10-1-90
Vol. 55 No. 190

federal register

Monday
October 1, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

10-1-90
Vol. 55 No. 190
Pages 39911-40150

federal register

Monday
October 1, 1990

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

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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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1204

Availability of Official Information

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: To reflect a change in the delegations of authority from the Chairman, the Merit Systems Protection Board is amending its rules implementing the Freedom of Information Act by changing the official to whom appeals of denials of access to records and denials of fee waivers are to be directed.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Director, Information Services Division, (202) 653-8120.

List of Subjects in 5 CFR Part 1204

Freedom of information, Administrative practice and procedure, Privacy.

Accordingly, the Board amends title 5, part 1204, Subpart C-Appeals of the CFR as follows:

PART 1204—[AMENDED]

1. The authority citation for part 1204 continues to read as follows:

Authority: 5 U.S.C. 552 and 1204, Pub. L. 99-570 and E.O. 12600.

2. Section 1204.21 is revised to read as follows:

§ 1204.21 Submission.

A person may appeal a denial by the Clerk of the Board, or by any regional director, of access to agency records, waiver of fees, or reduction of fees. The appeal must be filed with the Executive Director, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419. Any appeal must include a copy of the initial request, a copy of the letter denying the request, and a statement of the reasons why the appellant believes the denying official erred.

Dated: September 25, 1990.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 90-23096 Filed 9-28-90; 8:45 am]

BILLING CODE 7400-01-M

5 CFR Part 1205

Privacy Act Regulations

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: To reflect a change in the delegations of authority from the Chairman, the Merit Systems Protection Board is amending its rules implementing the Privacy Act by changing the official to whom appeals of denials of access to records and denials of fee waivers are to be directed.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Director, Information Services Division, (202) 653-8120.

List of Subjects in 5 CFR part 1205

Privacy, Administrative practice and procedure, Government employees.

Accordingly, the Board amends 5 CFR Part 1205 Subpart D-Appeals as follows:

1. The authority citation for part 1205 continues to read as follows:

Authority: 5 U.S.C. 552a and 1204.

2. Section 1205.31(a) is revised to read as follows:

§ 1205.31 Submitting appeal.

(a) A partial or complete denial, by the Clerk of the Board or a regional director, of a request for amendment may be appealed to the Executive Director, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

* * * * *

3. Section 1205.32 is revised to read as follows:

§ 1205.32 Decision on appeal.

(a) The Executive Director will decide the appeal within 30 working days unless that official determines that there is good cause for extension of that deadline. If an appeal is improperly labeled, does not contain the necessary information, or is submitted to an inappropriate official, the time period for processing the appeal will begin when the Executive Director receives the appeal and the necessary information.

(b) If the request for amendment of a record is granted on appeal, the Executive Director will direct that the amendment be made. A copy of the amended record will be provided to the requester.

(c) If the request for amendment of a record is denied, the Executive Director will notify the requester of the denial and will inform the requester of:

(1) The basis for the denial;

(2) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A); and

(3) The right to file a concise statement with the Board stating the reasons why the requester disagrees with the denial. This statement will become a part of the requester's record.

Dated: September 25, 1990.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 90-23097 Filed 9-28-90; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-88-126]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Final Amendments to the United States Standards for Dry Whey and the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the United States Standards for Dry Whey. The revision allows the moisture removed from cheese curd as a result of salting ("salty whey") to be collected for further processing as whey if the

collection of the moisture and the removal of the salt from the moisture are conducted in an approved manner. The revision takes into consideration new technology for removing salt from salty whey. A corollary change has been made in the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Duane R. Spomer, Head, Dairy Standardization Section, U.S. Department of Agriculture, Agricultural Marketing Service, Dairy Division, room 2750 South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–3171.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that the final rule will not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and the revisions will not increase costs to those utilizing the standards.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Section conducted a review of the United States Standards for Dry Whey. The objective of the review was to obtain both current and historical information relating to a proposal to allow the moisture removed from cheese curd as a result of salting (salty whey) to be collected for further processing as whey if the salty whey has been collected and the salt has been removed in an approved and sanitary manner. The review took into consideration new technology for removing salt from salty whey.

The review involved the collection and evaluation of information from the Department's Dairy Grading Section and representatives of the whey processing industry. It was determined that modern equipment and processes can collect the salty whey and remove the salt from it in a sanitary manner. In the past, salty whey has been discarded. The U.S. Standards for Dry Whey have been revised to allow the collection of salty whey and, after the salt has been removed, the further processing of the remaining material as whey.

USDA grade standards are voluntary standards that are developed pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to facilitate the marketing process. Manufacturers of dairy products are free to choose whether or not to use these grade standards. USDA grade standards for dairy products have been developed to identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of the product—its marketability as a commodity. When dry whey is officially graded, the USDA regulations and standards governing the grading of manufactured or processed dairy products are used. These regulations also require a charge for grading service provided by USDA.

A corollary change has been made in Part 58, Subpart B, entitled General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform the definition of whey set forth therein with the revised U.S. Standards for Dry Whey.

Changes Adopted in the Final Rule

This document makes the following revisions to the United States Standards for Dry Whey and amends the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service:

1. Revise the definition for whey to allow the moisture removed from cheese curd as a result of salting (salty whey) to be collected for further processing as whey if the salty whey has been collected and the salt has been removed in an approved and sanitary manner.

2. A corollary change has been made in part 58, subpart 8, entitled General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform to the definition of whey set forth therein with the revised U.S. Standards for Dry Whey.

Response to Industry Comments

A rulemaking document proposing the changes outlined above was published in the **Federal Register** on June 15, 1990 (55 FR 24248). A 60-day comment period was provided so that interested persons could submit comments on the proposed changes.

The Agency received one comment form an institute representing the dry products industry, and one comment from an individual representing a major dairy company. Both commenters were in favor of the proposed changes and both suggested that the revision be made effective as soon as the docket is printed in the **Federal Register** as a final rule.

Good cause is found for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of the new technology which enables salty whey to be further processed. Applicants for service should be able to utilize this technology as soon as possible. Additionally, both comments received supported an immediate effective date and no useful purpose would be served by any delay in the effective date of the rule.

List of Subjects in 7 CFR Part 58

Dairy products, food grades and standards, food labeling, reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 58 is revised as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: Sections 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. In subpart B, § 58.805(a) is revised to read as follows:

§ 58.805 Meaning of words.

* * * * *

(a) *Whey.* "Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Moisture removed from cheese curd as a result of salting may be collected for further processing as whey if the collection of the moisture and the removal of the salt from the moisture are conducted in accordance with procedures approved by the Administrator.

* * * * *

3. The authority citation for 7 CFR part 58, subpart 0 continues to read as follows:

Authority: Agricultural Marketing Act of 1946; secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

4. In subpart 0, § 58.2601 is revised to read as follows:

§ 58.2601 Whey.

"Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Moisture removed from cheese curd as a

result of salting may be collected for further processing as whey if the collection of the moisture and the removal of the salt from the moisture are conducted in accordance with procedures approved by the Administrator.

Signed at Washington, DC, on September 26, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-23153 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

7 CFR Parts 723, 724, 725, and 726

Farm Marketing Quotas, Acreage Allotments, and Production Adjustment; Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule, with minor corrections, the proposed rule published in the Federal Register on June 20, 1990 (55 FR 25096). This rule amends the regulations at 7 CFR parts 723, 724, 725, and 726 which implements the tobacco marketing quota and acreage allotment programs authorized by the Agricultural Adjustment Act of 1938, as amended (the 1938 Act). This rule removes 7 CFR parts 724, 725, and 726; and revises part 723 to consolidate parts 724, 725, and 726. It deletes obsolete and unnecessary provisions and includes Puerto Rico (type 46) tobacco in marketing quota regulations. No substantive changes of current regulations are included in this final rule.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Raymond S. Fleming, Agricultural Program Specialist, Tobacco and Peanuts Division, ASCS-USDA, P.O. Box 2415, Washington, DC 20013, telephone (202) 447-4318.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512-1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation have been approved by OMB under the provisions of 44 U.S.C., chapter 35 and have been assigned OMB #0560-0058 and #0560-0006.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The regulations in 7 CFR parts 723 through 726 set forth the provisions of the tobacco marketing quota and acreage allotment programs. Part 723 is currently applicable to Cigar-filler (type 41) and Maryland (type 32) tobacco. Part 724 is currently applicable to Fire-cured, Dark air-cured, Virginia sun cured, Cigar-binder (types 51 and 52), Cigar-filler and binder (types 42, 43, 44, 54, and 55) tobacco. Part 725 is currently applicable to Flue cured tobacco and part 726 is currently applicable to Burley tobacco. This final rule revises part 723 and removes all references to Cigar-binder (types 51 and 52) tobacco in part 724 since marketing quotas are not currently in effect with respect to these kinds of tobacco.

A proposed rule was published in the Federal Register on June 20, 1990, (55 FR 25096), to consolidate 7 CFR parts 723 through 726 into part 723. This was done because numerous provisions in the various parts were identical. Therefore, consolidation of the parts will result in more uniformity in the provisions and more efficient program administration. This rule does not impose additional regulatory provisions. However, obsolete and unnecessary regulations are removed. The rule reduces paperwork and recordkeeping by tobacco producers and industry entities.

The public was given 30 days to submit written comments on the proposed rule published in the Federal Register on June 20, 1990, (55 FR 25096) with respect to any provisions of part 723 which are unnecessary or unclear. There were two (2) public comments received on the proposed rule from State ASC Committees. These comments addressed typographical errors and omission of certain provisions. These pertinent errors are corrected in the final rule. The comments included recommendations for changes in the tobacco program that were not included for consideration in the proposed rule. While these recommendations are not included in the final rule because the public was not afforded an opportunity to comment on them, these recommendations will be considered for inclusion in a future proposed rule. Accordingly, the proposed rule which was published in the Federal Register on June 20, 1990, (55 FR 25096) is adopted, with minor corrections, as the final rule.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 724

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

7 CFR Part 725

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

7 CFR Part 726

Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

Final Rule

For the reasons set forth in the preamble, chapter VII, title 7 of the CFR is amended as follows:

PARTS 724, 725, and 726—[REMOVED]

Accordingly, parts 724, 725, and 726 are removed and the present part 723 is revised to read as follows:

PART 723—TOBACCO

Subpart A—General Provisions

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723.102 Applicability.
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Subpart B—Allotments, Quotas, Yields, Transfers, Release and Reapportionment, History Acreages, and Forfeitures

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723.205 Determination of farm acreage allotments and effective farm acreage allotments for flue-cured tobacco.
723.206 Determining farm marketing quotas and effective farm marketing quotas.
723.207 Determination of acreage allotments or burley marketing quotas for new farms.
723.208 Determination of acreage allotments, marketing quotas, and yields for divided farms.
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723.212 Time for making reduction of farm marketing quotas or acreage allotments for violation of the marketing quota or acreage allotment regulations for a prior marketing year.
723.213 Approval of acreage allotments and marketing quotas and notices to farm operators.
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723.215 Transfer of tobacco farm acreage allotment or farm marketing quota that cannot be planted or replanted due to a natural disaster.
723.216 Transfer of tobacco acreage allotment or marketing quota by sale, lease, or owner.
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723.218 Determining tobacco history acreage.
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Subpart C—Tobacco Subject to Quota, Exemptions From Quotas, Marketing Cards, and General Penalty Provisions

723.301 Identification of tobacco subject to quota.
723.302 Tobacco for experimental purposes.
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723.304 Determination of discount varieties.
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723.308 Rate of penalty.
723.309 Persons to pay penalty.
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Subpart D—Recordkeeping, Reporting Requirements, Marketing Penalties, and Other Penalties

723.401 Registration of burley or flue-cured warehouse operators or dealers.
723.402 Warehouse authorized to retain producer marketing cards between sales.
723.403 Auction warehouse operators' records and reports.
723.404 Dealer's records and reports, excluding cigar tobacco buyers.
723.405 Dealers exempt from regular records and reports on MQ–79; and season report for dealers.
723.406 Provisions applicable to damaged tobacco or to purchases of tobacco from processors or manufacturers.
723.407 Cigar tobacco buyer's records and reports.
723.408 Producer's records and reports.
723.409 Producer penalties; false identification and related issues.
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723.412 Separate records and reports from persons engaged in tobacco related businesses.
723.413 Length of time records and reports are to be kept.
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723.415 Examination of records and reports.
723.416 Information confidential.

Authority: 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378 and 1421.

Subpart A—General Provisions

§ 723.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 723) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of U.S.C. chapter 35 and have been assigned OMB control numbers 0560–0058 and 0560–0006.

§ 723.102 Applicability.

The regulations contained in this subpart are applicable to the 1990 and subsequent crops of burley; flue-cured; fire-cured; dark air-cured; Virginia sun-cured; cigar-filler and binder (types 42, 43, 44, 54, and 55); and Cigar filler (type 46) tobacco. These regulations govern the establishment of farm marketing quotas and acreage allotments, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties and the keeping of records and making of reports. All of the provisions of these regulations apply to each kind of tobacco for which marketing quotas are in effect unless the wording of the text indicates otherwise.

§ 723.103 Administration.

(a) The regulations in this part will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service ("ASCS") and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees ("State and county ASC committees").

(b) State and county ASC committees, and representatives and employees thereof do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State ASC committee shall take any action required by these regulations which has not been taken by the county ASC committee. The State ASC committee shall also:

(1) Correct, or require a county ASC committee to correct any action taken by such county ASC committee which is not in accordance with the regulations of this part, or

(2) Require a county ASC committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county ASC committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the regulations of this part or from reversing or modifying any determination made by a State or county ASC committee.

§ 723.104 Definitions.

(a) *Applicability.* The definitions set forth in this section shall be applicable for all purposes of program administration for all kinds of tobacco except as may otherwise be indicated. The definitions in and provisions of parts 718, 719 and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or

subject matter or the provisions of these regulations require otherwise.

(b) *Terms.* The following terms shall be defined as set forth in this paragraph.

Act. The Agricultural Adjustment Act of 1938, as amended.

Active burley tobacco producer. Any person who intends to be a burley tobacco producer in the current year by sharing in the risk of producing the crop and who provides a certification of such intention on a form provided by the Deputy Administrator.

Active flue-cured tobacco producer. (1) Any person who shared in the risk of producing a crop of flue-cured tobacco in at least one of the three years preceding the current year, or

(2) Any person who intends to become a flue-cured tobacco producer in the current year by sharing in the risk of producing the crop and who provides a certification of such intention on a form approved by the Deputy Administrator.

Allowable floor sweepings. The quantity of floor sweepings determined by multiplying 0.0024 times the total producer first sales of the respective kind of tobacco at auction for the season for the warehouse involved.

Auction sale. A marketing of tobacco by a sale at public auction through a warehouse in the regular course of business including sale of all lots of tobacco at public auction in sequence at a given time.

Base Period. The 5 calendar years immediately preceding the year for which farm acreage allotments or marketing quotas are currently being established.

Buyer. A person who engages to any extent in acquiring or marketing tobacco in the form normally marketed by producers.

Buyers corrections account. The warehouse account of tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouse operator and supported by an adjustment invoice from the buyer. This account shall include the pounds deducted resulting from returned lots, short lots, and short weights, and pounds added resulting from long lots and long weights, which buyers debit or credit to the warehouse operator and support with adjustment invoices.

Carryover tobacco. Tobacco produced prior to the current calendar year which has not been marketed or otherwise disposed of prior to the beginning of the marketing year for the current crop.

Considered planted acreage. An acreage that is used for determining an old farm's history acreage for a kind of tobacco when the acreage planted on the farm to the kind of tobacco in the current year is less than the farm acreage allotment established for such farm in the current year. With respect to:

(1) *Flue-cured tobacco.* If flue-cured tobacco was marketed from the farm during the current year, the considered planted acreage is an acreage determined by subtracting the planted acres from the farm acreage allotment. If flue-cured tobacco was not marketed from the farm in the current year, the considered planted acreage is an acreage, not to exceed the farm's acreage allotment, that is equal to the sum of the acreage:

(i) That could not be planted to flue-cured tobacco because of a natural disaster,

(ii) Computed for pounds leased from the farm,

(iii) In the eminent domain pool,

(iv) Reduced for overmarketing,

(v) Reduced for violation of marketing quota regulations, and

(vi) Converted from the production of flue-cured tobacco during the respective crop year in accordance with part 704 of this chapter.

(2) *A kind of tobacco other than burley or flue-cured tobacco.* The considered planted acreage for a farm is an acreage, not to exceed the farm's acreage allotment, that is equal to the sum of the acreage:

(i) That could not be planted to the kind of tobacco because of a natural disaster.

(ii) Temporarily transferred from the farm.

(iii) Temporarily released.

(iv) Converted from production of the kind of tobacco in accordance with part 704 of this chapter.

(v) In the eminent domain pool.

(vi) Reduced for violation of the regulations set forth in this part.

Container. A package in which tobacco is marketed, packed, and stored.

Current crop. The crop planted in the current year.

Current year. The calendar year for which acreage allotments are being established, or tobacco history acreage and yields are being determined, or the farm is being considered under the provisions of the marketing quota program.

Dealer. A person who engages to any extent in acquiring or marketing tobacco in the form normally marketed by producers.

Director. The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

Effective farm acreage allotment. The effective farm acreage allotment for flue-cured tobacco is the allotment determined under Sec. 723.205 of this part.

Effective farm marketing quota. The effective farm marketing quota is the current year farm marketing quota plus or minus any temporary quota adjustments.

Excess tobacco for a farm. (1) For burley and flue-cured tobacco. The quantity of tobacco marketed above 103 percent of the effective farm marketing quota.

(2) *For kinds of tobacco other than burley or flue-cured.* That quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm times the number of acres harvested in excess of the farm acreage allotment, plus any carryover excess tobacco.

Experimental tobacco. Tobacco grown by or under the direction of a publicly owned agricultural experiment station for experimental purposes only.

False identification. False identification occurs if:

(1) Tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on any farm when, in fact, it was produced on another farm; or

(2) Tobacco was marketed or was permitted to be marketed in any marketing year from a farm and was not identified by a tobacco marketing card for the farm; or

(3) The farm operator or any other producer on a farm permits the use of the tobacco marketing card for the farm to record a marketing of tobacco when, in fact, no tobacco was marketed from the farm.

(4) A tobacco marketing card issued to market a kind of tobacco is used to market another kind of tobacco produced on the same farm.

Family farm corporation. A corporation for which:

(1) Not less than 50 percent of the stock is owned by:

(i) An individual or;

(ii) An individual in combination with:

(A) The spouse of such individual; or

(B) The parent, aunt, uncle, child, grandchild, or cousin of such individual; or

(C) A spouse of any individual specified in paragraph (1)(ii)(B) and;

(2) One or more of the individuals specified in paragraph (1) participates in the direct management of the day to day operations of the corporation.

Farm acreage allotment. For flue-cured tobacco, the allotment established

in accordance with § 723.205 of this chapter.

Farm marketing quota—(1) *For burley tobacco, old farms.* The pounds determined by multiplying the preliminary farm marketing quota by the national factor and adjusting the result for any permanent quota adjustment.

(2) *For burley tobacco, new farms.* The pounds for the farm determined by the county ASC committee with the approval of the State ASC committee.

(3) *For flue-cured tobacco.* The pounds determined by multiplying the farm acreage allotment by the farm yield.

(4) *For kinds of tobacco other than burley or flue-cured.* The actual production of tobacco on the farm acreage allotment, which shall be the average yield per acre for the entire acreage of tobacco harvested on the farm times the farm acreage allotment.

Farm yield. The yield determined as provided in § 723.204 of this part.

Floor sweepings. The scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business.

Green weight. The weight of tobacco which is in the form normally marketed by farmers prior to being redried, or processed.

Leaf account tobacco. The quantity of tobacco purchased or otherwise acquired by or for the account of a warehouse operator, including floor sweepings purchased from another warehouse operator or dealer, as adjusted by the debits and credits to the buyers correction account. Such quantity shall not include tobacco in the form not normally marketed by producers, including tobacco pickings, and floor sweepings which accumulate on the warehouse floor.

Market. The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons. "Marketing" and "marketed" shall have corresponding meaning to the term "market."

Marketing recorder. Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service county (ASCS) office, whose duties involve the preparation and handling of the records and reports pertaining to the identification of marketing of tobacco.

Marketing year. (1) For flue-cured tobacco, the period beginning July 1 of the current year and ending June 30 of the following year.

(2) For kinds of tobacco other than flue cured. The period beginning October 1 of the current year and ending September 30 of the following year.

New farm. A farm for which an acreage allotment or marketing quota is established for the current year from the national reserve that is set aside for such purpose from the national acreage allotment or marketing quota established for the kind of tobacco.

Nonauction sale. Any first marketing of tobacco other than by a sale at auction.

Old farm—(1) *For burley tobacco.* A farm which had burley tobacco planted or considered planted in one or more years of the base period.

(2) *For tobacco other than burley.* A farm on which there is tobacco history acreage in one or more years of the base period.

Overmarketings. The pounds by which the pounds marketed exceed the effective farm marketing quota.

Planted or considered planted credit. For burley tobacco, credit that is assigned in the current year for a farm with an established farm marketing quota when:

(1) Burley tobacco is planted on the farm.

(2) Burley tobacco could not be planted because of a natural disaster.

(3) Quota is:

(i) Leased and transferred from the farm, or

(ii) In the eminent domain pool.

(4) A restrictive lease on federally owned land is in effect prohibiting tobacco production.

(5) Effective quota is zero because of overmarketings or a violation of regulations, or

(6) Acreage is converted from production of burley tobacco in accordance with part 704 of this chapter.

Pound. The amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is normally marketed by a producer, would equal 1 pound standard weight.

Preceding year. The calendar year immediately preceding the year for which the allotments and quotas are established, or the marketing year preceding the marketing year for which the allotments and quotas are established.

Preliminary farm marketing quota. For burley tobacco, the farm marketing quota for the preceding year.

Preliminary farm yield. For flue-cured tobacco, the yield determined for a farm as provided in § 723.203 of this part.

Processed, Processing. A method of preparing green weight tobacco for storage in which the tobacco may be redried, stemmed, tipped or threshed and the resulting product packed in a container.

Production record. A record prepared by a processor to account for the processing of tobacco.

Quota adjustments. For burley tobacco:

(1) *Temporary.* Adjustments for:

(i) Effective undermarketings,

(ii) Overmarketings from any prior year,

(iii) Reapportioned quota from quota released from farms in the eminent domain pool,

(iv) Quota transferred by lease or by owner,

(v) Pounds in violation of the regulations for a prior year, and

(vi) Pounds reduced from the burley tobacco quota during the current year in accordance with part 704 of this chapter.

