with the payment of FMV stipulated in their permits. NOAA will also use the report's methodology to determine the FMV for any future special use permit that may be issued for a submarine cable in an NMS.

Comment 34: The NMSP has no jurisdiction outside of Sanctuaries and cannot impose any FMV fees on cable carriers outside of Sanctuaries.

Response: FMV Fees assess by the NMSP apply only to cables located in sanctuaries.

Comment 35: Submarine cables, do not ''use'' sanctuary resources as stipulated in the NMSA and therefore cannot be subjected to special use permits and/or any FMV fee.

Response: ''Sanctuary resource'' is defined by the NMSA as ''any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archaeological, scientific, or aesthetic value of the sanctuary'' (16 U.S.C. 1432 (8)). Seafloor substrate fits this definition as it contributes to all of the criteria. A submarine cable depends on the substrate as a means of support. In this regard, a cable (as a permanent or semi-permanent structure) uses a sanctuary resource (the seafloor) to bear it from one point to another and may preclude other uses of the resource. Therefore, it is subject to the NMSA if it is in a national marine sanctuary.

Comment 36: All FMV fees should be used solely by the NMSP.

Response: All FMV fees will be used solely by the NMSP.

Comment 39: When applying FMV fees, NOAA should distinguish between commercial and research cables (and not apply FMV to research cables).

Response: FMV fees apply for those activities authorized under a special use permit. When the purpose of an activity is scientific research related to NMS resources, the activity can be permitted under a research permit (which has no associated fee).

Comment 40: The imposition of fees proposed in the report will significantly impact costs associated with international electronic commerce and stifle efforts to extend global digital information opportunities.

Response: The range of fees proposed in the report is based on recent comparable transactions from a number of different examples. These comparables ensure that any FMV fees will fall within an array of current market figures and will not be exorbitant or crippling to international electronic commerce.

Section V: Next Steps.

NOAA will meet with the existing special use permit holders to determine the fair market value owed on their permits. The fee will be based on the methodology in this report. The range of fees presented in the report will also be used as the basis for determining FMV for any future special use permit that may be issued by the NMSP for a submarine cable in a national marine sanctuary. To remain current, it is envisioned that NOAA will periodically update the range of fees with current data.

Dated: August 21, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–21975 Filed 8–27–02; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, (44 U.S.C. chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, William M. Ward, at (202) 606–5000, extension 375 or by e-mail at *WWard@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (800) 833–3722 between the hours of 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC, 20503, (202) 395–7316, within 30 days from the date of publication in this **Federal Register**.

The OMB 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 Corporation'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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or