(2) *Permanent.* Adjustments for:

(i) Old farm adjustment from reserve,

(ii) Pounds of quota transferred to the farm from the eminent domain pool,

(iii) Pounds of quota transferred to or from the farm by sale,

(iv) Pounds of quota transferred to the farm from the forfeiture pool, or

(v) Pounds of forfeited quota.

Resale. The disposition by sale, barter, exchange, or gift between living persons, of tobacco which has been marketed previously.

Sale. The first marketing of tobacco on which the gross amount of the sale price therefore has been or could be readily determined.

Sale date. The date on which the gross amount of the sale price of tobacco is determined.

Sale day. The period at the end of which the warehouse operator bills to buyers the tobacco purchased by them during such period.

Scrap tobacco. The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

Shared in the risk of production. For burley or flue-cured tobacco, involvement in the production of the respective kind of tobacco by a person who:

(1) Invests in the production of a crop of the respective kind of tobacco in an amount which is not less than 20 percent of the proceeds of the sale of the crop;

(2) Depends solely on a share of the proceeds from the marketing of the tobacco for the return on the investment;

(3) Waits until such crop of tobacco is marketed to receive any return on the investment; and

(4) Maintains records, for a period of 3 years after the end of the marketing year in which the tobacco is sold, which may be used to verify that the provisions of this definition have been met.

Strip, scrap, stem. Types of products resulting from processing of tobacco.

Suspended sale. Any marketing of tobacco at auction for which the sale is not identified by a producer marketing card or a dealer's identification card by the end of the sale day on which such marketing occurred.

Tillable cropland. With respect to flue-cured tobacco only, cropland (excluding orchards, vineyards, land devoted to trees, and land being prepared for non-agricultural uses) which the county ASC committee determines can be planted to crops without unusual preparation or cultivation.

Tobacco. Kinds of tobacco that are subject to marketing quotas as follows: Burley tobacco, (type 31); Flue-cured tobacco, (types 11, 12, 13, and 14); Fire-cured tobacco (types 21, 22, and 23); Dark air-cured tobacco (types 35 and 36); Virginia sun-cured tobacco (type 37); Cigar filler (type 46); and Cigar-filler and binder tobacco (types 42, 43, 44, 54, and 55) as classified by the Agricultural Marketing Service at part 30 of this title.

Tobacco available for marketing. All tobacco produced on a farm which has not been marketed and which has not been disposed of so that it cannot be marketed.

Tobacco in the form not normally marketed by producers. Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, stemmed, tipped, threshed or otherwise processed.

Tobacco pickings. The residue which accumulates in the course of processing tobacco prior to the redrying of such tobacco, consisting of scrap, stems, portions of leaves, and leaves of poor quality shall be considered to be tobacco in the form not normally marketed by producers.

Trucker. A person who trucks, or who otherwise hauls tobacco for a producer, or for any other person.

Undermarketings. For burley or flue-cured tobacco, the actual undermarketings are the pounds by which the effective farm marketing quota is more than the pounds of the respective kind of tobacco marketed, and the effective undermarketings are the smaller of actual undermarketings or the sum of the previous year's farm marketing quota plus pounds of quota temporarily transferred to the farm for the previous year. However, with respect to the 1989 crop, actual undermarketings are the number of pounds by which the effective farm marketing quota is more than the sum of the number of pounds of tobacco marketed and number of pounds for which a disaster payment was made on the 1989 crop of tobacco under part 1477 of this title.

Warehouse operator. A person who engages in the business of conducting a sale of tobacco at public auction.

§ 723.105 Extent of determinations, computations, and rule for rounding fractions.

(a) *General.* All rounding herein shall be in accordance with the provisions of part 793 of this chapter.

(b) *Allotments.* Farm acreage allotments shall be determined in hundredths of acres.

(c) *Percent excess.* The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be determined in tenths of a percent.

(d) *Converted rate of penalty.* For tobacco other than burley or flue-cured, the amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be determined in tenths of a cent.

(e) *Percentage reduction for violation.* A percentage of reduction in an allotment due to a violation shall be determined in tenths of a percent.

(f) *Yields and quotas.* Yields and quotas shall be determined in whole pounds.

§ 723.106 Location of farm for administrative purposes.

The location of a farm in a county for administrative purposes shall be as provided in part 719 of this chapter.

Subpart B—Allotments, Quotas, Yields, Transfers, Release and Reapportionment, History Acreages, and Forfeitures

§ 723.201 Determination of preliminary farm acreage allotments and preliminary farm marketing quotas.

(a) *Flue-cured tobacco.* A preliminary farm acreage allotment shall be determined for the current year for each farm which has flue-cured tobacco history acreage for the base period. The preliminary farm acreage allotment shall be the same as the farm acreage allotment established for the preceding year.

(b) *Burley tobacco.* The preceding year's farm marketing quota shall be the current year's preliminary farm marketing quota for each old farm except that the preliminary farm marketing quota shall be zero if:

(1) The farm or all of cropland has gone out of agricultural production and eminent domain procedure of part 719 of this chapter does not apply.

(2) Quota that was pooled under the provisions of part 719 of this chapter has been canceled.

(3) A new farm quota that was established in a prior year is canceled.

(4) There was no acreage of burley tobacco planted or considered planted for any year of the base period.

(c) *Kinds of tobacco other than flue-cured and burley.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as established under paragraph § 723.218 of this part in the base period. If the history acreage for the previous year is the same as the basic allotment, the preliminary allotment shall be the same as the previous year's basic allotment. Otherwise, the preliminary allotment shall be the simple average of the sum of the basic allotment and history acreage for the preceding year.

§ 723.202 Determining farm acreage allotment, except for flue-cured tobacco.

With respect to each kind of tobacco, the preliminary allotments determined for all old farms shall be adjusted uniformly so that the total of such allotments for old farms plus the reserve acreage available for establishing new farm allotments, adjusting inequities in acreage allotments for old farms, and for correcting errors in old farm allotments shall not exceed the national acreage allotment established for such kind of tobacco.

§ 723.203 Determination of flue-cured tobacco preliminary farm yields.

(a) *Old farms.* The preliminary farm yield for a flue-cured tobacco old farm for the current year shall be determined as follows:

(1) *Farm having preliminary farm acreage allotment.* The preliminary farm yield established for the farm shall be the same preliminary farm yield as was in effect for the preceding year.

(2) *Farm not having preliminary farm acreage allotment.* The preliminary farm yield shall be determined by dividing the farm yield by the national yield factor.

(b) *New Farms.* The preliminary farm yield for a new farm shall be determined by dividing the farm yield determined in accordance with § 723.204 of this part for such farm by the national yield factor applicable for the year in which the new farm allotment was established.

§ 723.204 Determination of farm yields and normal yields.

(a) *Flue-cured tobacco.* The farm yield for an old farm shall be determined by multiplying the preliminary farm yield, if the farm has such a yield, by the national yield factor for the current year.

The farm yield for new farms and old farms that do not have a preliminary yield shall be that yield, which the county ASC committee determines for the farm taking into consideration:

(1) The soil and other physical factors affecting the production of tobacco on the farm, and

(2) The farm yields determined for other farms on which the soil and other physical factors affecting the production of tobacco are similar.

(b) *Burley tobacco.* The farm yield for a farm on which a farm yield has been established shall be the same in the current year as the farm yield previously established for the farm. For any farm not having a previously established yield, the county ASC committee shall establish a yield based on similar farms having a farm yield; however, such yield shall not exceed 3500 pounds.

(c) *All kinds of tobacco except burley and flue-cured.* The normal yield for a farm shall be that yield which the county ASC committee determines is normal for the farm taking into consideration the yields obtained on the farm during any of the years of the base period for which data are available, the soil and other physical factors affecting the production of tobacco on the farm, and the yields obtained on other farms in the locality which are similar with respect to such factors. The normal yield first determined for a farm for any year in accordance with the foregoing provision shall serve as the normal yield for the farm for all purposes in connection with the tobacco marketing program for the year for which such normal yield is determined.

§ 723.205 Determination of farm acreage allotments and effective farm acreage allotments for flue-cured tobacco.

(a) *Farm acreage allotments.* The farm acreage allotment shall be determined by multiplying the national acreage factor as determined by the Secretary for the current year by the preliminary farm acreage allotment for the current year and adjusting the result by:

(1) *Upward adjustment.* Adding the:

(i) Acreage approved in accordance with the provisions of § 723.210 of this part in order to adjust for an inequity or to correct an error;

(ii) Acreage determined by dividing the pounds of quota which are purchased in the current year by the farm yield; and

(iii) Acreage determined by dividing the pounds of forfeited quota which are approved for adjustment from the forfeiture pool by the farm yield.

(2) *Downward Adjustment.* Subtracting the:

(i) Acreage determined by dividing the pounds of quota sold in the current year by the farm yield; and

(ii) Acreage of forfeited allotment.

(b) *Effective farm acreage allotment.* The effective farm acreage allotment for the current year shall be determined by dividing by the effective farm marketing quota by the farm yield.

§ 723.206 Determining farm marketing quotas and effective farm marketing quotas.

(a) *Burley tobacco.* The burley farm marketing quota shall be determined by multiplying the national factor as determined by the Secretary for the current year by the preliminary farm marketing quota for the current year and adjusting the result for permanent quota adjustments.

(b) *Flue-cured tobacco.* The flue-cured farm marketing quota shall be determined by multiplying the farm acreage allotment by the farm yield.

(c) *Burley or flue-cured tobacco.* The effective farm marketing quota shall be the farm marketing quota adjusted by:

(1) *Upward adjustments.* Adding the:

(i) Effective undermarketings from the preceding marketing year,

(ii) The pounds of quota which are temporarily transferred to the farm in the current year.

(2) *Downward adjustments.* Subtracting the pounds of quota that are:

(i) Overmarketed from the preceding marketing year,

(ii) Overmarketed from any year before the preceding year but have not been subtracted when determining the effective farm marketing quota in a prior year.

(iii) Temporarily transferred from the farm in the current year.

(iv) Reduced in the current year as a result of a violation in a prior year as provided for in § 723.408 of this part.

(vi) Determined, for flue-cured tobacco only, by multiplying the farm yield by the acres reduced from the flue-cured tobacco acreage allotment during the current year in accordance with part 704 of this chapter.

(vii) For burley tobacco only, designated for reduction under a Conservation Reserve Program contract in accordance with part 704 of this chapter.

§ 723.207 Determination of acreage allotments or burley marketing quotas for new farms.

(a)(1) *All kinds of tobacco.* The acreage allotment or burley marketing quota established in any crop year for all new farms shall not exceed the national acreage or poundage, as applicable, reserved for new farms for the respective kind of tobacco. The acreage allotment or burley marketing quota for a new farm shall be that acreage or burley marketing quota which the county ASC committee, with the approval of the State ASC committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Such acreage allotments or burley marketing quota shall not exceed 50 percent (75 percent for Cigar-filler and Binder tobacco) of the average of the applicable acreage allotments or burley marketing quotas established for at least two but not more than five old farms which are similar with respect to land, labor; and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco; and with respect to flue-cured tobacco acreage allotments, shall not exceed one acre.

(2) *Kinds of tobacco, except burley and flue-cured.* If the acreage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the sum of the tobacco planted acreage and the prevented planted tobacco acreage as determined under part 718 of this chapter for the farm.

(b)(1) *Written application.* The farm operator must file an application for a new farm acreage allotment or marketing quota at the office of the county ASC committee where the farm is administratively located on or before February 15 of the year for which the new farm acreage allotment or marketing quota is requested.

(2) *Operator requirements.* The operator requesting a new farm acreage allotment or marketing quota must be the sole owner of the farm, except for Cigar-filler and Binder tobacco, the operator need not own the farm. The farm operator shall not own or have an ownership interest in or operate any other farm in the United States for which a tobacco allotment or quota for any kind of tobacco is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of

production necessary to the production of tobacco on the farm.

(4)(i) *Income from farming.* The operator must expect to obtain during the current year more than 50 percent of the producer's income from the production of agricultural commodities or products. The following shall be considered in computing the operator's income:

(A) *Farm income.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). The estimated return from the production of the requested new farm allotment or quota shall not be included.

(B) *Non-farm income.* Non-farming income shall include but not limited to salaries, commissions, pensions, social security payments, and unemployment compensation.

(C) *Spousal income.* The spouse's farm and non-farm income shall be included in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of their current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provisions for low-income farmers.* The county ASC committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and non-farm sources is so low that it will not provide a reasonable standard of living for the operator and the operator's family, and a State ASC committee representative approves such action. In making their determination, the county ASC committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living.

(5) *Experience.* The operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application. However, for Cigar-filler and binder tobacco only, the operator must have experience in any prior year in the production of tobacco as a farm owner, farm operator, sharecropper, tenant, warehouse operator, or laborer on a farm which produced Cigar-filler and binder tobacco.

(6) *Operator has not sold or forfeited allotment.* For flue-cured tobacco only, during the current or the 4 preceding years, the operator must not have sold or forfeited any flue-cured tobacco allotment from any farm.

(c) *Eligibility requirements for the farm.* A new farm acreage allotment or marketing quota may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment, an allotment or quota for any kind of tobacco.

(2) *Availability of land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also, continuous production of tobacco must not result in an undue erosion hazard.

(3) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to part 719 of this chapter, which is subsequently returned to agricultural production shall not be eligible for a new farm allotment or marketing quota for a period of 5 years from the date the former owner was displaced.

(4) *Farm includes land previously having a tobacco acreage allotment.* A farm which includes land which has no tobacco allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to part 719 of this chapter shall not be eligible for a new farm acreage allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(5) *Entire quota sold.* A new farm tobacco acreage allotment may not be established for a farm if, during the current year or the 4 preceding years, the farm was constituted as any part of a farm for which an acreage allotment or marketing quota had been established and for which the current or a former owner sold or permanently transferred all of the tobacco acreage allotment or marketing quota.

(d) *False information.* Any new farm acreage allotment or marketing quota which was determined by the county ASC committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant, shall be canceled by the county ASC committee as of the date the allotment or quota was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment or quota shall be canceled effective for the current crop year.

(e) *Failure to plant.* A new farm acreage allotment or marketing quota shall be reduced to zero if no tobacco is planted on the farm the first year.

§ 723.208 Determination of acreage allotments, marketing quotas, and yields for divided farms.

(a) *Flue-cured tobacco.* The farm acreage allotment for the divided farm shall be divided pursuant to the provisions of part 719 of this chapter. History acreages and other basic data shall be apportioned among the divided tracts as provided in part 719 of this chapter.

(b) *Burley tobacco.* The farm marketing quota for the divided farm shall be divided pursuant to the provisions of part 719 of this chapter. Other basic data shall be apportioned among the divided tracts the same as the farm marketing quota.

(c) *Burley and flue-cured tobacco*—(1) *Tract yield.* The tract yield for the tracts divided from a parent farm shall be the same as the tract yield established for the tracts before the division of the parent farm. If a tract is divided, the tract yields for the resulting tracts shall be the same as the tract yield established for the tract before it was divided.

(2) *Single tract farm.* If a tract that is divided from a parent farm becomes a single tract farm, the tract yield shall become the preliminary farm yield and the farm yield for the farm shall be determined by multiplying the preliminary farm yield by the national yield factor for the current year.

(3) *Carryover tobacco.* Where carryover tobacco produced on a parent farm is marketed after the effective date of a reconstitution, such marketings shall be charged to the divided tracts in the same ratio as the marketing quotas are established for the divided tracts or as the county ASC committee determines that:

(i) The proceeds from such marketings are received by the owner or operator of one or more of the divided tracts, or

(ii) The owners of the divided tracts agree.

§ 723.209 Determination of acreage allotments, marketing quotas, and yields for combined farms.

(a) *Burley tobacco.* The farm yield for a combined burley farm shall be the weighted average of the tract yields for the tracts being combined. The weighted average shall be the summation of the extensions of each respective tract's contribution percentage times the tract's yield.

(b) *Flue-cured tobacco.* Flue-cured farm acreage allotments, history acreages, and other basic data for combined farms shall be computed for the base period in accordance with part 719 of this chapter, except that the preliminary farm yield for a combined farm shall be the weighted average of the tract yields for the tracts that comprise the combination. The weighted average shall be the summation of the extensions of each respective tract's contribution percentage times the tract's yield. The farm yield for the combined farm shall be determined by multiplying the preliminary farm yield for the combined farm by the national yield factor for the current year.

§ 723.210 Corrections of errors and adjusting inequities in acreage allotments and marketing quotas for old farms.

(a)(1) *General.* The allotment or quota for a farm under a long-term land use program agreement shall be given the same consideration under this section as the allotment or quota for any other old farm. Notwithstanding the limitations contained in any other section of this part, the farm acreage allotment or marketing quota for each kind of tobacco established for an old farm may be increased to correct an error or adjust an inequity if the county ASC committee determines, with the approval of a representative of the State ASC committee, that the increase is necessary to establish an allotment or quota for such farm which is fair and equitable in relation to the allotment or quota for other old farms in the county in which the farm is located. Correction of errors shall be made out of that portion of the national reserve held at the national level.

(2) *Burley tobacco.* The reserve for adjusting inequities under this paragraph will be prorated to States based on the relationship of the total of the preliminary farm marketing quotas in each State to the national total of preliminary farm marketing quotas.

(3) *All kinds of tobacco except burley tobacco.* The reserve for adjusting inequities under this paragraph will be prorated to States based on the relationship of the total preliminary farm acreage allotments in each State to the national total of preliminary farm acreage allotments.

(b) *Basis for adjustment.* Increases to adjust inequities in acreage allotments or marketing quotas shall be made on the basis of the past farm acreage, yields, and farm acreage allotments of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster as determined under part 718 of this chapter; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The total of all adjustments in old farm allotments or quotas under this paragraph shall not exceed the pounds apportioned to the county for such purpose.

(c)(1) *Burley tobacco.* Adjustments in a farm marketing quota under this paragraph shall become a part of the farm marketing quota.

(2) *Flue-cured tobacco.* Acreage apportioned to a farm under this section becomes a part of the farm acreage allotment. The farm marketing quota for such a farm shall be adjusted by multiplying the adjusted farm acreage allotment by the farm yield.

(3) *All other kinds of tobacco.* For all other kinds of tobacco, acreage approved for a farm under this section becomes a part of the farm acreage allotment.

§ 723.211 Allotments, quotas, and yields for farms acquired under right of eminent domain.

(a) *Determination of acreage allotments and marketing quotas.* The determination of farm acreage allotments and marketing quotas for farms acquired by an agency having the right of eminent domain, the transfer of such allotments or quotas to a pool, and reallocation from the pool shall be administered as provided in part 719 of this chapter. Where all or a part of an allotment or quota is pooled, all or a proportionate part of the farm acreage allotment or marketing quota shall be pooled.

(b) *Closing dates.* The State ASC committee shall establish, in accordance with instructions issued by the Deputy Administrator, a final date for:

(1) *Release.* Releasing pooled farm acreage allotment or farm marketing quota to the county ASC committee for reapportionment to other farms in the county having allotments or quotas for the same kinds of tobacco.

(2) *Request for reapportionment.* Filing a request to receive reapportioned acreage or quota from the county ASC committee for the current year.

(c) *Displaced owner release.* The displaced owner of a farm may, not later than the final release date established by the State ASC committee for the current year, release in writing to the county ASC committee for the current year, all or any part of the acreage allotment or burley tobacco marketing quota for the farm in a pool under part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments or marketing quotas for the same kind of tobacco.

(d) *Reapportionment.* The county ASC committee may reapportion, not later than 30 days after the final date established by the State ASC committee for requesting reapportioned acreage or marketing quota for the current year, the released acreage or quota or any part thereof to other farms in the county on the basis of the past farm acreage or marketings and the past farm acreage allotments or quotas for the same kind of tobacco; land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices; and soil and other physical factors affecting the production of such kind of tobacco.

(e) *Effect of reapportionment.* For purposes of establishing future farm allotments or quotas, any reapportioned allotment or quota shall not be considered as planted on the farm to which the allotment or quota was reapportioned.

(f) *Burley or flue-cured tobacco provisions.* For burley or flue-cured tobacco:

(1) *Farm Yield.* The farm yield for a farm to which a pooled marketing quota is transferred shall be determined in accordance with instructions issued by the Deputy Administrator.

(2) *Undermarketings or overmarketings.* The undermarketings of a farm acquired by eminent domain shall be added to the marketing quota for the receiving farm and the overmarketings of the acquired farm shall be subtracted from the marketing quota of the receiving farm.

(3) *Undermarketings while in eminent domain pool.* The pooled quota is considered planted while in the pool. Therefore, for the purpose of determining undermarketings during the time the quota is pooled, the effective quota is considered to be zero.

§ 723.212 Time for making reduction of farm marketing quotas or acreage allotments for violation of the marketing quota or acreage allotment regulations for marketing year.

Any reduction made in a farm acreage allotment or farm marketing quota for the current year for any of the reasons provided for in § 723.408 of this part, shall be made no later than April 1 of the current year in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia; or May 1 in all other States. If the reduction cannot be made by such dates for the current year, the reduction shall be made in the farm acreage allotment or farm marketing quota next established for the farm, but no later than by corresponding dates in a later year. No reduction shall be made in the farm acreage allotment or farm marketing quota for any farm for a violation if the farm acreage allotment or marketing quota for such farm for any prior year was reduced because of the same violation.

§ 723.213 Approval of acreage allotments and marketing quotas and notices to farm operators.

(a) *Review by State ASC committee.* All farm yields, acreage allotments, and marketing quotas shall be determined by the county ASC committee of the county in which the farm is located and shall be reviewed by a representative of the State ASC committee.

(b) *Notice to farm operator.* An official notice of the effective farm acreage allotment or farm marketing quota shall be mailed to the operator of each farm shown by the records of the county ASC committee to be entitled to an allotment or quota. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment or quota is established. Insofar as practicable, all notices shall be mailed in time to be received prior to the date of any tobacco marketing quota or acreage allotment referendum. A copy of such notice containing the date of mailing or a printout summary of such data shall be maintained for not less than 30 days in a conspicuous place in the county ASCS office and shall thereafter be kept available for public inspection in the office of the county ASC committee. A copy of the notice of acreage allotment or marketing quota certified as true and correct shall be furnished to any person interested in the farm for which the allotment or quota is established.

(c) *Mailing notices*—(1) *All kinds of tobacco.* If the county ASC committee determines that the acreage allotment or farm marketing quota established for any farm may be changed because of,

(i) *Violations.* A violation of the acreage allotment or marketing quota regulations for a prior marketing year,

(ii) *Agricultural production.* Removal of the farm from agricultural production,

(iii) *Farm division.* Division of the farm, or

(iv) *Farm combination.* Combination of the farm, mailing of the notice of such acreage allotment or marketing quota may be delayed, but not later than the date specified in paragraph (c)(2) of this section.

(2) *Time for mailing notices.* The notice of acreage allotment or marketing quota for any farm shall be mailed no later than April 1 of the current year in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia or May 1 of the current year in all other States.

(d) *Marketing quota erroneous notice.* (1) If the official written notice of the farm acreage allotment and marketing quota issued for any farm erroneously stated an acreage allotment or marketing quota larger than the correct effective farm acreage allotment or marketing quota, the acreage allotment or marketing quota shown on the erroneous notice shall be deemed to be the tobacco acreage allotment or marketing quota for the farm for the current year only, if the county ASC committee determines (with the approval of the State Executive Director) that the:

(i) Error was not so gross as to place the operator on notice thereof, and

(ii) Operator, relying upon such notice and acting in good faith, materially changes the operator's position with respect to the production of the crop.

(2) Undermarketings and overmarketings for farms for which the erroneous notice of marketing quota is applied shall be determined based on the correct effective farm marketing quota.

(3) For purposes of determining history acreage the correct acreage allotment shall be used, in determining whether or not 75 percent of the allotment has been planted.

§ 723.214 Application for review.

Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for the producer's farm may, within 15 days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the county ASCS office to have such allotment and marketing quota reviewed by a review committee in accordance with part 711 of this chapter.

§ 723.215 Transfer of tobacco farm acreage allotment or farm marketing quota that cannot be planted or replanted due to a natural disaster.

(a) *Designation of counties affected by a natural disaster.* The State ASC committee shall determine those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any of the tobacco acreage allotment or marketing quota for any farm in the county. The county ASC committee of each county affected by the determination shall publicize the determination.

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco acreage with the farm acreage allotment or marketing quota for such year to another farm or farms in the same county or in any other nearby county in the same or another State if such acreage cannot be planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county ASC committee for the county in which the farm affected by such disaster is located. If the application involves a transfer to a nearby county, the county ASC committee for the nearby county shall be consulted before action is taken by the county ASC committee receiving the application.

(c)(1) *Amount of burley tobacco transfer.* The burley quota to be transferred shall not exceed the smaller of:

(i) The effective farm quota established under this part less such quota planted to tobacco and not destroyed by the natural disaster, or

(ii) The quota requested to be transferred.

(2) *Amount of transfer for other than burley tobacco.* The allotment to be transferred shall not exceed the smaller of:

(i) The farm allotment established under this part less such acreage planted to tobacco and not destroyed by the natural disaster, or

(ii) The allotment requested to be transferred.

(d) *County ASC committee approval.* The county ASC committee shall approve the transfer if it finds that:

(1) All or part of the farm acreage allotment or marketing quota for the

transferring farm could not be timely planted or replanted because of the natural disaster.

(2) One or more of the producers of tobacco on the transferring farm will be a bona fide producer engaged in the production of tobacco on the receiving farm and will share in the proceeds of the tobacco.

(e) *Cancellation of transfer.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county ASC committee, or the Deputy Administrator may cancel such transfer. Action by the county ASC committee to cancel a transfer shall be subject to the approval of the State ASC committee or its representative.

(f) *Acreage history credits.* Any acreage transferred under this paragraph shall be considered for the purpose of determining future allotments or quotas to have been planted to tobacco on the farm from which such allotment or quota is transferred.

(g) *Closing dates.* The closing date for filing applications for transfers with the county ASC committee shall be July 15 of the current year. Notwithstanding such closing date requirement, the county ASC committee may accept applications filed after the closing date upon a determination by the county ASC committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State ASC committee approves such determination.

§ 723.216 Transfer of tobacco acreage allotment or marketing quota by sale, lease, or owner.

(a) Except with respect to cigar binder (types 54 and 55) tobacco, tobacco acreage allotments or marketing quotas may be transferred between eligible farms in accordance with the provisions of this section.

(1) *Types of transfers.* With respect to:

(i) Cigar filler (type 46) and cigar filler (types 42, 43, and 44), tobacco, transfers may be by lease only.

(ii) Flue-cured tobacco, transfers may be by:

(A) Sale, or

(B) Lease under certain natural disaster conditions provided in this section.

(iii) Burley tobacco, transfers may be by:

(A) Lease,

(B) Owner, or

(C) Sale, when a sale is required to prevent forfeiture of purchased or reallocated quota.

(iv) Fire-cured, dark air-cured, and Virginia sun-cured tobacco, transfers may be by:

(A) Lease,

(B) Owner, or

(C) Sale.

(2) *Transfer agreement.* In order to transfer a marketing quota or allotment between two eligible farms, including a marketing quota or allotment that is pooled in accordance with part 719 of this chapter, the transfer must be recorded on Form ASCS–375 and:

(i) *Where to file.* Filed in the county ASCS office which serves the county in which the transferring farm is located for administrative purposes.

(ii) *Signature-burley tobacco.* Signed by, for burley tobacco only:

(A) *Leases.* The owner and operator of the transferring farm and the owner or operator of the receiving farm.

(B) *Sales.* The owner of the selling farm and an active burley tobacco producer who is the buyer. If the buyer is neither owner nor operator of the farm to which the quota will be assigned, the owner or operator of the farm must give written consent for the quota to be assigned to the farm.

(C) *Owner transfers.* The owner of the transferring farm, who also must be the owner or operator of the receiving farm.

(iii) *Signature-flue-cured tobacco.* Signed by, for flue-cured tobacco only:

(A) *Leases.* The owner of the transferring farm and the owner or operator of the receiving farm.

(B) *Sales.* The owner of the selling farm and an active flue-cured tobacco producer who is the buyer. If the buyer is neither owner nor operator of the farm to which allotment and quota will be assigned, the owner or operator of the farm must be given written consent for the allotment and quota to be assigned to the farm.

(iv) *Signatures—except burley and flue-cured tobacco.* Signed by, for all kinds of tobacco other than burley and flue-cured tobacco, the owner and operator of the transferring farm and the owner or operator of the receiving farm.

(v) *Witness.* Each person whose signature is required by paragraphs (a)(2) (ii), (iii), or (iv) of this section must sign Form ASCS–375 in the presence of a State or county ASC committee member or employee who shall sign Form ASCS–375 as a witness, except that when both the owner and the operator of a transferring farm must sign, such witness is required for the signature of either the owner or operator, but not both. If such signatures cannot be witnessed in the county ASCS office where the farm is administratively located, they may be witnessed in any State or county ASCS office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers that are ill, infirm, reside in distant areas, or are in similar hardship situations or may be unduly inconvenienced may be waived provided the county ASCS office mails Form ASCS–375 for the required signatures;

(b) *Effective date.* In order for the transfer to be effective for the current year, the Form ASCS–375 shall be filed:

(1) *When to file—burley tobacco.* For burley tobacco:

(i) On or before July 1 of the current year, except as provided in paragraph (b)(1)(ii) of this section. An agreement to transfer quota by lease may be considered to have been filed on July 1 of the current year if such transfer agreement is filed not later than the end of the marketing year that begins during the current year and the county ASC committee, with the concurrence of the State ASC committee, determines that on or before July 1 of the current year the lessee and lessor agreed to such lease and transfer of quota and the failure to file such transfer agreement did not result from gross negligence on the part of any party to such lease and transfer.

(ii) After July 1 of the current crop year and before February 16 of the following calendar year when the transfer is by lease and the transferring farm has suffered a loss of production of burley tobacco due to hail, drought, excessive rain, wind, tornado, or other natural disasters as determined by the Deputy Administrator.

(2) *When to file—flue-cured tobacco.* For flue-cured tobacco:

(i) On or before June 15 if the transfer is by sale.

(ii) After June 30 and on or before November 15 for a transfer by lease when the transferring farm has suffered a loss of production of flue-cured tobacco due to drought, excessive rain, hail, wind, tornado, or other natural disasters as determined by the Deputy Administrator.

(3) *When to file—except burley and flue-cured tobacco.* For all other kinds of tobacco, by the date established by the State ASC committee, except that a lease shall be effective if the county ASC committee, with the approval of a State ASC committee representative, finds that the producer was prevented from timely filing the transfer agreement due to reasons beyond the control of the producer.

(c) *Approval or disapproval.* A transfer agreement shall not be approved before the period for filing an application for review of the initial

notice of allotment or quota has expired. The county ASC committee or its designee shall approve each transfer agreement that meets the eligibility requirements of this section. The county ASC committee shall disapprove any transfer agreement that does not meet the eligibility requirement of this section. Any approval or disapproval of a transfer agreement shall to the extent possible be made within 30 days after the transfer agreement is filed with the county ASC committee unless additional time is required as the result of conditions beyond the control of the county ASC committee. However;

(1) *Burley tobacco.* If an agreement is filed after July 1 which provides for the sale of quota, a transfer agreement shall not be approved until the next year's quota is computed for the selling farm. In addition, if marketing quota referendum will be conducted to determine whether or not quotas will be in effect for the crop, a transfer agreement shall not be approved until the Secretary announces that quotas have been approved by referendum.

(2) *Flue-cured tobacco.* If an agreement is filed after June 15 which provides for the sale of an allotment and quota, a transfer agreement shall not be approved until next year's allotment and quota is computed for the selling farm. In addition, if a marketing quota referendum will be conducted to determine whether or not quotas will be in effect for the crop, a transfer agreement shall not be approved until the Secretary announces that quotas have been approved by referendum.

(d) *Time of determination.* An approved transfer agreement shall become effective for the then current crop year, except that if an agreement that is filed after June 15 for the sale of flue-cured tobacco quota or after July 1 for the sale of burley tobacco quota, such approved agreement shall become effective for the next crop year.

(e) *Burley tobacco.* For burley tobacco only:

(1) *Basis for transfer by sale.* If the transfer of a quota is by sale, the transfer shall be based on part or all of the farm poundage quota.

(2) *Basis for transfer by lease or owner.* If the transfer of a quota is by lease or by the owner, transfer shall be based on a part of or all of the effective farm poundage quota.

(3) *Accumulation of quota.* A transfer by lease or by owner shall not be approved if the county ASC committee determines that the primary purpose of the transfer is to accumulate the quota on the farm (i.e., alternately transferring to and from the farm for 2 or more years to maintain the quota without satisfactory evidence of plans for producing the quota on the receiving farm).

(4) *Subleasing.* In order to determine whether there is any subleasing of a burley farm marketing quota, the current year is divided into two periods, the period up to and including July 1, and the period after July 1. The county ASC committee shall not approve a transfer during either period if the effect would be both a transfer to and from the farm during the same period. However, a transfer may be approved within any crop year if quota is transferred from a farm for one or more years and the farm subsequently is combined with another farm that otherwise is eligible to receive quota by lease or by the owner.

(5) *Transferring farm restrictions.* An agreement to transfer quota from a farm by lease or by the owner shall not be approved:

(i) *Limitation.* If the pounds of quota being transferred exceed the difference obtained by subtracting from the effective farm marketing quota the total pounds of quota purchased and/or reallocated from forfeited quota in the current and two preceding years, as adjusted to reflect changes in national quota factors which have occurred since each respective purchase and/or reallocation of quota. However, this provision shall not be applicable to transfer agreements that are filed after July 1.

(ii) *New farm.* If the farm is a new farm.

(iii) *Reduction pending.* If consideration of a marketing quota violation is pending which may result in a quota reduction for the farm for the current year. However, if the county ASC committee determines that a decision will not be made on the pending case on or before the date specified in § 723.212 of this part, a 1-year transfer will be approved if otherwise eligible.

(iv) *Filed on or before July 1.* Unless the receiving farm is administratively located in the same county as the transferring farm.

(v) *Filed after July 1.* If the transfer agreement is filed after July 1, unless the county ASC committee in the county in which the farm is located for administrative purposes determines that the:

(A) Farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a flood, hail, wind, drought, excessive rain, tornado, or other natural disaster.

(B) Acreage planted to burley tobacco on the farm was sufficient to produce, under average conditions, an amount of tobacco which, when added to any carryover tobacco from the previous marketing year, would equal the farm's effective farm marketing quota.

(C) Lessor made reasonable and customary efforts to produce the effective farm marketing quota;

(D) Producers on the farm qualify for price support in accordance with the provisions of part 1464 of this title; and

(E) Receiving farm is administratively located in the same State as the transferring farm.

(vi) *Consent of lien holder.* For a multiple year transfer, if the farm is subject to lien, unless the lien holder agrees in writing to the transfer; and

(vii) *Claim for marketing quota penalty.* If a claim has been filed against the lessor for a tobacco marketing quota penalty and the claim remains unpaid; However, this provision shall not apply if the claim is paid or the entire proceeds of the lease of the quota are applied against the claim and the county ASC committee determines that the amount paid for the lease represents a reasonable price for the pounds of quota being leased.

(viii) *Forfeiture pending.* To the extent that forfeiture of such quota is expected to become final before July 1.

(6) *Receiving farm restrictions.* An agreement to transfer quota to a farm by lease or by owner shall not be approved:

(i) *Filed on or before July 1.* If the transfer agreement is filed on or before July 1:

(A) Unless the receiving farm is administratively located in the same county as the transferring farm.

(B) If the pounds of quota being transferred to the farm by lease or by the owner exceed the smaller of 15,000 pounds or the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of cropland on the farm by the farm yield.

(ii) *Filed after July 1.* If the transfer agreement is filed after July 1, unless the:

(A) Producers on the farm qualify for price support in accordance with the provisions of part 1464 of this title; and

(B) Pounds of quota to be transferred to the lessee farm do not exceed the difference obtained by subtracting the effective farm marketing quota (before the filing of the transfer agreement) for the lessee farm from the total pounds of tobacco marketed and/or available for marketing (based on estimated pounds of tobacco on hand and/or in the process of being produced) from the farm in the current year.

(C) Transferring farm is administratively located in the same State as the receiving farm.

(7) *Selling farm restrictions.* A transfer of quota from a farm by sale shall not be approved:

(i) *Forfeiture otherwise required.* Unless forfeiture of the quota otherwise would be required. However, this provision may be waived if:

(A) The quota was purchased and/or reallocated to the farm during four preceding years; and

(B) The county ASC committee, with the concurrence of a representative of the State ASC committee, determines that the failure to permit the sale of quota, to the extent otherwise permitted by this section, would cause an undue hardship on the seller and the:

(1) Sale is in connection with the settlement of an estate which includes the farm for which the quota was established;

(2) Owner of the quota is experiencing financial distress to the extent that current year financing is unlikely;

(3) Owner of the quota is disabled due to health reasons to the extent that such person can no longer continue to share in the risk of production of the purchased and/or reallocated quota; or

(4) Owner of the quota is sharing in the risk of production as an investing producer and loses resources necessary to produce the crop due to reasons beyond such owner's control such as the loss of a tenant or sharecropper and a replacement cannot be obtained.

(ii) *Location of farms.* Unless both the selling farm and the buying farm are administratively located in the same county.

(iii) *Pounds in excess of required forfeiture.* If the pounds of quota being transferred exceed the pounds of quota for which forfeiture otherwise is required.

(iv) *Reduction pending.* If consideration of an indicated marketing quota violation is pending which may result in quota reduction for the farm for the current year. However, if the county ASC committee determines that a decision will not be made on the pending case on or before the date specified in § 723.212 of this part, a transfer will be approved if otherwise eligible.

(v) *Forfeiture pending.* If the agreement for transfer by sale is filed subsequent to the final date which is permitted for the sale of the quota in order to prevent forfeiture.

(vi) *Claim for marketing quota penalty.* If a claim has been filed against the seller for a tobacco marketing quota penalty and the claim remains unpaid: However, this provision shall not be applicable if the claim for such penalty is paid or the entire proceeds of the sale of the quota are applied against the claim and the county ASC committee determines that the amount paid represents a reasonable selling price for the pounds of quota being sold.

(8) *Restrictions on buying farm.* A transfer of quota to a farm by purchase shall not be approved:

(i) *Active producers.* Unless the buyer is an active burley tobacco producer.

(ii) *Cropland limitation.* If the sum of the pounds of quota being transferred, plus the pounds of quota previously transferred to the farm in the current year by lease or by the owner, exceeds the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of cropland on the farm by the farm yield.

(iii) *Quota previously sold.* If the farm owner sold quota from the farm during the current or either of the two preceding years to prevent a forfeiture of the quota.

(iv) Unless both the buying farm and the selling farm are administratively located in the same county.

(9) *Period of transfer.* A transfer by lease or by owner may be for a period of one to five years: However, an agreement to transfer quota by lease shall be limited to the current crop year if the transfer is filed after July 1 in accordance with the natural disaster provisions of this section.

(10) *Redetermination of quota after transfer by lease or by the owner.* After a transfer by lease or by the owner, the effective farm marketing quota shall be redetermined for both the transferring farm and the receiving farm.

(11) *Apportionment of data-selling farm.* The pounds of farm marketing quota retained on the selling farm after the sale of quota shall be divided by the farm marketing quota established for the selling farm before the sale to determine a factor for apportioning farm data. The data to be retained on the selling farm shall be determined by multiplying the factor by the following data:

(i) The amount of any overmarketings which have not been subtracted when a determination is made of the effective farm marketing quota of the selling farm;

(ii) The pounds of quota which have been transferred from the selling farm by lease or by the owner in the current year;

(iii) The pounds of quota which have been reduced in the current year as the result of a marketing quota violation in a prior year;

(iv) The pounds of quota transferred to the farm by lease or by owner in the previous year;

(v) The previous year's farm marketing quota; and

(vi) The previous year's effective farm marketing quota.

(12) *Apportionment of data-buying farm.* The buying farm's share of each respective item of farm data shall be determined by subtracting the pounds which are retained on the selling farm for the respective item from the pounds which were established for the selling farm for the respective item before the current sale of quota. However, the pounds of quota transferred from the selling farm by lease or by the owner and/or the pounds of quota reduction resulting from a marketing quota violation on the selling farm may be apportioned between the farms in accordance with a written agreement between the buyer and the seller if the farm marketing quota retained on the selling farm is sufficient to satisfy the pounds of quota which were transferred by lease or by the owner, the pounds of quota which have been reduced as the result of a marketing quota violation, and the overmarketings for the farm, if any. The data determined in accordance with this paragraph shall he added to any previous data for the buying farm.

(13) *Redetermination Quota after sale or purchase of quota.* After adjusting the data in accordance with the provisions of this section, the effective farm marketing quota shall be determined for both the buying and selling farm.

(14) *Farm division after transfer by lease.* If a farm is divided after there has been a transfer of a marketing quota to the farm by lease, the transferred quota shall be divided in the manner which is designated in writing by the lessee. In the absence of a written designation, the leased quota shall be apportioned in the same manner as the farm marketing quota of the parent farm.

(15) *Multiple year transfer by lease or by owner.* The effective farm marketing quota on a receiving farm having a multiple-year transfer agreement in effect shall be adjusted for each year for which such transfer agreement is in effect to reflect any decrease in the national quota factor which causes the farm marketing quota established for the transferring farm to be less than the pounds of quota which have been transferred to the receiving farm.

(16) *Considered planted credit.* Considered planted credit shall be given to the transferring farm when tobacco quota is transferred from the farm by lease or by owner.

(f) *Flue-cured tobacco.* For flue-cured tobacco only:

(1) *Locotion of buying and selling farms.* Marketing quota transferred by

sale must be to a farm administratively located within the same county.

(2) *Maximum quota to be transferred by sale.* If the transfer is by sale, the transfer shall be based on part or all of the farm poundage quota. The maximum quota that may be transferred by sale is the farm poundage quota.

(3) *Transfer by lease-involvement of outside parties.* If the transfer is by lease, only the lessor and lessee (or any attorney, trustee, bank, or other agent who regularly represents either the lessor or lessee in business transactions unrelated to the production or marketing of tobacco) may be parties to, or involved in the arrangements for such transfer. The transfer shall be based on a portion or all of the effective farm poundage quota. The maximum quota that may be transferred by lease is the effective farm poundage quota.

(4) *Lessor farm restrictions.* A transfer of quota from a farm by lease shall not be approved:

(i) *New farm.* If the farm is a new farm.

(ii) *Natural disaster.* Unless the county ASC committee in the county in which the farm is located for administrative purposes determines that the:

(A)*(1)* The farm has planted an acreage equal to or more than 90 percent of the effective farm acreage allotment, or

(*2*) In accordance with guidelines issued by the Deputy Administrator, the planted acreage of flue-cured tobacco on the farm is sufficient to produce, under average conditions, an amount of tobacco which, when added to any carryover tobacco from the previous marketing year, would equal the farm's effective farm marketing quota;

(B) Lessor made reasonable and customary efforts to produce the effective farm marketing quota;

(C) Producers on the farm qualify for price support in accordance with the provisions of part 1464 of this title; and

(D) Farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a drought, excessive rain, hail, wind, tornado, or other natural disaster as determined by the Deputy Administrator.

(iii) *Claim for tobacco marketing quota penalty.* If a claim has been filed against the lessor for tobacco marketing quota penalty and the claim remains unpaid unless the claim is paid or the entire proceeds of the lease of the allotment and quota are applied against the claim and the county ASC committee determines that the amount of the lease represents a reasonable price for the pounds of quota being leased.

(iv) *Located in the same State.* Unless the lessor farm is administratively located in the same State as the lessee farm.

(5) *Lessee farm restrictions.* A transfer of quota to a farm by lease shall not be approved:

(i) *Price support eligibility.* Unless the producers on the farm qualify for price support under the provisions of part 1464 of this title; and

(ii) *Limitation.* If the pounds of quota to be transferred to the lessee farm exceed the difference obtained by subtracting the effective farm marketing quota (before the filing of the transfer agreement) for the lessee farm from the total pounds of tobacco marketed and/or available for marketing (based on estimated pounds of tobacco on hand and/or in the process of being produced) from the farm in the current year.

(iii) *Located in same State.* Unless the lessee farm is administratively located in the same State as the lessor farm.

(6) *Selling farm restrictions.* A transfer of quota from a farm by sale shall not be approved:

(i) *Previously purchased and/or reallocated quota.* If the farm marketing quota includes quota that was bought, and/or reallocated from the quota which has been forfeited and the purchase and/or reallocation became effective in the 4 preceding years: However, this provision shall not be applicable if:

(A) (*1*) The quota being sold was purchased in such period, if forfeiture of such quota is required by § 723.220 of this part, and the amount of quota being transferred does not exceed the amount of quota for which forfeiture otherwise is required in accordance with the provisions of § 723.220 of this part; or

(*2*) The county ASC committee, with the concurrence of a representative of the State ASC committee, determines that the failure to approve the sale would cause an undue hardship on the seller and:

(B) The sale is in connection with the settlement of an estate which includes the farm for which the quota was established;

(C) The owner of the quota is experiencing financial distress to the extent that current year financing is unlikely;

(D) The owner of the quota is disabled due to health reasons to the extent that such person can no longer continue to share in the risk of production of the purchased and/or reallocated quota; or

(E) The owner of the quota is sharing in the risk of production as an investing producer and loses resources necessary to produce the crop due to reasons beyond such owner's control such as the loss of a tenant or share cropper and a replacement cannot be obtained.

(ii) *Reduction pending.* If consideration of an indicated violation is pending which may result in an allotment and quota reduction for the farm for the current year. However, if the county ASC committee determines that a decision will not be made on the pending case on or before April 1, a transfer may be approved.

(iii) *Forfeiture pending.* If the agreement for transfer by sale is filed subsequent to the final date which is permitted for the sale of the allotment and quota in order to prevent forfeiture.

(iv) *Consent of lien holder.* If the farm is subject to a lien unless the lien holder agrees in writing to the transfer: However, consent of a lien holder is not required for a transfer of the pounds of quota for which forfeiture is required in accordance with the provisions of § 723.220 of this part.

(v) *Claim for marketing quota penalty.* If a claim has been filed against the seller for a tobacco marketing quota penalty and the claim remains unpaid: However, this provision shall not be applicable if the claim for such penalty is paid or the entire proceeds of the sale of the allotment and quota are applied against the claim and the county ASC committee determines that the amount paid represents a reasonable selling price for the pounds of quota being sold.

(vi) *Allotment and quota subject to an approved Conservation Reserve Program contract.* If the allotment and quota is subject to an approved Conservation Reserve Program contract, unless forfeiture otherwise would be required in accordance with the provisions of § 723.220 of this part.

(7) *Buying farm restrictions.* A transfer of quota to a farm by purchase shall not be approved:

(i) *Active producer.* Unless the buyer is an active flue-cured tobacco producer.

(ii) *Tillable cropland limitation.* If the sum of the pounds of quota being transferred, plus the pounds of quota previously transferred to the farm in the current year by lease, exceeds the difference between the farm marketing quota and one-half the result obtained by multiplying the acres of tillable cropland by the farm yield.

(iii) *Quota previously sold.* If the farm owner sold quota from the farm during the current or any of the 4 preceding years or 2 years if such sale was to prevent a forfeiture of the quota.

(iv) *Installment payment option.* Unless the buyer of the flue-cured tobacco acreage allotment and marketing quota has been afforded an

option to pay for such allotment and quota in two to five equal annual installments payable each fall beginning with the fall of the crop year in which the transfer becomes effective and such buyer certifies on a form prescribed by the Deputy Administrator that such option has been made available to the buyer.

(8) *Allotment and quota after transfer by lease.* The effective farm acreage allotment and the effective farm marketing quota shall be determined for both the lessee farm and the lessor farm in accordance with the provisions of §§ 723.205 and 723.206 of this part, respectively.

(9) *Apportionment of data after transfer of quota by sale-selling farm.* The pounds of farm marketing quota retained on the selling farm after the sale of quota shall be divided by the farm marketing quota established for the selling farm before the sale to determine a factor for apportioning farm data for the current year and for the base period. The data to be retained on the selling farm shall be determined by multiplying the factor by the following data:

(i) The planted and considered planted acres for the base period;

(ii) The history acres for the base period;

(iii) The farm acreage allotment for the current year and for the base period;

(iv) The amount of any overmarketings which have not been subtracted when a determination is made of the effective farm marketing quota of the selling farm;

(v) The pounds of quota which have been transferred from the selling farm by lease in the current year;

(vi) The acres of allotment which have been reduced in the current year as the result of a marketing quota violation in a prior year;

(vii) The pounds of quota transferred to the farm by lease in the previous year;

(viii) The previous year's farm marketing quota;

(ix) The previous year's effective farm marketing quota; and

(x) The previous year's marketings.

(10) *Apportionment of data-buying farm.* The pounds of farm marketing quota which have been purchased shall be divided by the farm yield for the buying farm in order to determine the farm acreage allotment for the buying farm. The buying farm's share of other farm data shall be determined by subtracting the acres or pounds, as applicable, which are retained on the selling farm from the acres or pounds which were established for the selling farm before the current sale of quota: However, the acres computed for the acres of reduction resulting from a marketing quota violation for the buying farm shall be multiplied by a factor determined by dividing the farm yield of the selling farm by the farm yield of the buying farm in order to determine the acres of reduction from the buying farm for the current year. The pounds of quota transferred from the selling farm by lease and/or the acres of allotment reduction resulting from a marketing quota violation on the selling farm may be apportioned between the farms in accordance with a written agreement between the buyer and the seller if the farm marketing quota retained on the selling farm is sufficient to satisfy the pounds of quota which are leased, the pounds of quota which have been reduced as the result of a marketing quota violation, and the overmarketings for the farm, if any. The data determined in accordance with this paragraph shall be added to any previous data for the buying farm.

(11) *Allotment and quota.* After adjusting the data in accordance with the provisions of this section, the farm acreage allotment, the effective farm acreage allotment, and the effective farm marketing quota shall be determined for both the buying and the selling farm.

(12) *Effect of price support eligibility.* If a lease agreement is filed after the farm operator reports the acreage of tobacco on the farm in the current year, the effective farm acreage allotment which has been determined prior to the approval of the transfer will be used in determining price support eligibility for the farm.

(13) *Violation of lease provisions.* (i) If, after a lease agreement is approved, information is brought to the attention of the county ASC committee which indicates that either the lessor or the lessee, or both, knowingly filed a false certification with respect to a transfer of quota by lease, the county ASC committee shall schedule a hearing, notify such person of the time and place of the hearing, and present evidence at the hearing with respect to the allegation of false certification. If, as a result of the evidence presented, the county ASC committee determines that such person knowingly made a false certification, the county ASC committee shall notify the person of the determination and afford such person 15 days after the mailing of the notice to request a review of the determination by a review committee as provided for by part 711 of this chapter.

(ii) If it is determined that the lessor knowingly made a false certification, the next flue-cured tobacco acreage allotment and marketing quota established for the lessor's farm shall be reduced by that percentage which the leased quota was of the total flue-cured tobacco farm marketing quota established for the farm in the year of the lease.

(iii) If it is determined that the lessee knowingly made a false certification, the lease agreement for purposes of the flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered to be null and void as of the date approved by the county ASC committee.

(14) *Considered planted credit.* Considered planted credit shall be given to the lessor farm for the tobacco acreage allotment which is deducted as the result of the transfer of quota from the farm by lease.

(15) *Sale of quota with installment payment option.* Notwithstanding any other provision of this section the owner of a farm who sells any flue-cured tobacco acreage allotment and marketing quota may:

(i) Negotiate with more than one prospective buyer before selling such allotment and quota; or

(ii) Sell such allotment and quota to any eligible buyer whom such owner may select; or

(iii) Sell such allotment and quota for a single payment; or

(iv) Include provisions in the agreement of sale to protect the seller's interest if the buyer fails to make full payment. Such provisions may not include the use of such allotment and quota as collateral for purposes of protecting the seller's interest in the allotment and quota.

(v) Flue-cured tobacco acreage allotment and marketing quota purchased in accordance with this subparagraph shall not revert to the seller's farm but shall remain with the farm to which assigned at the time of purchase even though the buyer fails to make full payment to the seller for such allotment and quota.

(g) *Burley and flue-cured tobacco.* For burley or flue-cured tobacco:

(1) *Carryover tobacco.* If tobacco is marketed after the entire farm marketing quota of the producing farm has been transferred by sale, the tobacco shall be considered as having been marketed on each farm to which farm marketing quota was transferred by sale in accordance with a transfer agreement filed after June 15 for flue-cured tobacco, or July 1 for burley tobacco, of the last year in which a farm marketing quota was established for the producing farm. Such marketing shall be prorated to each farm in proportion to the pounds of farm poundage quota purchased by each

farm. If there was more than one farm to which a farm marketing quota was transferred by sale, the marketing may be assigned to the farms in the manner agreed to in writing by each of the buyers of such farm marketing quota.

(2) *Cancellation of transfer.* A transfer of flue-cured allotment and quota, or burley quota, under this section which was approved in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county ASC committee. For the purpose of determining any overmarketings and undermarketings from the farms, and for the purpose of determining eligibility for price support and marketing quota penalties, the cancellation shall be effective as of the date of approval. However, such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if the:

(i) Transfer approval was made in error or on the basis of incorrect information which had been unknowingly furnished by the parties to the agreement; and

(ii) Parties to the transfer agreement were not notified of the cancellation before the marketing for the receiving farm exceeded the correct effective farm marketing quota.

(3) *Canceled because of fraud.* If a transfer of a flue-cured allotment and quota, or burley quota, is canceled because of fraud on the part of the owner of the transferring farm but no fraud is attributable to either the owner or operator of the receiving farm, such cancellation shall be effective as of the date of approval of the transfer except for purposes of determining eligibility for price support and marketing quota penalties for the receiving farm. In such case, the overmarketings shall be charged against the farm from which the transfer was made if the farm, after any reconstitution which may be necessary as a result of fraud, is assigned a flue-cured allotment and quota, or burley quota, against which the overmarketings could be charged. Otherwise, the overmarketings shall be charged against any other farm involved in the fraud having a flue-cured allotment and quota, or burley quota, after any reconstitution required by such fraud. Notwithstanding the foregoing, any overmarketings on the receiving farm which are in excess of the amount of quota involved in the canceled transfer shall be charged against the receiving farm.

(4) *Dissolution or revision of a transfer agreement.* A transfer agreement may be dissolved or minor revisions made with respect to such agreement if a written request by all parties to the agreement is made to the county ASC committee by November 15 of the current marketing year for flue-cured tobacco, or by February 15 of the current marketing year for burley tobacco. After any such dissolution or revision of a transfer agreement, an official notice of the flue-cured acreage allotment and marketing quota, or burley quota, shall be issued by the county ASC committee to each of the operators involved in the transfer agreement.

(h) *Cigar tobacco.* For cigar-filler (type 46) and cigar-filler (types 42, 43, and 44) tobacco only, the provisions of paragraph (j) of this section are applicable in addition to the following:

(1) *Farm eligible.* The owner and operator (acting together if different person) of any farm for which an old farm tobacco acreage allotment is established for the current year may lease and transfer all or any part of the farm acreage allotment established for such farm to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for the same kind of tobacco for use on such farm. Transfer of allotments by lease shall not exceed 5 years.

(2) *Transfer approved acre per acre.* The lease and transfer shall be approved acre per acre.

(3) *Considered planted credit.* The amount of allotment acreage which is leased from a farm shall be considered for the purpose of determining future allotments (and tobacco history acreage) to have been planted to tobacco on such farm. The amount of allotment acreage which is leased and transferred to a farm shall not be taken into account in establishing allotments for subsequent years for such farms.

(4) *Limitation on acreage transferred.* The total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm shall not exceed 50 percent of the acreage of cropland in the farm, except that in the case of cigar-filler (types 42, 43, 44, and 46) transfers, such transfers shall be limited to a total of 10 acres.

(5) *Transfer from the pool.* Allotments in a pool pursuant to part 719 of this chapter may be eligible for lease and transfer during the 3-year life of the pooled allotment. An agreement to lease and transfer shall not serve to extend the life of such pooled allotment.

(i) *Fire-cured, Dark air-cured, and Virginia sun-cured tobacco.* For Fire-cured, Dark air-cured, and Virginia sun-cured tobacco, only, the provisions of this section are applicable in addition to the following:

(1) *Persons eligible to file a record of transfer (ASCS–375)—sale or lease.* The owner and operator of any old farm for which a Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment is established for the current year may sell or lease all or any part of such allotment to any other owner or operator of a farm in the same county, and in the same State for Virginia fire-cured (type 21) or Virginia sun-cured (type 37) tobaccos. The receiving farm need not be an old farm. In the case of a permanent transfer, a statement signed by all parties to the transaction confirming that the sale has been made shall be filed with the county ASC committee.

(2) *By owner.* The owner of any old tobacco farm for which a Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment is established for the current year may transfer any or all of such allotment permanently, or for a term of years designated by the owner, to another farm in the same county (within the same State for Virginia fire-cured and Virginia sun-cured tobacco) owned or controlled by such owner.

(3) *Maximum period of transfer by lease.* Transfer of allotments by lease shall not exceed 5 years.

(4) *Productivity adjustment-reductions in farm allotments being transferred.* The county ASC committee shall determine a normal yield per acre for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is transferred. (For across county line transfers, the county ASC committee for the county in which each farm is located shall determine the normal yield.) If the normal yield for the farm to which transfer is made for the year the transfer is to take effect exceeds the normal yield for the farm from which the transfer is to take effect by more than 10 percent, the allotment so transferred shall be reduced for differences in farm productivity. The county ASC committee shall determine the amount of allotment to be transferred by sale, lease, and by owner, where productivity adjustment is required under this paragraph as follows:

(i) Multiply the normal yield established for the farm from which the allotment is being transferred by the acreage being transferred, then

(ii) Divide the result by the normal yield established for the farm to which the allotment is to be so transferred. The amount of allotment so transferred from a farm shall be the full amount and the amount of allotment so transferred to a farm shall be the reduced amount. In the case of temporary transfers of allotment for 1 or more years by lease or by

owner, the productivity adjustment and amount so transferred shall be redetermined by the county ASC committee each year the transfer remains in effect.

(5) *Adjustments in farm history acreage.* The farm history acreage for the immediately preceding 5 years on farms from which and to which permanent transfer of allotment is made shall be adjusted by the county ASC committee for each of the base years to correspond with the amount of allotment transferred between the farms. In the case of temporary transfers of allotment for 1 or more years by lease or by owner, the farm history acreage shall not be reduced on the farm from which the transfer is made and farm history acreage shall not be transferred to the receiving farm.

(6) *Limitation on acreage transferred.* The total of the Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment which may be transferred for each kind of tobacco, by sale, lease, or by owner, to a farm shall not exceed 10 acres of allotment. However, the total of each acreage for each kind of tobacco allotted to any farm after such transfer (the sum of its own allotment and the acreage transferred after any adjustment in normal yields for the current year) shall not exceed 50 percent of the acreage of cropland on the farm. The cropland in the farm for the current year for purposes of such transfers shall be the total cropland as defined in part 719 of this chapter.

(7) *Prohibition on permanent transfer.* A permanent transfer by sale or by owner shall not be approved from any farm to which an allotment was permanently transferred by sale or by owner within the 3 immediately preceding crop years.

(8) *Temporary transfer to non-owned farm.* A transfer requested on a temporary basis to a farm controlled but not owned by the applicant shall be approved only if the applicant will be the operator of the farm to which the transfer is to be made for each year of the period for which the transfer is requested. When the applicant for whom such transfer has been approved no longer is the operator of the receiving farm due to conditions beyond such operator's control, the transfer shall remain in effect unless the transfer is terminated under the provisions of paragraph (j) of this section. Conditions beyond the operator's control shall include, but not be limited to, death, illness, incompetence, or bankruptcy of such person.

(9) *Transfer of pooled allotment.* Allotments established for a farm as pooled allotment under part 719 of this chapter may be transferred on a:

(i) Permanent basis during the 3-year life of a pooled allotment, or

(ii) Temporary basis for a term of years not to exceed the remaining number of crop years of such 3-year period. A temporary agreement to transfer shall not serve to extend the life of such pooled allotment.

(10) *New farm eligibility.* Any farm from which the entire farm allotment is sold or permanently transferred by the owner shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(11) *Transfer of history acreage.* Permanent transfer of allotment shall have the effect of transferring history acreage, farm base, and marketing quota attributable to such allotment. In the case of a transfer by lease, the transferred allotment shall be considered for purposes of establishing future allotments to have been planted on the farm from which such allotment was transferred.

(j) *Tobacco except burley, flue-cured, and cigar (types 54 and 55).* For tobacco that may be transferred in accordance with the provisions of paragraph (h) or (i) of this section, the following provisions shall also apply:

(1) *New farm allotment.* A new farm allotment shall not be transferred.

(2) *Tobacco allotment subject to an approved Conservation Reserve Program contract.* A transfer of allotment designated for reduction under a Conservation Reserve Program contract shall not be approved.

(3) *Subleasing prohibited.* A transfer of allotment from a farm shall not be approved during the period for which a current temporary transfer agreement is in effect that transferred quota to the same farm.

(4) *Limitation on transfer to and from a farm in the same year.* If a transfer agreement is in effect for the current crop year for a farm, a transfer of allotment shall not be approved during the same crop year:

(i) From such farm receiving allotment by transfer for such year, or

(ii) To such farm which had allotment transferred from it for such year.

(5) *Farm in violation.* If consideration of a violation is pending which may result in an allotment reduction for a farm for the current year, the county ASC committee shall delay approval of any transfer of allotment from or to the farm until the violation is cleared or the allotment reduction is made. However, if the allotment reduction in such case cannot be made effective for the current crop year before the final date for reducing allotments for violations, the transfer may be approved by the county ASC committee. In any case, if, after a transfer of a tobacco acreage allotment has been approved by the county ASC committee, it is determined that the allotment for the farm from which or to which such acreage is transferred is to be reduced for a violation, the allotment reduction for such farm shall be delayed until the following year.

(6) *Claim for tobacco marketing quota penalty.* A transfer of acreage allotment from a farm shall not be approved if a claim has been filed against the lessor, seller, or transferring owner for a tobacco marketing quota penalty and the claim remains unpaid. However, this provision shall not apply if the claim is paid or the entire proceeds of the lease or sale of the allotment are applied against the claim and the county ASC committee determines that the amount paid for the lease or sale represents a reasonable price for the acres of allotment being transferred.

(7) *Approval after review period.* A transfer of allotment shall not be approved by the county ASC committee for any farm before the time of filing an application for review, as shown on the original allotment notice for the farm, has expired. If an application for review is filed for a farm involved in a transfer agreement, such agreement shall not be approved by the county ASC committee until the allotment for such farm is finally determined pursuant to part 711 of this chapter.

(8) *Acreage allotment after lease and transfer.* The acreage allotment determined after a temporary transfer for a farm under the provisions of this section shall be the allotment of such farm for the current year only for the purpose of determining:

(i) Excess acreage,

(ii) The amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco,

(iii) Eligibility for price support, and

(iv) The farm marketing quota and the percentage reduction for a violation in the allotment for the farm.

(9) *Cancellation of transfer.* Any transfer of allotment under this section which was approved by the county ASC committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county ASC committee. Such cancellation shall be effective as of the date of approval for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year

for price support and marketing quota penalty purposes, if:

(i) The transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the transfer agreement; and

(ii) The parties to the transfer agreement were not notified of the cancellation before the tobacco was planted.

(10) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county ASC committee. Such written notification shall be filed prior to planting the tobacco. A late filed request to dissolve or revise the transfer may be effective for the current year if the county ASC committee with approval of a representative of the State ASC committee determines that the producer was prevented from timely filing for reasons beyond such producer's control.

(11) *Reconstituted farm.* The allotment for a farm being divided or combined in the current year shall be the allotment after the transfer has been approved. Notwithstanding the above, in the case of a division, the county ASC committee shall allocate the acreage that was transferred by lease to the tracts involved in the division as the parent farm owners and operators designate in writing. In the absence of such designation, the county ASC committee shall apportion the leased acreage.

(12) *Consent of lien holder.* A transfer of allotment other than by annual lease shall not be approved from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lien holder.

§ 723.217 Release and reapportionment of old farm acreage allotments for Cigar-filler and Binder (types 42, 43, 44, 54, and 55) tobacco.

(a) *Annual or permanent release of acreage allotments to State committee.* Except as provided in this paragraph, all or any part of a farm acreage allotment on which Cigar-filler and Binder (types 42, 43, 44, 54, and 55) tobacco will not be produced and which the operator of the farm voluntarily releases on an annual basis, or both the owner and operator voluntarily releases on a permanent basis, in writing to the State ASC committee by not later than the final date for filing releases established by the State ASC committee for the current year shall be deducted from the allotment of such farm.

(1) For the farm voluntarily releasing tobacco farm acreage allotment on an annual basis, such acreage will be considered as having been planted on the releasing farm for the purpose of establishing allotments for subsequent years. For the farm receiving such annual released acreage, such acreage shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm releasing on a permanent basis shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm releasing on a permanent basis shall be adjusted to reflect the acreage permanently released.

(2) An acreage allotment shall not be released either annually or permanently:

(i) From the eminent domain allotment pool if an application for transfer from the pool has been filed in accordance with part 719 of this chapter;

(ii) From a new farm; or

(iii) To the extent such acreage is designated for reduction under a Conservation Reserve Program contract.

(b) *Reapportionment of released acreage allotment.* The acreage voluntarily released on an annual or permanent basis for the current year may be reapportioned by the State ASC committee to any farm in any county in the State including a farm receiving a new farm allotment. The State ASC committee shall select the counties to which the released acreage will be reapportioned. The county ASC committee shall select the farms to which the released acreage will be reapportioned. The State ASC committee shall keep records on both an annual and permanent basis of the source of acreage released. Any acreage released for the current year on a permanent basis which is not reapportioned by the State ASC committee in the current year may be reapportioned in the following year. The county ASC committee for the county receiving released acreage may reapportion the tobacco allotment acreage on an annual or permanent basis to other farms in the county in amounts determined by the county ASC committee to be fair and reasonable on the basis of land, labor, and equipment available for production of Cigarfiller and binder (types 42, 43, 44, 54, and 55) tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Released acreage should not be reapportioned on a temporary or permanent basis to any farm unless there is assurance from the operator to the county ASC committee that the released acreage being received will be produced. Allotment reapportioned to a farm on an annual basis can only be used by the receiving farm for increased production during the current year. Allotment reapportioned to a farm on a permanent basis shall be added to the current year allotment or shall serve to establish an allotment for a farm without a current allotment. A farm shall be eligible to receive reapportionment of released acreage on either or both an annual or permanent basis only if a written request is filed by the farm owner or operator at the office of the county ASC committee not later than the final date for filing such requests established by the State ASC committee for the current year.

§ 723.218 Determining tobacco history acreage.

With respect to each respective kind of tobacco, the tobacco history acreage shall be determined for each farm for which a tobacco acreage allotment was established for such kind of tobacco for the current year.

(a) The history acreage shall be the same as the farm acreage allotment for the respective kind of tobacco if in the current year, or either of the two preceding years, the sum of the planted and considered planted acreage of such kind of tobacco was as much as 75 percent of the farm acreage allotment. Otherwise, the history acreage shall be the sum of the planted and considered planted acreage of such kind of tobacco.

(b) Notwithstanding any other provision of this section, for the respective kind of tobacco, the history acres for the current year and for each year of the base period shall be reduced to zero if:

(1) A new farm allotment was canceled;

(2) The allotment was in a pool established in accordance with the eminent domain provision of part 719 of this chapter and the period of eligibility has expired for transferring the allotment from the pool; or

(3) The county ASC committee determines that the farm has been retired from agricultural production and the allotment is not eligible for pooling in accordance with the eminent domain provisions of part 719 of this chapter.

§ 723.219 Forfeiture of burley tobacco marketing quota.

(a) *Determination of quota subject to forfeiture.* (1) For purposes of paragraph (b) of this section, the phrase "owns a farm" means ownership of:

(i) A farm as constituted under part 719 of this chapter, if the entire farm shares a common ownership; or

(ii) All of the land within a farm which shares a common ownership if the parent farm consists of tracts of land having separate ownerships.

(2) For purposes of paragraph (b) of this section, the county ASC committee shall apportion, in accordance with the provisions of part 719 of this chapter, the burley tobacco quota assigned to a farm between the various tracts of land which are separately owned by:

(i) A person not using the land on the farm for which a burley tobacco marketing quota is established for agricultural purposes.

(ii) A person who uses the land on the farm for which the burley tobacco marketing quota is established for agricultural purposes or for educational, instructional, or demonstrational purposes.

(3) The farm marketing quota determined under this section for each farm or tract, as applicable, shall be the amount of quota subject to forfeiture under this section.

(b) *Person who does not use the land on the farm for which the marketing quota is established for agricultural purposes or does not use such marketing quota for educational, instructional, or demonstrational purposes.* For purposes of this paragraph, the term "person" means a person as defined in part 719 of this chapter, including any governmental entity, public utility, educational institution, religious institution or joint venture (but not including any farming operation involving only spouses), but excluding any individual.

(1) *Required forfeiture.* With respect to any person owning a farm for which a burley tobacco marketing quota is established, if the county ASC committee determines that such person does not use the land on such farm for agricultural purposes, or does not use such burley tobacco marketing quota for educational, instructional, or demonstrational purposes, such person shall forfeit such quota which is not sold on or before December 1 of the year after any year for which the county ASC committee makes such determination.

(2) *Agricultural purposes.* Land on the farm for which a burley tobacco marketing quota is established shall be considered to be used for agricultural purposes if the county ASC committee determines that:

(i) In the current year or either of the 2 preceding years such land is used for the production of:

(A) Row crops of any type;

(B) Livestock or poultry (including pasture and forage for livestock);

(C) Trees (including orchards and vineyards); or

(D) Hay or native grasses on open land; or

(ii) In the current year such farm is owned by an educational institution which uses such burley tobacco marketing quota solely for educational, instructional, or demonstrational purposes.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(1) of this section have been met with respect to such person. Upon failure of such person to timely respond to this request, the county ASC committee shall determine that the person does not use the land on the farm for agricultural purposes, or does not use the burley tobacco marketing quota for educational, instructional, or demonstrational purposes.

(c) *Buyer of quota fails to share in the risk of production*—(1) *Forfeiture required.* If any person buys burley tobacco quota and such person fails to share in the risk of producing the tobacco which was planted subject to such quota during any of the 5 crop years beginning with the crop year for which the purchase became effective, such person shall forfeit the purchased quota if it is not sold on or before December 31 of the year after the crop year in which such crop was planted.

(2) *Failure to utilize purchased quota.* The failure to utilize purchased burley tobacco quota for the production of tobacco shall not result in the forfeiture of such quota, but the 5-year period which is specified in paragraph (c)(1) of this section shall be extended 1 year for each year in which the quota is not utilized.

(3) *Reduction for failure to share in the risk of production.* The effective quota shall be reduced, but not below zero pounds, for leasing and marketing quota purposes only, to the extent of the purchased quota for each crop after the crop year in which the buyer of such quota fails to share in the risk of producing a crop of tobacco which is subject to such quota.

(4) *Determining forfeited amount.* If only part of the quota on a farm is attributable to a purchased quota, the amount of the farm marketing quota which must be forfeited under paragraph (c) of this section shall be determined by increasing or decreasing each respective purchase of farm marketing quota for the farm to reflect changes in national quota factors since the purchase occurred and subtracting the pounds of quota which have been sold to prevent forfeiture.

(d) *Hearing.* Before any forfeiture of quota becomes effective under the provisions of this section, the county ASC committee shall:

(1) Schedule a hearing for the affected person.

(2) Notify the affected person of the hearing at least 10 days in advance of the hearing.

(3) Make a determination, on the basis of the evidence presented at the hearing by or on behalf of the affected person and by or on behalf of the county ASC committee as to whether or not:

(i) Any of the conditions for forfeiture specified in this section exist; and

(ii) The affected person knowingly failed to take steps to prevent forfeiture of allotment and quota when such forfeiture conditions have been determined to exist with respect to the provisions of paragraph (b) of this section.

(4) Notify the affected persons of the county ASC committee determination and, if forfeiture of quota is to be required, afford such person an opportunity to appeal to a review committee in accordance with the provision of part 711 of this chapter.

(e) *Apportionment of data and determination of quota after forfeiture*—(1) *Apportionment of data.* The pounds of farm marketing quota retained on the forfeiting farm after the forfeiture shall be divided by the farm marketing quota established for the farm before the forfeiture to determine a factor for apportioning farm data. The data to be retained on the forfeiting farm shall be determined by multiplying the factor by the following data for the forfeiting farm:

(i) Overmarketings which have been subtracted when determining the effective farm marketing quota of the forfeiting farm.

(ii) Pounds of quota transferred from the forfeiting farm by lease or by the owner in the current year.

(iii) Pounds of quota reduced in the current year for a marketing quota violation in a prior year.

(iv) Previous year's effective farm marketing quota.

(v) Previous year's marketings.

(vi) Previous year's farm marketing quota.

(vii) Pounds of quota transferred to the farm by lease or by owner in the previous year.

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the pounds of each respective item of farm data which are retained on the forfeiting farm from the pounds of the respective item of data

which were established for the forfeiting farm before forfeiture.

(2) *Forfeiture pool.* The data for the forfeiture pool shall be added to any previous data in the forfeiture pool.

(3) *Quota after forfeiture.* After adjustment of data, the effective farm marketing quota shall be determined in accordance with the provisions of § 723.206 of this part for the forfeiting farm.

(f) *Forfeiture pool*—(1) *Establishing forfeiture pool.* A forfeiture pool shall be established in each county in which a forfeiture of quota occurs. The forfeiture pool shall be increased to include data for each forfeiture and shall be decreased for each reallocation in order to reflect any forfeited or reallocated amounts of:

(i) Farm marketing quota for the current year.

(ii) Quota reduced for marketing quota violations.

(iii) Quota transferred from the forfeiting farm by lease or by the owner.

(iv) Previous year's effective farm marketing quota.

(v) Previous year's marketings.

(2) *Adjustment of data in forfeiture pool.* At the beginning of the current year, the data in the forfeiture pool shall be adjusted by the factor used in determining quotas for old farms. Quota data in the forfeiture pool shall be decreased each time any burley tobacco quota is reallocated from the forfeiture pool. Such decrease in the quota data will be made in the same proportion as the pounds of quota which are reallocated from the pool are to the pounds of quota which were in the pool before the reallocation.

(g) *Reallocation of quota from forfeiture pool*—(1) *Application.* In order to establish eligibility to receive quota from the forfeiture pool in the current year, an application must be made on a form approved by the Deputy Administrator. Such application must be filed:

(i) *Who may file.* By an active producer.

(ii) *When to file.* On or before April 30. The State ASC committee may establish an earlier date if notice of such earlier date is given in time for interested applicants to file an application by the earlier date.

(iii) *Where to file.* At the county ASCS office which serves the farm for which the application is filed.

(2) *Eligibility of applicant.* In order for an applicant to be eligible for quota from the forfeiture pool, the county ASC committee must determine that:

(i) The application was filed timely.

(ii) The applicant is an active tobacco producer.

(iii) During the current year or during the 4 years preceding the current year, the applicant has not sold or forfeited quota from any farm.

(3) *Time to reallocate.* The county ASC committee shall:

(i) Not reallocate any quota from the forfeiture pool until the time has passed for filing an application for forfeited quota for the current year.

(ii) Reallocate any quota from the forfeiture pool only during the 30-day period beginning on the day after the final day for filing an application for quota from the forfeiture pool.

(4) *Reallocation by county ASC committee.* Reallocation of any burley tobacco quota shall be made by the county ASC committee. In making its determination of the amounts of quota to reallocate, the county ASC committee may consider the size of the current quotas on the farms of the eligible applicants, the length of time the applicants have been farming tobacco, the type of farming done by the applicants (i.e., livestock, grain, or other commodities), previous leasing history of the applicants, and such other factors which in the judgment of the county ASC committee should be considered. A burley tobacco quota may be reallocated to a farm which currently does not have a burley tobacco quota. A factor shall not be used to reallocate quota between all eligible applicants.

(5) *Basis for reallocation from forfeiture pool.* Reallocation from the forfeiture pool shall be on the basis of pounds of farm marketing quota.

(6) *Amount of quota to be reallocated.* The county ASC committee may reallocate all or part of the quota in the forfeiture pool. The minimum amount of quota which may be reallocated to an eligible applicant is the total amount of quota in the pool or 100 pounds, whichever is less. The maximum amount is 500 pounds. However, up to 1,500 pounds may be allocated with State ASC committee concurrence.

(7) *Data for receiving farm.* All data for the forfeiture pool shall be apportioned to the receiving farm in the proportion that the reallocated farm marketing quota is to the total farm marketing quota in the forfeiture pool before the reallocation. The data determined for the receiving farm in accordance with the provisions of this paragraph shall be added to any previous data for the receiving farm.

(8) *Quota for receiving farm.* After any adjustments which are made in accordance with the provisions of this section, the effective farm marketing quota shall be determined for the receiving farm.

(h) *Forfeiture of reallocated quota.* Any burley tobacco quota which is reallocated in accordance with the provisions of this section shall be forfeited if the applicant to whom the quota is reallocated fails to share in the risk of producing a crop of tobacco which is subject to such quota during any of the 5 years beginning with the crop year during which the quota is reallocated. The amount of farm marketing quota which must be forfeited shall be determined in the same manner which is specified in paragraph (c)(4) of this section with respect to the forfeiture of purchased quota. Any forfeiture of quota shall occur on December 1 of the year in which the applicant fails to share in the risk of production of tobacco which is produced subject to such quota. While the failure to utilize a quota shall not subject the quota to forfeiture, the 5-year period which is specified in this paragraph shall be extended by a year for each year in which the quota is not utilized.

(i) *Successor-in-interest.* A successor-in-interest shall be subject to the provisions of this section in the same manner and to the same extent as would be applicable to the person whose interest has been assumed by such successor-in-interest.

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm marketing quota for such farm was either purchased and/or was reallocated from forfeited quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 30 of the current crop year and such owner would otherwise be required to sell or forfeit the farm marketing quota because in the preceding crop year the owner of such quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated quota, the new owner may be considered the buyer of the quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county ASC committee on or before June 30 of the current year a certification that such owner intends to become an active burley tobacco producer. Any purchased or reallocated quota, which is acquired by a new owner who is not considered to be the buyer of the quota in accordance with the provisions of this paragraph, shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased

the quota at the time the farm was acquired.

(2) *Buyer no longer shares in risk of production.* The owner of a farm shall become the successor-in-interest to the buyer of burley tobacco quota which was transferred to a farm but which was not owned by such buyer if the buyer ceases to share in the risk of production of burley tobacco produced on the farm.

§ 723.220 Forfeiture of flue-cured tobacco acreage allotment and marketing quota.

(a) *Determination of allotment and quota subject to forfeiture.* (1) For purposes of paragraphs (b) and (c) of this section, the phrase "owns a farm" means ownership of:

(i) A farm as constituted under part 719 of the chapter if the entire farm shares a common ownership; or

(ii) All of the land within a common ownership if the parent farm consists of separate ownership tracts of land.

(2) For purposes of paragraphs (b) and (c) of this section, the county ASC committee shall, in accordance with the provisions of part 719 of this chapter, apportion the flue-cured tobacco acreage allotment and marketing quota assigned to a farm between:

(i) All land which is owned by any person which is not significantly involved in the management or use of land for agricultural purposes, as described in paragraph (b) of this section; and

(ii) Each common ownership tract of land in the farm other than that described in paragraph (a)(2)(i) of this section.

(3) With respect to the provisions of paragraph (c) of this section, an acreage allotment and marketing quota shall be determined for a tract in accordance with paragraph (a)(2)(ii) of this section only to the extent that records are available to show the contribution which the tract made to the flue-cured tobacco acreage allotment of the parent farm.

(4) The farm acreage allotment and farm marketing quota determined under this section for each farm or tract, as applicable, will be the amount of allotment and quota subject to forfeiture under this section.

(b) *Persons not significantly involved in management or use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in part 719 of this chapter, including any: Governmental entity, public utility, educational institution, or religious institution, but not including any: Individual, partnership, joint venture, family farm corporation, trust, estate, or similar fiduciary account with respect to which 50 percent or more of the beneficial interest is in one or more individuals; or educational institution that uses a flue-cured tobacco acreage allotment and marketing quota for instruction or demonstrational purposes.

(1) *Required forfeiture.* If at any time the county ASC committee determines that any person which owns farm for which a flue-cured tobacco acreage allotment and marketing quota are established is not significantly involved in the management or use of land for agricultural purposes, such person shall forfeit such allotment and quota which is not sold on or before December 1 of the year for which the county ASC committee makes such a determination.

(2) *Owner ceases to be significantly involved.* A person shall be considered to be significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that:

(i) For the 3 preceding years, more than 20 percent of the gross income of the person has been derived from the management or use of land for the production of crops which are planted and harvested annually, and/or livestock, including pasture and forage for livestock; and

(ii) Any other person or all other persons which in combination own more than 50 percent of the assets of the owner of the flue-cured tobacco allotment and marketing quota also meet the criteria specified in paragraph (b)(2)(i) of this section.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to such request, the county ASC committee shall determine that the person is not significantly involved in the management or use of land for agricultural purposes.

(c) *Flue-cured tobacco farm acreage allotment exceeds 50 percent of tillable cropland.* If any person owns a farm for which the flue-cured tobacco farm acreage allotment assigned to the land owned by the person exceeds 50 percent of the tillable cropland on such farm, the person shall take steps, such as the sale of allotment, the purchase of tillable cropland, or conversion of land to tillable cropland status, which will result in the elimination of the excess or the person shall forfeit flue-cured tobacco farm acreage allotment equal to the amount of such excess that remains on or after;

(1) July 1 of the year, after the year of acquisition, if the farm was acquired after December 1, 1983.

(2) July 1 of the year after the crop year for which the change(s) become effective, for increases in allotment resulting from changes in national acreage or national yield factors.

(3) July 1 of the year after the year in which the farm owner disposes of an acreage of tillable cropland or changes the status of land in the farm so as to cause such land to lose its tillable cropland status.

(d) *Farm includes purchased allotment.* If a farm includes purchased allotment, notwithstanding the provisions of paragraph (c)(1) of this section, when the flue-cured tobacco farm acreage includes acreage of purchased allotment and the flue-cured tobacco farm acreage allotment exceeds 50 percent of the tillable cropland because the owner disposed of an acreage of tillable cropland after purchasing the allotment, the forfeiture shall not take place until July 1 of the year after the year of such disposal.

(e) *Buyer of allotment fails to share in risk of production*—(1) *Forfeiture required.* If any person buys a flue-cured acreage allotment and quota under the provisions of § 723.216 of this part and such person fails to share in the risk of producing the tobacco which was planted under such allotment and quota during any of the 5-crop years beginning with the crop year for which the purchase became effective, such person shall forfeit the purchased allotment and quota which is not sold on or before December 31 of the year after the crop year in which such crop was planted.

(2) *Fails to utilize purchased allotment and quota.* Failure to utilize purchased allotment and quota for the production of tobacco shall not subject such allotment and quota to forfeiture, but the 5-year period of paragraph (e)(1) of this section shall be extended 1 year for each year in which the allotment and quota is not utilized.

(3) *Reduction for failure to share in risk of production.* The effective allotment and quota shall be reduced, but not below zero acres or pounds, for planting, leasing, and marketing quota purposes only, to the extent of purchased allotment and quota for each crop year after the crop year in which the buyer of such allotment and quota fails to share in the risk of producing a crop of tobacco planted under such allotment and quota.

(4) *Determining forfeited amount.* If only part of the allotment and quota on

a farm resulted from purchased allotment or quota, the amount of farm marketing quota which must be forfeited under paragraph (e) of this section shall be determined by:

(i) Increasing or decreasing each respective purchase of farm marketing quota for the farm to reflect any annual changes in national acreage and national yield factors subsequent to the year of purchase.

(ii) Adding the amounts determined in paragraph (e)(4)(i) of this section, multiplying the result by the farm yield for the farm, and subtracting the pounds of quota which have been sold to prevent forfeiture.

(f) *Tobacco not planted nor considered planted.* Notwithstanding any other provision of this part, any person who owns a farm for which a flue-cured tobacco acreage allotment and marketing quota are established, shall forfeit such allotment and quota after February 15 of any year immediately following the 1st year of the 3-year period immediately preceding the year for which the county ASC committee determines that flue-cured tobacco was not planted nor considered planted on such farm during at least 2 years of such 3-year period.

(g) *Hearing.* Before any forfeiture of allotment and quota becomes effective under the provisions of this section, the county ASC committee shall:

(1) Schedule a hearing for the affected person.

(2) Notify the affected person of the hearing at least 10 days in advance of the hearing.

(3) Make a determination, on the basis of evidence presented at the hearing by or on behalf of the affected person and by or on behalf of the county ASC committee as to whether:

(i) Any of the conditions of requiring forfeiture as specified in this section exist; and

(ii) The affected person knowingly failed to take steps to prevent forfeiture of a flue-cured tobacco acreage allotment and marketing quota.

(4) Notify the affected person of the county ASC committee determination and, if forfeiture of allotment and quota is to be required, afford such person an opportunity to appeal to a review committee under the provision of part 711 of this chapter.

(5) Wait until the period has passed for the affected person to appeal the county ASC committee or review committee determination that allotment and quota must be forfeited under the provisions of this section.

(h) *Apportionment of data and determination of allotment and quota after forfeiture*—(1) *Apportionment of data.* The pounds of farm marketing quota retained on the forfeiting farm after the forfeiture shall be divided by the farm marketing quota established for the forfeiting farm before the forfeiture to determine a factor for apportioning farm data for the current year and for the base period. The data to be retained on the forfeiting farm shall be determined by multiplying the factor by the following data of the forfeiting farm, the:

(i) Planted and considered planted acres for the base period.

(ii) History acres for the base period.

(iii) Farm acreage allotment for the base period.

(iv) Overmarketings which have not been subtracted when determining the effective farm marketing quota of the forfeiting farm.

(v) Acres of allotment reduced in the current year for a marketing quota violation in a prior year.

(vi) Previous year's effective farm marketing quota.

(vii) Previous year's marketings.

(viii) Previous year's farm marketing quota.

(ix) Pounds of quota transferred from the forfeiting farm by lease in the current year.

(x) Pounds of quota transferred to the farm by lease in the previous year.

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the acres or pounds which are retained on the forfeiting farm from the acres or pounds established for the forfeiting farm before forfeiture.

(2) *Forfeiture pool.* The data for the forfeiture pool shall be added to any previous data in the forfeiture pool.

(3) *Allotment and quota after forfeiture.* After adjustment of data, the effective farm acreage allotment and the effective farm marketing quota shall be determined in accordance with § 723.205 and 723.206 of this part, respectively, for the forfeiting farm.

(i) *Forfeiture pool*—(1) *Establishing forfeiture pool.* A forfeiture pool shall be established in each county in which a forfeiture of allotment and quota occurs. The forfeiture pool shall be increased to include data for each forfeiture and shall be decreased for each reallocation in order to reflect any forfeited or reallocated amounts of the:

(i) Farm acreage allotment for the current year and for the base period.

(ii) Farm marketing quota for the current year and for the base period.

(iii) Acres reduced for violation.

(iv) Planted and considered planted acres for the base period.

(v) History acres for the base period.

(vi) Previous year's effective farm marketing quota.

(vii) Previous year's marketing.

(viii) Quota transferred from the forfeiting farm by lease.

(2) *Yield for forfeiture pool.* The farm yield for the forfeiture pool shall be determined by dividing the farm marketing quota in the forfeiture pool by the farm acreage allotment in the forfeiture pool. The preliminary farm yield for the forfeiture pool shall be determined by dividing the farm yield by the national yield factor.

(3) *Adjustment of data in forfeiture pool.* At the beginning of the current year, the data in the forfeiture pool shall be adjusted by the factors used in determining yields, allotments, and quotas for old farms. Acreage and quota data in the forfeiture pool shall be decreased each time quota is reallocated from the forfeiture pool, such decrease to be made in the same proportion as the pounds of quota which are reallocated from the pool are to the pounds of quota which were in the pool before the reallocation.

(j) *Reallocation of allotment and quota from forfeiture pool*—(1) *Application.* In order to establish eligibility to receive allotment and quota from the forfeiture pool in the current year, an application must be made on a form approved by the Deputy Administrator. Such application must be filed:

(i) *Who may file.* By an active producer.

(ii) *When to file.* On or before March 31. The State ASC committee may establish an earlier date if notice of such earlier date is given in time for interested applicants to file an application by the earlier date.

(iii) *Where to file.* At the county ASCS office which serves the farm for which the application is filed.

(2) *Eligibility of applicant.* In order for an applicant to be eligible for allotment and quota from the forfeiture pool, the county ASC committee must determine that:

(i) The application was filed timely.

(ii) The applicant is an active producer.

(iii) During the current year or during the 4 years preceding the current year, the applicant has not:

(A) Sold or forfeited allotment and quota from any farm.

(B) Used the designation method of division to retain less allotment than the farm would have retained by another method of division.

(3) *Time to reallocate.* The county ASC committee shall:

(i) Not reallocate any allotment and quota from the forfeiture pool until the time has passed for filing an application for forfeited allotment and quota for the current year.

(ii) Reallocate any allotment and quota from the forfeiture pool only during the 30-day period beginning on the day after the final day for filing an application for allotment and quota from the forfeiture pool.

(4) *Reallocation by county ASC committee.* Reallocation of any allotment and quota shall be made by the county ASC committee. In making its determination of the amounts to reallocate, the county ASC committee may consider the size of the current allotments on the farms of the eligible applicants, the length of time the applicants have been farming tobacco, the type of farming done by the applicants (i.e., livestock, grain, or other commodities), and other factors which in the judgment of the county ASC committee should be considered. Allotment and quota may be reallocated to a farm which currently does not have a flue-cured tobacco allotment. A factor shall not be used to reallocate allotment and quota between all eligible applicants.

(5) *Basis for reallocation from forfeiture pool.* Reallocation from the forfeiture pool shall be on the basis of pounds of farm marketing quota.

(6) *Amount of quota to reallocate.* The county ASC committee may reallocate all or part of the quota in the forfeiture pool.

(i) *Minimum.* The minimum amount of quota which may be reallocated to an eligible applicant is the total amount of quota in the pool or 200 pounds, whichever is less.

(ii) *Maximum.* The maximum amount of quota which may be reallocated to an eligible applicant is 1,000 pounds. However, with State ASC committee approval, up to 2,500 pounds may be allocated.

(7) *Data for receiving farm.* All data for the forfeiture pool shall be apportioned to the receiving farm in the proportion that the reallocated farm marketing quota is to the total farm marketing quota in the forfeiture pool before the reallocation. The pounds of farm marketing quota reallocated to a farm shall be divided by the farm yield for the farm to determine the amount of reallocated farm acreage allotment. The data determined for the receiving farm in accordance with the provisions of this paragraph shall be added to any previous data for the receiving farm.

(8) *Allotment and quota for receiving farm.* After any adjustments which are made in accordance with the provisions of this section, the farm acreage allotment, the effective farm acreage allotment, and the effective farm marketing quota shall be determined for the receiving farm according to §§ 723.205 and 723.206, respectively, of this part.

(k) *Forfeiture of reallocated allotment and quota.* Allotment and quota which is reallocated to a farm under the provisions of this section shall be forfeited if the applicant to whom the allotment and quota is reallocated fails to share in the risk of production of tobacco produced under such allotment and quota during any of the 5 years beginning with the crop year during which the allotment and quota is reallocated. The amount of farm marketing quota which must be forfeited shall be determined in the same manner as is provided in paragraph (e)(4) of this section for forfeiture of purchased quota. Forfeiture shall occur on December 1 of the year in which the applicant fails to share in the risk of production of tobacco which is produced under such allotment and quota. While the failure to utilize such allotment and quota shall not subject such allotment and quota to forfeiture, the 5-year period, as provided for in this paragraph, shall be extended by a year for each year in which the allotment and quota is not utilized.

(l) *Successor-in-interest.* The successor-in-interest shall be subject to the provisions of this section in the same manner and to the same extent as would be applicable to the person whose interest was assumed.

(1) *New owner.* The new owner of a farm on which a portion or all of the farm acreage allotment and farm marketing quota for such farm was either purchased and/or was reallocated from forfeited allotment and quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 15 of the current crop year and such owner would otherwise be required to sell or forfeit the farm acreage allotment and farm marketing quota because in the preceding crop year the owner of such allotment and quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated allotment and quota, the new owner may be considered the buyer of the allotment and quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county ASC committee on or before June 15 of the current year a certification that such owner intends to become an active flue-cured tobacco producer. Any purchased or reallocated allotment and quota, which is acquired by a new owner who is considered to be the buyer of the allotment and quota in accordance with the provisions of this paragraph, shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased the allotment and quota at the time the farm was acquired.

(2) *Buyer no longer shares in risk of production.* The owner of a farm shall become the successor-in-interest to the buyer of allotment and quota which was transferred to a farm but which was not owned by such buyer if the buyer ceases to share in the risk of the production of tobacco produced on the farm.

Subpart C—Tobacco Subject to Quota, Exemptions From Quotas, Marketing Cards, and General Penalty Provisions

§ 723.301 Identification of tobacco subject to quota.

(a) Except as provided in paragraphs (b) and (c) of this section, any tobacco which is determined by a representative of the State ASC committee or county ASC committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind of tobacco unless it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR part 30), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Paragraph (b) of this section shall not apply to:

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965);

(2) Cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) Cigar-wrapper (types 61 and 62) tobacco when it is nonquota tobacco and produced in Connecticut, Massachusetts, Georgia or Florida;

(4) Tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined by the Agricultural Marketing Service, U.S. Department of Agriculture, through application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection and identification shall be made prior to removal of the tobacco from the State where it was produced; and

(5) Tobacco which is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres.

§ 723.302 Tobacco for experimental purposes.

For farms on which tobacco is being grown for experimental purposes by or under the direction of a publicly owned agricultural experiment station, such tobacco shall be exempt from any penalties otherwise required by this part if, before the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, the director of such publicly owned agricultural experimental station furnishes a report, to the State Executive Director for the State in which the farm is located, that includes the following information:

(a) Name and address of the publicly owned agricultural experiment station.

(b) Name of the owner, and name of the operator if different from the owner, and the farm number of each farm on which tobacco is grown for experimental purposes only.

(c) The acreage or poundage of tobacco that is to be grown on each farm for experimental purposes only.

(d) A certification signed by the director of the publicly owned agricultural experiment station to the effect that such acreage or poundage of tobacco is being grown for each farm for experimental purposes only, the tobacco is being grown under the auspices of such director, and the acreage of each plot was considered necessary for carrying out the experiment.

§ 723.303 Production of registered or certified flue-cured tobacco seed.

Producers of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage in excess of the effective allotment to seed production without such acreage of tobacco causing a "No Price Support" entry on the marketing card issued for the farm if an agreement is signed by the farm operator, and the producer, if different from the operator, which provides:

(a) *Destruction prior to harvest.* For the destruction prior to harvest of all tobacco produced on the acreage designated for seed production.

(b) *Producer payment of compliance costs.* That the producers shall pay the cost of compliance visits to a farm by representatives of the county ASC committee for the purposes of:

(1) Designating and determining the acreage of seed production, and

(2) Determining that no tobacco has been harvested from the acreage designated for seed production and to witness destruction of tobacco leaves.

(c) *Agreement.* That the producer(s) signing the agreement shall agree to timely notify the county ASCS office when the tobacco seed has been harvested.

(d) *No history credit.* That the planting of the tobacco acreage for seed production will not create history acreage for the purpose of establishing future farm allotments.

(e) *Cancellation of marketing cards.* That if the county ASC committee determines that any of the terms and conditions of the agreement have been violated or any material misrepresentation has been made, any marketing card issued for the farm in recognition of the agreement shall be recalled and canceled, and a marketing card shall be issued to reflect that tobacco produced on the farm is not eligible for price support.

§ 723.304 Determination of discount varieties.

(a) *Definition. Discount variety* means any of the flue-cured tobacco seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XyZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, or Dixie Bright 244. However, where there is growing in a field offtype plants of not more than 2 percent, such offtype plants shall not be considered in certifying the flue-cured tobacco variety being produced. Flue-cured tobacco variety which is not certified to be discount variety shall be considered as "acceptable variety."

(b) *Producer report.* The operator, or any producer, on each farm producing flue-cured tobacco shall file with the county ASCS office a report on MQ-32 showing whether or not discount variety tobacco was planted on the farm.

(c) *Failure to file report.* If the operator of a farm on which flue-cured tobacco is being produced in the current year fails or refuses, within 7 days after a request of the county ASC committee on MQ-34-1, Notice of Action Required Regarding Determination of Seed Varieties of Flue-Cured Tobacco, to file a report on MQ-32, showing whether or not there was planted any of the discount varieties of flue-cured tobacco on such farm, all flue-cured tobacco produced on such farm shall be considered by the county ASC committee to be discount variety tobacco unless the county ASC committee finds that failure to comply with the request was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* The farm operator having discount variety tobacco shall be given written notice by certified mail on MQ-34-2, Notice of Determination of Discount Variety of Flue-Cured Tobacco. This notice to the farm operator shall constitute notice to all persons who, as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who received a Form MQ-34-2 notifying such producer that the farm has discount variety tobacco when in fact an acceptable variety is being produced may recertify on Form MQ-32.

(f) *Issuance of marketing cards.* (1) If a farm is considered to have discount variety tobacco available for marketing and the farm is eligible for price support, the county ASCS executive director shall issue MQ-76, bearing the notation "Discount Variety-Limited Price Support." If the farm is considered to have discount variety tobacco but it is not eligible for price support, the county ASCS executive director shall issue MQ-76, bearing the notation "Discount Variety-No Price Support."

(2)(i) Where an MQ-76, bearing the notation, "Discount Variety-Limited Price Support" is issued for a farm, the card may be exchanged at the county ASCS office for an MQ-76, without the notation, or

(ii) Where an MQ-76, bearing the notation "Discount Variety-No Price

Support" is issued for a farm the card may be exchanged at the county ASCS office for MQ–76 with the notation "No Price Support." However, the farm operator shall establish to the satisfaction of the county ASC committee that there has been no commingling or substitution of discount variety tobacco produced on the farm or on any other farm operated by such operator, and that all discount variety tobacco has been marketed or satisfactorily disposed of, or accounted for.

(3) MQ–76 issued to identify marketings of tobacco grown for experimental purposes by or for publicly owned experiment stations shall bear the notation "Discount Variety-Limited Price Support" if such tobacco is discount variety tobacco.

(g) *Identification of flue-cured leaf account tobacco as acceptable variety*—(1) Whenever the Director determines there is a significant amount of discount variety tobacco available for marketing in any marketing year, the Director may cause to be initiated the provisions of this paragraph. In addition, the Director may terminate any action initiated hereunder when it is determined that no discount variety of flue-cured tobacco remains available for sale during the remainder of the current marketing season. Notification to warehouse operators of action required under this paragraph shall be by the State ASCS executive director.

(2)(i) Each warehouse operator who offers for auction sale any leaf account flue-cured tobacco on a warehouse floor other than such operator's own floor, and who requests the other warehouse operator to identify such tobacco as being "acceptable variety" shall execute MQ–79–1 (Flue-Cured), Dealer's Certification-Resale Tobacco.

(ii) Each warehouse operator who is participating in the Commodity Credit Corporation price support program, and who identifies resale tobacco indicating that such tobacco with a "certified" lot ticket indicating that such tobacco is covered by an executed MQ–79–1.

(iii) Each executed MQ–79–1 (Flue-Cured) shall show the following information with respect to each lot of resale tobacco:

(A) Crop year.

(B) Name and address of warehouse where the tobacco is being offered for sale.

(C) Tobacco sale bill number and date.

(D) Date, signature of dealer and current address, and dealer identification number.

(3)(i) Each dealer or any other person who offers for auction sale any resale flue-cured tobacco on a warehouse floor which is participating in the Commodity Credit Corporation price support program and on which floor eligible resale flue-cured tobacco is identified with a "certified" lot ticket, and who requests the warehouse operator to identify such operator's tobacco as being an "acceptable variety," shall execute MQ–79–1 (Flue-Cured), Dealer's Certification-Resale Tobacco.

(ii) Each executed MQ–79–1 (Flue-Cured) shall show the following information with respect to resale tobacco:

(A) Crop year.

(B) Name and address of warehouse where the tobacco is being offered for sale.

(C) Date, signature of dealer and current address and dealer identification number.

(D) Tobacco sale bill number and date.

(iii) Each dealer or any person who acquires acceptable variety tobacco in a manner which would make it eligible for certification on MQ–79–1, or who has on hand both discount variety tobacco and acceptable variety tobacco, and desires to dispose of acceptable variety tobacco prior to disposing of the discount variety tobacco, may apply in writing to the State ASCS executive director for a special authorization to have the acceptable variety tobacco certified when offered for auction sale.

(h) Estimate of production. For any farm on which discount variety tobacco is being grown, a Form MQ–92, Estimate of Production, shall be obtained.

§ 723.305 Issuance of marketing cards.

(a) *General.* Each marketing of tobacco from a farm in a quota area shall be identified by a valid marketing card unless prior to marketing an AMS certification is issued for such tobacco to indicate that such tobacco is a nonquota kind of tobacco.

(1) A marketing card (MQ–76 or MQ–77) shall be issued for the current marketing year for each farm having quota tobacco available for marketing. Cards shall be issued in the name of the farm operator except that:

(i) Cards issued for tobacco grown for experimental purposes only shall be issued in the name of the experiment station,

(ii) Cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest,

(iii) For kinds of tobacco other than flue-cured and burley, if a part of a farm which includes the tobacco acreage on the farm is cash leased to such producer, cards shall be issued in the name of such producer. The face of the marketing card may show the name of other interested producers. A marketing card may be issued in the name of a producer who is not the farm operator if the county ASC committee determines pursuant to the procedure in paragraph (a) (2) of this section that such producer has been or likely will be deprived of the right to use the marketing card issued for the farm to market such producer's proportionate share of the crop.

(2) If the county ASC committee has reason to believe that one or more producers on the farm have been or likely will be deprived of the right to use such marketing card to market such producer's proportionate share of the crop, a hearing shall be scheduled by the county ASC committee and the operator of the farm and the producer or producers involved shall be invited to be present, or to be represented, at which time they shall be given the opportunity to substantiate their claims concerning the use of the farm marketing card to market each such producer's proportionate share of the effective farm marketing quota for such crop. At least two members of the county ASC committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice. A summary of the evidence presented at the hearing shall be prepared for use of the county ASC committee. If the farm operator or other producer(s) on the farm do not attend the hearing, or are not represented, the county ASC committee shall make its decision on the basis of information available to such committee. If the county ASC committee finds that any producer on the farm has been or likely will be deprived of the right to use the marketing card issued for the farm to market such producer's proportionate share of the crop, a separate marketing card shall be issued to such producer. With respect to burley and flue-cured tobacco, the marketing card issued for the farm shall be recalled and a separate marketing card, showing 103 percent of the producer's proportionate share of the effective farm marketing quota shall be issued to each such producer who it is determined has been or likely will be deprived of the opportunity to market such producer's proportionate share of the crop and another card (or other cards if considered preferable by the county ASC committee) shall be issued showing 103 percent of the effective farm marketing quota to enable the other producers on the farm to market their proportionate shares. The marketing cards issued pursuant to this

subparagraph shall reflect the proportionate pounds, if any, already marketed by each producer.

(3) The procedure in paragraph (a)(2) of this section shall not apply to a person who was a producer on the farm in a prior year but who is not a producer in the current crop year.

(b) *Person authorized to issue marketing cards.* The county ASCS executive director shall be responsible for the issuance of marketing cards. For kinds of tobacco other than burley and flue-cured tobacco, each marketing card shall bear the actual or facsimile signature of the county ASCS executive director who issued the card.

(c) *Rights of producers and successors-in-interest.* (1) Each producer having a share in tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing such producer's proportionate share.

(2) Any person who succeeds, other than a dealer, in whole or in part to the share of a producer in the tobacco available for marketing from a farm, shall, to the extent of such succession, have the same right to the use of the marketing card and bear the same liability for penalties as the original producer.

(d) *No price support-burley and flue-cured tobacco.* For burley and flue-cured tobacco, the notation "No Price Support" shall be entered on each marketing card issued for the use of:

(1) *Farm.* The farm if any producer on the farm is ineligible for price support under the provisions of part 1464 of this title.

(2) *Producer.* The producer on a farm if the producer is ineligible for price support under the provisions of part 1464 of this title.

(e) *Farm quota data entered on marketing card and supplemental card for burley or flue-cured tobacco:*

(1) Any marketing card issued to market burley or flue-cured tobacco shall show when issued, in the space provided on the reverse side, the pounds computed by multiplying 103 percent times the effective farm marketing quota.

(2) Notwithstanding paragraph (e)(1) of this section, if the tobacco available for marketing from the farm is determined by the county ASC committee or the county ASCS executive director to be less than the effective farm marketing quota, for purposes of issuing a marketing card and showing thereon the farm's 103 percent of the effective quota, the effective farm marketing quota for the farm shall be considered to be the pounds determined to be available for marketing from the farm. If any producer on the farm satisfies the county ASC committee or county ASCS executive director that the quantity of tobacco produced on the farm in the current year, plus any carryover tobacco from a prior year, is greater than the previously determined pounds of tobacco available for marketing from the farm, the pounds shown on the marketing card shall be increased accordingly, but not to exceed an amount which would cause the total pounds shown on the marketing card to equal 103 percent of the effective farm marketing quota.

(3) Upon request by the farm operator, a supplemental marketing card bearing the same name and identification as shown on the original marketing card may be issued for a farm upon return to the county ASCS office of an original marketing card or a supplemental marketing card. The pounds computed as the balance of 103 percent of quota from a prior marketing card shall be shown in the first space on the reverse side of the marketing card.

(4) Upon written request of the farm operator two or more marketing cards may be issued for a farm if the farm operator specifies the number of pounds of quota to be assigned to each marketing card. In such case, the total pounds of quota specified in the entry, "103 percent of quota," on all marketing cards issued for the farm may not exceed 103 percent of the effective farm marketing quota.

(f) *Farm quota data entered on marketing card and supplemental card for any kind of tobacco other than burley or flue-cured:* (1) Within quota marketing card. A within quota marketing card, MQ–76, indicating the tobacco is eligible for price support shall be issued for use in identifying the kind of tobacco that is available for marketing from a farm when such tobacco:

(i) Is eligible for price support according to the provisions of part 1464 of this title.

(ii) Was grown for experimental purposes by a publicly owned agricultural experiment station.

(2) *Excess marketing card.* An excess marketing card (MQ–77) shall be issued for a farm for marketing a kind of tobacco that is ineligible for price support. Before the MQ–77 is issued the county ASCS executive director shall enter on such marketing card the rate of any penalty that is to be deducted from the proceeds from any marketing of tobacco identified by such marketing card. An MQ–77 shall be issued for each farm for each kind of tobacco for which:

(i) There is excess tobacco available for marketing from the farm; or

(ii) The producer is not an eligible producer or the tobacco is not eligible tobacco as determined in accordance with part 1464 of this title.

(3) *Full penalty rate.* The full penalty rate shall be entered on each MQ–77 issued to identify tobacco produced on a farm for which:

(i) An acreage allotment was not established;

(ii) The farm operator or another producer on the farm prevents the county ASC committee from obtaining information necessary to determine the correct acreage of tobacco on the farm;

(iii) The farm operator fails in accordance with part 718 of this chapter to provide a certification of acreage planted to tobacco, or

(iv) The farm operator or another producer on the farm has not agreed to make contributions to the No Net Cost Fund or pay assessments to the No Net Cost Account, as applicable, in accordance with part 1464 of this title.

(4) *Converted penalty rate.* Except as provided in paragraph (f)(3) of this section, a converted penalty rate shall be entered on each MQ–77 issued to identify tobacco produced on a farm from which there is excess tobacco available for marketing and the percentage of excess is less than 100 percent. For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty for the current crop by the percent excess determined according to this paragraph. For a farm without carryover tobacco from a prior year, the percent excess shall be determined by dividing the excess acreage of tobacco by the harvested acreage of tobacco for the farm. For a farm having carryover tobacco from a prior year, the percent excess shall be determined as follows:

(i) Determine the number of "carryover" acres by dividing the number of pounds of carryover tobacco from the prior year by the normal yield for the farm for that year. Reduce such "carryover" acres by the amount determined by subtracting the harvested acreage from the allotment in the current year. If the "carryover" acres are entirely offset by the underharvested acreage, the percent excess will be zero and a MQ–76 may be issued if the farm otherwise is eligible for price support and the remainder of this paragraph (f)(4) of this section are inapplicable.

(ii) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" by the "percent within quota" (i.e., 100 percent minus

the percent excess) for the year in which the carryover tobacco was produced.

(iii) Determine the "total acres" of tobacco by adding the "carryover acres" and the acreage of tobacco harvested in the current year.

(iv) Determine the "excess acres" by subtracting from the "total acres" the sum of the current year's allotment and the "within quota carryover acres."

(v) Determine the percent excess by dividing the "excess acres" by the "total acres."

(5) Except as provided in paragraphs (f) (3) and (4) of this section, a zero penalty rate shall be entered on any MQ–77 issued in accordance with this section.

(g) *Other marketing card data.* Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

§ 723.306 Claim stamping and replacing marketing cards.

(a) *Claim stamping.* If a person is indebted to the United States and such indebtedness has been recorded on the county debt record, any marketing card issued for the farm on which the person has a producer interest shall bear the notation "U.S. Claim" followed by the amount of the indebtedness. The name of the debtor-producer, if different from the farm operator, shall be recorded directly under the claim notation. The notation "TMQ" indicating tobacco marketing quota as the type of indebtedness shall constitute notice to any buyer that until the amount of penalty is paid, the United States has a lien with respect to any crop of tobacco in which the debtor-producer has an interest. A claim notation other than "TMQ" shall constitute notice to any buyer that subject to prior liens, the net proceeds from any tobacco pledged as collateral for a price support loan shall be paid to the "Agricultural Stabilization and Conservation Service, USDA" to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notation and information concerning an indebtedness to the United States shall not constitute a waiver by the debtor-producer of any right to contest the validity of such indebtedness by appropriate appeal. As claim collections are made, the amount of the claim shown on the card shall be revised to show the claim balance. If requested by the producer, the county ASCS executive director who issued the marketing card shall issue a claim-free marketing card when the claim has been paid.

(b) *Replacing, exchanging, or issuing additional marketing cards.* Subject to the approval of the county ASCS executive director, two or more marketing cards may be issued for any farm. Upon the return to the county ASCS office of a marketing card which had been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card bearing the same name, information, and identification as the used card shall be issued for the farm. A new marketing card shall be issued to replace a card which has been determined by the county ASCS executive director who issued the card to have been lost, destroyed, or stolen.

§ 723.307 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid if:

(1) It is not issued or delivered in the manner prescribed;

(2) An entry is omitted or is incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or,

(4) Any erasure or alteration has been made and not properly initialed by the county ASCS executive director.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county ASCS executive director who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning invalid cards.* In the event any marketing card becomes invalid (other than by loss, destruction or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county ASCS executive director who issued the card, or by a marketing recorder), the farm operator, or the person in possession of the card, shall return it to the county ASCS office at which it was issued.

§ 723.308 Rate of penalty.

The rate of penalty for a marketing year shall be equal to seventy-five (75) percent of the average market price for the kind of tobacco for the immediately preceding marketing year as determined by the U.S. Department of Agriculture. The rate of penalty will be determined and announced annually for each marketing year in a notice published in the **Federal Register**.

§ 723.309 Persons to pay penalty.

The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Auction sale.* The penalty due on marketings by a producer or dealer through an auction sale shall be paid by the warehouse operator who may deduct an amount equivalent to the penalty from the price paid to the producer or dealer.

(b) *Nonauction sale.* The penalty due on tobacco acquired directly from a producer or dealer, other than at an auction sale, shall be paid by the person acquiring the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer or dealer in the case of a sale.

(c) *Marketing outside the United States.* The penalty due on marketings by a producer or dealer directly to any person outside the United States shall be paid by the producer or dealer making the sale.

§ 723.310 Date penalty is due.

(a) *Payment of penalty.* Penalties shall become due at the time the tobacco is marketed, except that in the case of false identification or failure to account for disposition, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount due to the State ASCS office not later than the end of the calendar week in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Agricultural Stabilization and Conservation Service may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) *Auction sale net proceeds.* If the penalty due on any auction sale of tobacco by a producer is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the tobacco sale bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include the following:

(1) Advances to producers,

(2) Charges for hauling, or

(3) Any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonauction sales.* Nonauction sales of excess tobacco shall be subject to the full rate of penalty and shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

§ 723.311 Lien for penalty.

(a) *Lien on tobacco.* Until the amount of any penalty which is imposed in accordance with the provisions of section 314 of the Act (7 U.S.C. 1314) is paid, a lien shall exist in favor of the United States for the amount of the penalty on:

(1) The tobacco with respect to which such penalty is incurred; and

(2) Any other tobacco subject to marketing quotas in which the person liable for payment of the penalty has an interest and which is marketed in the same or a subsequent marketing year.

(b) *Lien precedence.* The lien on any other tobacco attaches at the time the debt is entered on a debt record in:

(1) *Indebted producers.* The county ASCS office for the county in which a subsequent crop of tobacco is grown.

(2) *Indebted warehouse operator.* The State ASCS office for the State in which the warehouse is located.

(3) *Indebted dealer.* The State ASCS office for the State to which the dealer is required to file reports.

(c) *Availability of list of marketing quota penalty debts.* Each county and State ASCS office shall maintain a list of tobacco marketing penalty debts which have been entered on the debt record for the respective office. The list shall be available for examination upon request by any interested person.

§ 723.312 Request for refund of penalty.

Any person who paid any penalty may request the return of the amount of any such payment which is in excess of the amount required to be paid. Such request shall be filed on Form MQ–85, Farm Record and Account, with the county ASCS office within 2 years after the payment of the penalty. Approval of return shall be by the county ASC committee, subject to the approval of the State ASCS executive director.

§ 723.313 Identification of marketings.

(a) *Burley or flue-cured tobacco.* With respect to:

(1) *Identification of producer marketings.* Each auction and nonauction marketing of burley or flue-cured tobacco shall be identified by a valid marketing card, Form MQ–76, issued for the farm. The reverse side of the marketing card shall show in pounds:

(i) 103 percent of quota,

(ii) Balance of 103 percent of quota after each sale, and

(iii) Date of each sale.

(2) *Cross-references of tobacco sale bill number to prior sale bill.* Each warehouse operator, for each lot of tobacco weighed in on the warehouse floor for sale the same day, shall cross-reference the tobacco sale bill to each prior tobacco sale bill for tobacco identified by the same marketing card. To accomplish the cross-reference, each other tobacco sale bill number shall be entered by the warehouse operator in the "Remarks" space on the tobacco sale bill, on all copies, at the time such tobacco is weighed at the warehouse.

(3) *Recording producer sale.* Each producer sale at auction shall be recorded on Form MQ–72–1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on a Form MQ–72–2, Report of Tobacco Nonauction Purchase. For producer sales at nonauction, the dealer purchaser shall execute Form MQ–72–2 and shall enter the data on Form MQ–76. For producer sales at auction, Form 72–1 and Form MQ–76 shall be executed only by the ASCS marketing recorder.

(4) *Identification of dealer marketings of resale tobacco.* Each auction and nonauction marketing of resale tobacco in the current year, such tobacco shall be identified by a dealer identification card, Form MQ–79–2, issued to the dealer for use in the current marketing year.

(b) *Dark air-cured, fire-cured, or Virginia sun-cured tobacco.* With respect to dark air-cured, fire-cured, or Virginia sun-cured tobacco:

(1) *Identification of producer marketings.* Each marketing of such kind of tobacco from a farm shall be identified by a valid marketing card issued for the farm for the respective kind of a tobacco, either an MQ–76 or MQ–77 (including sale memo). With respect to each nonauction sale from:

(i) A within quota farm a check mark shall be entered on the inside of MQ–76, and

(ii) An excess farm for which an MQ–77 is issued, an executed bill of nonauction sale shall be prepared, and such bill of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(2) *Suspended sale and sales without marketing cards.* Any suspended sale, which is not identified by an MQ–76 or MQ–77 (including a sale memo) on or before the last warehouse sale day of the marketing season, or within 4 weeks after the date of marketing, whichever comes first, shall be identified by MQ–82, Sale Without Marketing Card, as a marketing of excess tobacco. Form MQ–82 shall be executed only by a marketing recorder or other representative of the State ASCS executive director.

(3) *Other persons authorized to execute MQ–76 or MQ–77 (including sale memo).* (i) A warehouse operator who has been authorized during the current marketing year on MQ–78, Tobacco Warehouse Organization, may record a sale on MQ–76 or MQ–77 (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the warehouse when the marketing card is presented.

(ii) Any warehouse operator, or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ–78, may for each purchase of scrap tobacco execute an MQ–76, or MQ–77 (including a sale memo if the bill of nonauction sale has been executed).

(4) *Verification of sales processed during the absence of marketing recorder.* Any person authorized on MQ–78 to act as a marketing recorder shall promptly present to a marketing recorder for verification each warehouse bill (floor sheet) processed and identified by an MQ–76 or MQ–77 (including any sale memos) executed in the absence of a marketing recorder.

(5) *Withdrawal of approval to act as marketing recorder.* The authorization on MQ–78 for persons may be withdrawn by the State ASCS executive director if such action is determined to be necessary to properly enforce the regulations in this part.

(c) *Separate display on auction warehouse floor.* Any warehouse operator upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each respective kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Use a lot ticket that is distinguishably different from the lot ticket used to identify any other kind of tobacco.

(3) Identify each lot by a lot ticket clearly showing the kind of tobacco. However, if where the tobacco is represented to be a nonquota kind the lot ticket shall have imprinted thereon the type designation for the kind of quota tobacco normally marketed in the area.

(4) Make and keep records that will ensure a separate accounting and reporting of each of such kinds of tobacco (quota and nonquota) sold at auction over the warehouse floor.

(d) *Identification of returned first sale (producer) tobacco.* When resold at auction, tobacco which has been previously sold and returned to the warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouse operator, it shall be identified as leaf account resale tobacco.

(e) *Verification of penalties by warehouse operators or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouse operator or dealer to determine whether the amount of penalty shown to be due has been correctly computed. Such warehouse

operator shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.

(f) *Check register.* The serial number of the tobacco sale bill(s) shall be recorded by the warehouse operator on the check register or check stub for the check written covering the auction sale of tobacco by a producer.

(g) *Marketing card and sale memo for cigar tobacco.* With respect to cigar tobacco:

(1) If a sale of producer's cigar tobacco to a buyer is not identified with a marketing card (MQ–76 or MQ–77) issued for the farm, including a sale memo from MQ–77, by the end of the sale day and recorded and reported on MQ–79 (CF&B), Buyers Record, by the tenth day of the calendar month next following the month during which the sale occurred, the marketing shall be identified on MQ–79 (CF&B) as a marketing of excess tobacco and reported not later than the tenth day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ–79 (CF&B) as a marketing of excess tobacco, and reported not later than the tenth day of the calendar month next following the month during which the sale day occurred.

(2) *Verification of penalty by buyer.* Each excess sale memo issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the sale memo.

Subpart D—Recordkeeping, Reporting Requirements, Marketing Penalties, and Other Penalties

§ 723.401 Registration of burley or flue-cured warehouse operators or dealers.

(a) *Warehouse registration.* For burley and flue-cured tobacco, any warehouse operator dealing in either flue-cured or burley tobacco shall be registered with the U.S. Department of Agriculture. Such registration will be handled by the North Carolina State ASCS Office, Raleigh, North Carolina.

(b) *Dealer registration.* Except for dealers who are exempt from the requirements for maintaining regular records and reports on the Form MQ–79 as provided in § 723.405 of this part, each person who expects to deal in burley and flue-cured tobacco during a marketing year shall annually register with the U.S. Department of Agriculture for the respective marketing year beginning with the 1989–1990 marketing year. Such registration shall be handled by the North Carolina State ASCS Office, Raleigh, NC. Registration may be accomplished by such person filing a MQ–79–2–A, after March 1 of the calendar year in which the marketing year begins, at the local county ASCS business is located. The applicant shall provide the names of other individuals who will be authorized to use the assigned dealer registration number to transact business on behalf of the applicant. Only one dealer registration number will be issued to each dealer entity. Persons maintaining the same residence shall be considered one entity, unless such persons can substantiate to the satisfaction of the State ASC committee for the State in which the application is made, that such persons operate their tobacco business entirely as separate entities.

(1) *Issuance of dealer cards.* After approval by the North Carolina State ASCS Office, each dealer will be assigned a four-digit identification number and issued a dealer identification card (Form MQ–79–2).

(2) *TMQ lien notation.* If a lien has been established against a dealer as a result of a tobacco marketing quota penalty such dealer, upon notification by the applicable State ASCS office, shall return the dealer identification card to the State ASCS office within 15 days of notification. Upon timely return of the dealer identification card the lien shall be annotated on the card and promptly returned to the dealer.

§ 723.402 Warehouse authorized to retain producer marketing cards between sales.

(a) *General.* Notwithstanding any other provisions of this part, to facilitate the scheduling of farmer's tobacco to the warehouse, marketing cards, with the permission of the producer, may be retained at the warehouse between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(b) *Warehouse eligible to retain producers marketing cards between sales.* A warehouse shall be eligible to retain producer marketing cards between sales if the operator thereof shall:

(1) Execute and file on a form approved by ASCS a written request with the State ASC committee (or county ASC committee if designated by the State ASC committee).

(2) Agree to be responsible to ASCS for an amount of money equal to that amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Burley or flue-cured tobacco for any overmarketing resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card.

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card.

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(iv) Any burley or flue-cured tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

(i) Name of the operator;

(ii) Serial number of farm;

(iii) Marketing card number, if applicable;

(iv) Date marketing card obtained from producer; and

(v) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the conditions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request, or in the absence of a request, return it to the producer within 7 days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by ASCS for failure to comply with provisions of this agreement.

(c) *Penalties considered to be the responsibility of warehouse operators.* Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State ASC committee (or county ASC committee if designated by the State ASC committee) for authorization to retain producer's marketing cards at the warehouse, with grower permission, shall be responsible to ASCS for an amount of money equal to the amount that may be assessed against the producer as marketing quota penalties if the marketing that is the basis of such assessment occurred while the

warehouse was authorized to have custody of the marketing card, for:

(1) Any burley or flue-cured tobacco overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the burley or flue-cured producer's marketing card or failure to deduct pounds sold on the producer's marketing card. However, the warehouse operator shall not be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against the producer in accordance with § 723.409(e) of this part.

(2) Tobacco falsely identified for marketing by use of the producer's marketing card.

(3) Producer's failure to account for any tobacco marketed by use of such producer's marketing card.

(4) With respect to burley or flue-cured producers, tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

§ 723.403 Auction Warehouse operators' records and reports.

(a) *Report on Form MQ–78, Tobacco Warehouse organization.* Each warehouse operator shall annually, prior to opening of auction markets, furnish ASCS an executed Form MQ–78 showing:

(1) Form of business organization.

(2) Names and addresses of warehouse officials and bookkeeper.

(3) Names and addresses of other warehouses in which the officials and bookkeepers have a financial interest.

(4) Names and addresses of custodians of warehouse records, including their location.

(b) *Separate records and reports.* Each auction warehouse operator shall keep the records and make the reports separately for each quota or nonquota kind of tobacco as provided in this section.

(c) *Record of marketing.* Each warehouse operator shall:

(1) *Auction or nonauction sale.* Keep such records as will enable the warehouse operator to furnish the following information to State ASCS office with respect to each sale of tobacco made at such person's warehouse:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the producer, in the case of a sale by a producer.

(ii) The name of the seller in the case of a resale.

(iii) Date of sale.

(iv) Number of pounds sold.

(v) Amount of any penalty and the amount of any deduction for such penalty from the price paid the producer.

(vi) With respect to each individual lot of tobacco constituting an auction sale, the:

(A) Name of purchaser.

(B) Number of pounds sold.

(C) Gross sale price.

(2) *Separate account records.* Maintain records of all purchases and resales of tobacco by the warehouse operator to show a separate account for:

(i) Nonauction purchases by or on behalf of the warehouse operator of farmer-owned tobacco.

(ii) Purchases and resales of:

(A) Leaf account tobacco.

(B) Floor sweeping tobacco.

(d) *Tobacco sale bill for burley and flue-cured tobacco.* (1) Each burley or flue-cured tobacco warehouse operator shall use tobacco sales bills furnished at the warehouse operator's expense showing, as a minimum, the following information:

(i) Tobacco sale bill number;

(ii) For flue-cured tobacco only, registration number assigned the warehouse by the Department;

(iii) Name and address of warehouse where sale is held;

(iv) For flue-cured tobacco only, the identification of other producers having an interest in the tobacco;

(v) Date of sale;

(vi) Number of pounds in each lot;

(vii) Name and address of seller; and

(A) Farm number (including State and county codes) for producer tobacco, and

(B) Dealer registration number for resale tobacco;

(viii) Identification number, if available, for each lot of tobacco to be offered for sale;

(ix) Poundage balance before sale for producer tobacco based on 103 percent of farm quota;

(x) Name or symbol of purchaser of each lot which is sold;

(xi) Gross number of pounds sold;

(xii) Sale price for each lot and gross sale price for all lots sold;

(xiii) Nonauction purchases by the warehouse holding the sale;

(xiv) Tobacco grade for tobacco consigned to price support;

(xv) The buyer's grade symbol for tobacco bought by private buyers.

(xvi) The letters "N/A" in the buyer and grade space for nonauction purchases by the warehouse.

(xvii) Marketing quota penalty collected; and

(xviii) Amount withheld from sale to cover claims due the United States.

(2) At the end of each sale day, the tobacco sale bills shall be sorted and filed in numerical order by sale dates, and lot tickets shall be filed in an orderly manner by sale dates or by numerical order.

(e) *Identification of tobacco for marketing*—(1) *Marketing card.* Each marketing of tobacco from a farm in any State for which a farm marketing quota has been established for any kind of tobacco shall be identified by a marketing card issued for the farm on which such tobacco was produced (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

(2) *Recording farm identification.* For burley or flue-cured tobacco, at the time the tobacco is weighed in, the warehouse operator shall record on the tobacco sale bill, the State and county codes and the farm serial number from the marketing card issued for the farm from which the tobacco is to be marketed.

(3) *Return of marketing card.* For tobacco that is to be sold at auction, the warehouse operator shall retain the marketing card until the producer has been paid for the sale of the tobacco or the tobacco is removed from the warehouse by the producer at which time the marketing card shall be returned to the producer. In any case where a producer's marketing card is found in the possession of a warehouse operator, and no producer on the farm for which the card is issued has tobacco on the floor for sale, or tobacco for which settlement is not yet completed, such card will be picked up by an ASCS representative for return to the producer. The warehouse operator shall be responsible for the safekeeping and proper use of the marketing card during such person's retention of the marketing card.

(4) *No price support.* For burley or flue-cured tobacco, if tobacco is to be marketed at auction from a farm for which a marketing card is issued bearing the notation "No Price Support", the warehouse operator shall enter the same notation on the tobacco sale bill at the time the tobacco is weighed in for sale. The warehouse operator shall prepare a separate tobacco sale bill to cover any tobacco which represents more than 103 percent of the effective farm marketing quota and the notation "No Price Support" shall be shown on such tobacco sale bill. The sale of such tobacco shall be considered a separate sale.

(5) *Nonauction purchase.* The warehouse operator shall enter the letters "NA" on each line of a tobacco sale bill on which there is recorded tobacco purchased by or for the

warehouse at nonauction sale and shall record on all such tobacco sale bills:

(i) For burley or flue-cured tobacco, the farm serial number from the marketing card that is used to identify the tobacco at the time of the nonauction purchase.

(ii) For tobacco other than burley or flue-cured, the serial number of the marketing card that is used to identify the tobacco at the time of the nonauction purchase.

(6) *Copy of sale bill.* The warehouse operator shall furnish to the producer a copy of the tobacco sale bill bearing the letters "NA" for any lot of such tobacco purchased by the warehouse operator.

(7) *Lot ticket.* At the time tobacco is weighed for marketing, the warehouse operator shall record the weight of the lot of tobacco on the tobacco sale bill and on the lot ticket. The sale bill number on which the lot of tobacco is recorded shall be recorded on the lot ticket. If the marketing card which is presented to identify the tobacco at weigh-in bears the notation "No Price Support," the same notation shall be entered by the warehouse operator on the lot ticket for each lot of tobacco which is identified with the same marketing card.

(8) *Recording serial number of marketing card.* For tobacco other than burley or flue-cured, before the tobacco is offered for sale, the warehouse operator shall record, on the sale bill, the serial number of the Form MQ–76 or MQ–77 issued for the farm from which the tobacco is to be marketed at auction.

(9) *Recording sale bill number.* For tobacco other than burley or flue-cured, the serial number of the sale bill shall be recorded:

(i) By the warehouse operator on the check register or check stub from the check written to cover an auction sale of tobacco by a producer.

(ii) On the inside of the marketing card by the marketing recorder or warehouse operator for each sale of tobacco by a producer.

(10) *Burley or flue-cured marketings.* A marketing card used to cover a sale of burley or flue-cured tobacco shall show on the reverse side the poundage balance of the "103 percent of quota."

(i) *Auction sale.* At the time of weigh-in the tobacco sale bill shall show the poundage balance of 103 percent of the farm's quota. The tobacco sale bill shall show the pounds on which penalty is due, and the amount of penalty.

(ii) *Nonauction sale to a warehouse operator at the warehouse.* If the tobacco sale bill includes both an auction sale and a nonauction sale such combined pounds shall be used to compute and reflect the balance of the "103 percent of quota." The tobacco sale bill shall show the pounds on which penalty is due and the amount of the penalty.

(iii) *Nonauction country purchase by a warehouse operator.* The warehouse operator shall deduct, from the balance of the "103 percent of quota" entry on the marketing card, the pounds of tobacco purchased as a nonauction country purchase. In addition, each warehouse operator shall record on Form MQ–79 and on Form MQ–72–2, Report of Tobacco Nonauction Purchase, each nonauction country purchase of tobacco made by such warehouse operator. The data to be reported on Form MQ–72–2 is set forth in § 723.404 of this part.

(11) *Sale memo and bill of nonauction sales.* For tobacco other than burley or flue-cured, a record of sales on Forms MQ–76, MQ–77, or MQ–82, Sale Without Marketing Card (including sale memo from MQ–77 or MQ–82), shall be obtained by a warehouse operator to cover each marketing of tobacco from a farm through a warehouse and each nonauction sale of tobacco purchased by or for the warehouse operator including scrap tobacco obtained as a result of providing curing space or stripping space for farmers. Each MQ–76 and MQ–77 (including sale memo) shall be executed as follows:

(i) *Auction sale.* An auction sale identified by MQ–76 shall show in the spaces provided thereon, the sale bill number, check-mark to show the sale was by auction, a check-mark to show nonauction for purchases identified "NA" on the sale bill, pounds sold, name and address of warehouse, and date of sale. In addition, each sale memo issued from MQ–77 to cover an auction sale shall show on the first page thereof in all of the spaces provided therefor, the warehouse bill number, pounds sold, amount of penalty due, name and address of warehouse, and date of sale.

(ii) *Nonauction sale to a warehouse operator who does not prepare a sale bill.* An MQ–76 used to cover a nonauction sale of tobacco to a warehouse operator who does not prepare a sale bill to cover the sale shall show, a check-mark to indicate sale was by nonauction, pounds sold, name and address of the warehouse, and date of sale. When an MQ–77 is used under this paragraph, a sale memo shall be executed, including the signature of the producer on the reverse side.

(iii) *Nonauction sale to a warehouse operator who prepares a sale bill.* When a warehouse operator purchases:

(A) All the delivery of a producer's tobacco at a nonauction sale and prepares a sale bill to cover the purchase, on MQ–76 there shall be shown the bill number, check-mark to show nonauction purchases, pounds sold, name and address of warehouse, and date of sale. When an MQ–77 is used a sale memo shall be executed, including the signature of the producer on the reverse side.

(B) Part of a delivery of a producer's tobacco as a nonauction purchase and the remainder of the tobacco is sold at auction, if such tobacco is identified by an MQ–76 the Record of Sales shall be completed to show the name and address of the warehouse, the date of sale, the sale bill number, check-mark under both auction and nonauction, and, under "Lbs. Sold," the total number of pounds covered by the entire delivery. If the sale is identified by an MQ–77, the sale memo (front) shall be completed to show the sale bill number, the total number of pounds covered by the entire delivery under "Lbs. Sold," the amount of penalty due, name and address of the warehouse, and the date of sale. In addition, the reverse side of the sale memo shall show the number of pounds sold at nonauction.

(f) *Nonquota tobacco or quota tobacco of a different kind.* If tobacco is presented for sale that is represented to be nonquota tobacco or should there be a question as to what kind of quota tobacco is being offered for sale, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. The lot ticket for the tobacco shall be cross-referenced to the sale bill by sale bill number and date. The sale bill shall show the producer's name and address and the State and county code and farm number of the farm on which the tobacco was produced. If an AMS inspection shows that a lot of tobacco is of a different kind than that identified by the lot ticket, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared. Copies of the lot ticket and sale bill shall be furnished to the State ASCS office at the end of the sale day.

(g) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show "resale" and;

(1) For dealers, the name of the dealer making each resale; and

(2) For the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(h) *Suspended sale record.* (1) Any tobacco sale bill covering sale of tobacco for which a valid marketing card or dealer identification card was not presented at the end of the sale day shall be given to a marketing recorder

who shall stamp such bills, "Suspended", and shall handle according to instructions provided by the Deputy Administrator.

(2) When cleared, such suspended sale shall show "suspended-cleared" and date cleared. If a suspended sale is not cleared from suspension by the last auction sale day for the warehouse for the season (or for burley tobacco only, within 7 days of the sale if such date is earlier), it shall be considered a sale of excess tobacco and penalty at the full rate shall be remitted by the warehouse operator.

(i) *Payee to be shown on auction warehouse check.* Any auction warehouse which issues a check to cover the auction or nonauction sale of tobacco shall issue such check only in the name of the payee. A warehouse check shall not be issued in the name of the seller and bearer, for example "John Doe or Bearer."

(j) *Warehouse entries on other dealer's reports.* Each warehouse operator shall record, or have the dealer record, on a Form MQ–79 the total purchases and resales made by each such dealer or other warehouse operator during each sale day at the warehouse. Warehouse operators shall sign the Form MQ–79 on the same line as the transaction is recorded when a dealer resells tobacco at the warehouse. If any tobacco resold by the dealer and carried over by the dealer from a crop produced prior to the current crop, an entry shall be made on the MQ–79 to clearly show such fact.

(k) *Warehouse data for burley or flue-cured tobacco.* (1) Each operator of a burley or flue-cured tobacco auction warehouse shall prepare at the end of each sale day a report on MQ–80, Daily Warehouse Sales Summary, showing for each sale day:

(i) For each manufacturer, buyer, order buyer, and any tobacco cooperative, pounds of tobacco purchased at auction (consigned in the case of tobacco cooperatives).

(ii) The sum of the items for paragraph (k)(1)(i) of this section.

(iii) Resales at auction for each person listed under paragraph (k)(1)(i) of this section.

(iv) For each dealer subject to reporting purchases and resales on MQ–79, as originally billed, the total pounds of tobacco purchased at auction, and resales at auction.

(v) The total pounds purchased at auction at the warehouse for the leaf account.

(vi) The total pounds purchased at nonauction at the warehouse for the leaf account.

(vii) The sum of the total pounds for paragraphs (k) (v) and (vi) of this section.

(viii) The total leaf account resales.

(ix) The total floor sweeping resales.

(x) The sum of the total purchases for paragraphs (k)(1) (ii), (iv), and

(vii) of this section.

(xi) The sum of the total resales for paragraphs (k)(1) (ii), (iv), (viii) and (ix) of this section.

(xii) The totals of the purchases column on the Form MQ–79 representing the nonauction purchases for the warehouse leaf account.

(xiii) The totals of the resales column on Form MQ–79 representing the nonauction resales (including floor sweepings nonauction sales) by the warehouse.

(xiv) For each warehouse sale of excess tobacco from a farm, the applicable farm number with daily remittance of the penalty due to accompany Form MQ–72–1.

(xv) For each dealer, at the time of settlement having excess resale tobacco, the applicable dealer identification number with daily remittance of the penalty due.

(2) As to the information required to be entered on MQ–80, Daily Warehouse Sales Summary, by the marketing recorder, the warehouse operator shall keep and make available such records as will enable the marketing recorder to enter thereon:

(i) The total number of Forms MQ–72–1 for the sale day and the sum of pounds sold, and

(ii) The total number of suspended sale bills and the sum of such pounds sold.

(3) At the end of the season, each warehouse operator shall:

(i) Report on the final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location,

(ii) Permit its inspection by a representative of ASCS, and

(iii) Provide for the weighing of such tobacco, to be witnessed by an ASCS representative, and furnish to such representative a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(4) The warehouse operator shall furnish to the marketing recorder a copy of each executed MQ–80.

(5) Before the next marketing season begins, carryover tobacco reported by the warehouse operator as provided in paragraph (k)(3) of this section shall be reinspected by a representative of ASCS.

(i) If the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouse operator shall:

(A) Provide for the weighing of such tobacco which shall be witnessed by a representative of ASCS.

(B) Furnish to such representative at the time of weighing a certification as to the actual weight of the tobacco.

(ii) If the ASCS representative determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight, together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in paragraph (k)(3) of this section, shall be used for the purpose of determining the amount of penalty, if penalty is due.

(iii) The reweighed quantity shall be the official pounds to be credited to the account as carryover tobacco.

(l) *Warehouse data for tobacco other than burley or flue-cured.* (1) Each operator of a tobacco auction warehouse, other than the operator of a burley or flue-cured auction warehouse, shall prepare and promptly forward at the end of each sale day to the State ASCS office a report on MQ–80, Daily Auction Warehouse Report, showing for each sale day, unless otherwise stated below:

(i) For each dealer or buyer as originally billed, the total pounds of tobacco purchased at auction and resales at auction on the warehouse floor.

(ii) For any association as originally billed, the total pounds and gross amount of loan tobacco acquired at auction, and resales at auction, if any, on the warehouse floor.

(iii) The total pounds of:

(A) Leaf account purchases at auction on the warehouse operator's own floor,

(B) Leaf account purchases at nonauction sale for which a floor sheet is prepared,

(C) All leaf account resales at auction on the warehouse operator's own floor, including resales of tobacco from the warehouse operator's buyers corrections account, and

(D) All resales at auction on the warehouse operator's own floor of floor sweepings which accumulated on the warehouse operator's own floor.

(iv) The respective sums of the purchases, including loan tobacco, and resales for paragraphs (l)(1) (i), (ii), and (iii) of this section.

(v) The computed total of first sales at auction on the warehouse floor.

(vi) The warehouse gross sale pounds for the day as billed to buyers.

(vii) The pounds on warehouse check register if shown thereon, and

(viii) The total pounds of the resales,

(ix) On the report for the last sale day for the season, the pounds of all tobacco on hand whether such tobacco represents leaf account tobacco or floor sweepings which accumulated on the warehouse operator's own floor.

(x) For each warehouse sale of excess tobacco from a farm, the applicable sale memo and numbers thereof with remittance of the penalty due as shown thereon.

(2) As to information required to be entered on MQ–80, Daily Auction Warehouse Report, by the marketing recorder, the warehouse operator shall keep and make available such records as will enable the marketing recorder to enter thereon:

(i) For each sale identified by an MQ–76, MQ–77 (including sale memo), or MQ–82, Sale Without Marketing Card, the pounds sold:

(ii) For each sale suspended, the warehouse bill(s) number and pounds sold;

(iii) For each sale cleared from suspension, the MQ–76 number or, for MQ–77 or MQ–82, the sale memo number and the date of clearance.

(3) When a producer rejects the sale of a lot of tobacco, and the tobacco has been billed out and the bills presented to the buyer, the warehouse operator shall not change the marketing card, or Form MQ–80 on which the sale was reported. If the warehouse operator gains possession of the tobacco and it is resold by such warehouse operator, it shall be identified as resale tobacco.

(4) In balancing first sales (represented by marketing recorder's total) with computed first sales (bill-out total minus resales as reported by the warehouse operator) the State ASCS executive director is authorized to approve reports with variance not to exceed one-half of 1 percent of such pounds.

(5) At the end of the season, each warehouse operator shall:

(i) Report on the final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location,

(ii) Permit its inspection by a representative of ASCS, and

(iii) Provide for the weighing of such tobacco (to be witnessed by a representative of ASCS) and furnish to such representative a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due. Separate data shall be reported for floor sweeping tobacco.

(m) *Bill-out invoice.* For flue-cured tobacco when the tobacco has been sold at auction, the bill-out invoice to the buyer shall include the warehouse registration number (warehouse code), sale bill number, and line number on which the lot of tobacco was recorded on the sale bill.

(n) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouse operator shall maintain copies of the bill-out invoice to the purchaser by grades showing the pounds purchased. In lieu of this requirement, the warehouse operator may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) lots from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchase.

(o) *Handling rejected (producer) sale after bill-out.* Where a producer rejects the sale of a lot of tobacco, and the tobacco has been billed-out and bills presented to the buyer, the warehouse operator shall not change the MQ–76 or MQ–80 on which the sale was reported. If the warehouse operator gains possession of the tobacco, and it is resold by such warehouse operator, it shall be identified as resale tobacco.

(p) *Report to county ASCS office of long weights and long lots.* Each warehouse operator shall report to the county ASCS office or maketing recorder long weights and long lots of producer tobacco (first sales) for which the farmer has been paid.

(q) *Record and report of warehouse operator's leaf account purchases and resales not on such warehouse operator's floor.*

(1) Each warehouse operator shall keep a record and make reports on MQ–79, Dealer's Report, showing:

(i) All nonauction purchases of tobacco, except nonauction purchases at such warehouse operator's warehouse which are reported on MQ–80.

(ii) All purchases and resales of tobacco at public auction through warehouses other than such operator's own warehouse.

(iii) All nonauction resales of tobacco.

(2) Form MQ–79 shall be prepared and a copy, including copies of Form MQ–72–2 for all nonauction purchases of burley or flue-cured tobacco, forwarded to the State ASCS office not later than the end of the calendar week (at the end of each sale day during the auction season for such warehouse) in which such tobacco was purchased or resold.

(3) If tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy, together with copies of MQ–72–2 for all nonauction purchases of burley or flue-cured tobacco, forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets.

(4) A remittance for all penalties shown by the entries on Form MQ–79 and Form MQ–72–2 to be due shall be forwarded to the State ASCS office with the original copy of MQ–79.

(5) Resales of floor sweepings shall be reported separately from leaf account tobacco.

(r) *Buyers corrections account.* Each warehouse operator shall keep such records including negative adjustment invoices as will enable the warehouse operator to furnish a weekly report on Form MQ–71 to the State ASCS office showing the total pounds of the debits (for returned lots, short lots, and short weights of tobacco) and the credits (for long lots and long weights of tobacco) to the buyers corrections account. Where the warehouse operator returns to the seller tobacco debited to the buyers corrections account, the warehouse operator shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on such dealer's MQ–79, Dealer's Report. Any balancing figure reflected on the warehouse operator's summary of bill-outs shall not be included in the buyers corrections account.

(s) *Reporting of processed leaf account tobacco.* Any warehouse operator who delivers tobacco to a firm for the purpose of redrying, processing, or stemming of such tobacco shall, by the end of the week in which such tobacco was delivered, report to the State ASCS office on MQ–79, Dealer's Report:

(1) The date delivered;

(2) Name and address of the firm to which the tobacco was delivered, and

(3) The pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered a resale on the date of delivery for the purpose of balancing the warehouse account and collection of penalties where penalties are due.

(t) *Report of farm scrap resulting from grading tobacco for farmers.* Any warehouse operator or any other person who grades tobacco for farmers shall maintain records which will enable such person to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(u) *Report of farm scrap resulting from furnishing stripping space for farmers.* Any warehouse operator or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable such person to furnish the State ASCS office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(v) *Producer tobacco.* Producer tobacco (first sale) in possession of a warehouse operator, resulting from long weights and long lots, which has not previously been identified by a sale shall be recorded and reported in the same manner as a nonauction sale to a warehouse operator who does not prepare a warehouse bill (floor sheet) and shall be reported on MQ–79, Dealer's Record. Penalty shall be due on this tobacco at the full penalty rate for the respective kind of tobacco or, if the kind is not known, at the penalty rate for the kind of tobacco generally marketed through' the warehouse.

§ 723.404 Dealer's records and reports, excluding cigar tobacco buyers.

(a) *General.* This section is applicable to all kinds of tobacco except cigar tobacco.

(1) Each dealer, except as provided in § 723.405 of this part shall keep by kinds of tobacco the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided in this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number (if applicable) and the reporting dealer's identification number (if applicable) as well as the names of the warehouse and dealers involved in the transaction.

(2) Each dealer shall properly execute the "Receipt for Dealer's Record" contained in MQ–79, which is issued to the dealer, and shall transmit such receipt to the applicable State ASCS office.

(b) *Record of marketings.* A dealer shall keep records which provide the following information for each lot of tobacco, including scrap tobacco, purchased or sold by the dealer:

(1) *Purchases.* (i) The name of:

(A) The warehouse through which the tobacco was purchased, if purchased at a warehouse auction; or

(B) The operator of the farm on which the tobacco was produced, if purchased from a producer as a nonauction purchase, and the name of the producer of the tobacco, if different from the operator; or

(C) The seller if purchased as a nonauction purchase from a warehouse operator or dealer.

(ii) The identification number of the warehouse, farm, or dealer, as applicable, at/from which the tobacco was purchased.

(iii) The address, the producer association number, if applicable, and percentage share of the proceeds of the farm operator and any other producer from whom tobacco was purchased as a nonauction purchase.

(iv) The date of purchase.

(v) The pounds of tobacco purchased.

(vi) The gross purchase price.

(vii) The amount of penalty.

(viii) The amount deducted for the "No Net Cost Tobacco Assessment."

(ix) The quantity of tobacco purchased from a prior crop and carried over for marketing in a subsequent crop year.

(2) *Sales.* (i) The name and identification number of the:

(A) Warehouse through which the tobacco was sold, if sold at a warehouse auction, or

(B) Buyer if the tobacco was sold at a nonauction sale.

(ii) The date of sale.

(iii) The pounds of tobacco sold.

(iv) The gross sale price.

(c) *Nonauction purchase.* (1) Each purchase of tobacco from a producer from a quota producing area shall be identified by a marketing card, issued for the farm on which the tobacco was produced unless an AMS inspection is obtained prior to purchase which shows that tobacco being offered for sale is a kind not subject to marketing quotas.

(2) For burley and flue-cured tobacco:

(i) After each nonauction purchase, the dealer shall enter a declining balance of "103 percent of quota" on the reverse side of the marketing card. The declining balance shall be determined by reducing the previous "103 percent of quota" entry on the marketing card by the number of pounds of tobacco purchased. The date the tobacco was purchased also shall be entered on the marketing card at the time each lot of tobacco is purchased.

(ii) After each nonauction purchase, the dealer shall prepare a form MQ–72–2 which shall set forth the following:

(A) The date of the purchase.

(B) The registration number of the dealer.

(C) The name and address of the person selling the tobacco.

(D) The identification number (farm number, warehouse code, or dealer number, as applicable) of the person selling the tobacco.

(E) The pounds of tobacco purchased.

(F) The amount of penalty collected.

(G) The method (estimating or weighing) of determining the pounds of tobacco marketed.

(H) The signature of the seller and the date signed.

(iii) The dealer shall make deductions for the producer No Net Cost Tobacco Assessment as provided for in part 1464 of this title. For nonauction purchases which are made by the dealer from producers, the dealer shall make a deduction in accordance with part 1464 of this title from the price paid to the producer for the tobacco. However, a deduction shall not be made if the original "103 percent of quota" entry on the marketing card used to identify the tobacco was zero pounds. The amount of the deduction which is applicable to tobacco marketed during each marketing year will be that amount per pound which is approved and announced by the Secretary as the producer No Net Cost Tobacco Assessment for each such marketing year.

(3) For all other kinds of tobacco:

(i) When a Form MQ–77 Marketing Card is used to identify a nonauction sale, the producer's signature shall be obtained on the reverse side of a sale memo which is a part of the Form MQ–77. A nonauction sale not identified by a marketing card shall be identified by a Form MQ–82 executed by a marketing recorder or other representative of the State ASC committee. The dealer shall record each nonauction purchase of tobacco on Form MQ–79, Dealer's Record.

(ii) The dealer shall make deductions for producer contributions to the No Net Cost Tobacco Account provided for in part 1464 of this title. For nonauction purchases which are made by the dealer

from producers, the dealer shall make a deduction in accordance with part 1464 of this title from the price paid to the producer for the tobacco. However, a deduction shall not be made if the marketing card used to identify a kind of tobacco shows a converted penalty rate of 100 percent. The amount of the deduction which is applicable to such kind of tobacco marketed during each marketing year will be that amount per pound which is approved and announced by the Secretary as the producer contribution to the No Net Cost Tobacco Account or Fund for each such marketing year.

(d) *Record and report of purchases and resales.* (1) For burley and flue-cured tobacco, each dealer shall keep a record and make reports on Form MQ–79 showing all purchases and resales, excluding tobacco not in the form normally marketed by producers. After each transaction is entered on the Form MQ–79, each dealer shall enter a balance to reflect the pounds of tobacco remaining that may be sold without causing prior resales to exceed prior purchases. Any tobacco sold in excess of such balance shall be considered excess tobacco and subject to a marketing quota penalty at the full penalty rate. The purchaser shall sign the Form MQ–79 on the same line as the transaction is recorded by the dealer who is offering such tobacco for resale. In the event of a purchase or resale of tobacco which is purchased by the dealer from a crop of tobacco produced prior to the current crop, the Form MQ–79 shall be annotated to indicate that such tobacco was so purchased and carried over from a crop produced prior to the current crop.

(2) For all other kinds of tobacco, each dealer shall keep a record and make reports on Form MQ–79 showing all purchases and resales of tobacco made by or for the dealer and, in the event of a purchase or resale of tobacco which is purchased prior to the current crop, the fact that such tobacco was so purchased and carried over from a crop produced prior to the current crop.

(3) A Form MQ–79 shall be prepared and a copy (together with executed copies of Form MQ–72–2 for all nonauction purchases of burley and flue-cured tobacco) shall be forwarded to the State ASCS office not later than the end of the calendar week in which such tobacco was purchased or resold. However, if tobacco is purchased prior to the opening of the local auction market, a Form MQ–79 shall be prepared and a copy, together with executed copies of Form MQ–72–2 for all nonauction purchases, shall be forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale date of the local auction markets. In addition, if tobacco is resold in a State other than where the tobacco is produced and the auction markets at such location open earlier than the auction market where the tobacco normally would be sold at auction by farmers, reports together with executed copies of Form MQ–72–2 for all nonauction purchases shall be prepared and forwarded to the State ASCS office not later than the end of the calendar week which would include the first day of the local auction market where the resale takes place.

(4) The data to be entered on Form MQ–72–2 for nonauction purchases from a producer shall be the data which is enumerated in accordance with the provisions of paragraph (c)(2) of this section.

(5) At the end of the dealer's marketing operation, but not later than April 1 for tobacco other than flue-cured and December 15 for flue-cured tobacco, such dealer shall for each kind of tobacco:

(i) Show the word "final" on the Dealer's Report, MQ–79, for the season,

(ii) Report on such "final" MQ–79 for the season the quantity of tobacco on hand and its location,

(iii) Permit its inspection by a representative of ASCS, and

(iv) Provide for weighing of such tobacco (to be witnessed by a representative of ASCS) and furnish a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in this section, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(6) Notwithstanding the provisions of paragraph (d)(5) of this section any dealer having tobacco transactions after April 1 for tobacco other than flue-cured and December 15 for flue-cured tobacco, shall make reports on MQ–79 at the end of each week, as provided in paragraph (d)(3) of this section.

(7) For burley and flue-cured tobacco, before the next marketing season begins, carryover tobacco reported by the dealer as provided in paragraph (d)(5) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by an ASCS representative. The dealer shall furnish to such representative at the time of weighing a certification as to the actual weight of such tobacco. If an ASCS representative determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in paragraph (d)(5) of this section shall be used for the purpose of determining penalty, if penalty is due. Penalty shall be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover.

(8) In addition to Form MQ–79 and Form MQ–72–2, if applicable, a Form MQ–79 (Supplemental) shall be executed to record information relating to each purchase of tobacco for which a marketing assessment to the No Net Cost Tobacco Account is deducted from the price paid to the producer for the tobacco. The Form MQ–79 (Supplemental) shall be forwarded to the State ASCS Office at the time of forwarding the Form MQ–79 on which the purchase is recorded. A check, draft, or money order in the amount of the deduction recorded on Form MQ–79 (Supplemental) and drawn payable to Commodity Credit Corporation shall be forwarded to the State ASCS office at the same time as Forms MQ–79 and MQ–79 (Supplemental).

(e) *Daily report to warehouse operator for buyers correction account.* Notwithstanding the provisions of § 723.405 of this part, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouse operator at an auction sale or otherwise, which is not invoiced to such person or which is incorrectly invoiced to such person by the warehouse operator, shall furnish to the warehouse operator on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouse operator for that sale day.

(3) Such reports as required under paragraphs (d) (1) and (2) of this section shall be furnished daily, if practicable (otherwise, they shall be furnished at

the end of each week), and shall show the identification number of the warehouse where the purchase was made.

(f) *Reporting of processed tobacco.* Any dealer who delivers tobacco to a firm for the purpose of redrying, processing or stemming of such tobacco shall, by the end of the week in which such tobacco was delivered, report to the State ASCS office on MQ–79, Dealer's Report:

(1) The date delivered;

(2) Name and address of the firm to which the tobacco was delivered; and

(3) Pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered as a resale on the date of delivery for the purpose of balancing the dealer account and collection of penalties where penalties are due.

(g) *Tobacco represented to be a nonquota kind.* Any dealer who plans to purchase tobacco that was produced on a farm in a quota area shall treat such tobacco as a quota kind of tobacco according to the provisions of this part 723 unless prior to the purchase a certification is obtained from an AMS inspector to indicate that such tobacco is a nonquota kind of tobacco. In such case, the dealer shall mail or otherwise deliver to the State ASCS office, on the date of the purchase, a copy of the AMS certification and a statement signed by the AMS inspector, the producer, and the dealer to indicate the:

(1) State and county code and farm number of the farm on which the tobacco was produced.

(2) Name and address of the producer.

(3) Name and address of the dealer.

(4) Weight of the tobacco.

§ 723.405 Dealers exempt from regular records and reports on MQ–79; and season report for dealers.

(a) Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers and resells 5 percent or less of any such tobacco shall not be subject to the requirements of § 723.404 of this part except for the requirements which relate to the reporting of nonauction purchases from producers and the requirements of § 723.404(e) of this part. A dealer or buyer whose resales in the form normally marketed by producers farmers exceed 5 percent of their purchases as a direct result of order buying for another dealer for a service fee may report under paragraph (b) of this section in lieu of § 723.404 of this part (except for requirements which relate to nonauction purchases from producers and requirements of § 723.404(e) of this part.

(b)(1) This paragraph is applicable only to burley and flue-cured tobacco. Each dealer or buyer shall make a report to the Director, not later than February 1 of each year for flue-cured and April 1 for burley tobacco, showing by States where acquired, source and pounds of all tobacco, in the form normally marketed by producers, purchased at auction or nonauction including tobacco received which was not billed to the dealer or buyer. Any acquisition of tobacco in the form normally marketed by producers by the dealer or buyer during the marketing year (October 1 through September 30 for burley tobacco and July 1 through June 30 for flue-cured tobacco) which is not included in the initial report shall be reported in like manner no later than the end of the calendar week following the week in which the tobacco was acquired. The report shall show:

(2) For purchases at auction for each warehouse;

(i) USDA registration number (warehouse code),

(ii) Name and address of warehouse,

(iii) Gross pounds originally billed to the buyer,

(iv) Gross pounds billed to the buyer for which payment was made,

(v) Gross pounds from the company correction account deducted for short lots and short weights and returned lots, and

(vi) Gross pounds from the company correction account added for long lots and long weights.

(3) For purchases at nonauction;

(i) Name and address of seller (dealer or farmer),

(ii) Seller's number (dealer's registration number or farm number, including State and county code), and

(iii) Pounds purchased.

§ 723.406 Provisions applicable to damaged tobacco or to purchases of tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouse operator, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer's Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be witnessed by an ASCS representative. Any damaged tobacco purchased before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(b) *Purchase from processor or manufacturer.* Any tobacco purchased by a dealer, warehouse operator, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to ASCS that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouse operator, or other person on MQ–79, Dealer's Record Book, for any purchase of tobacco which is not in the form normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(c) *Report by dealer or warehouse operator.* Any dealer, warehouse operator or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall, prior to purchase, report such plans to the State ASCS office issuing form MQ–79, Dealer's Record Book, to such person. Such report shall be made timely so that a representative of ASCS may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers. Any tobacco purchased from processors or manufacturers before such plans are reported to the state ASCS office and before the tobacco is inspected by an ASCS representative or an inspection is declined by an ASCS representative shall be deemed excess tobacco and the penalty at the full rate shall be due.

(d) *Report by processor or manufacturer.* Each processor or manufacturer shall make a report to the Director, showing the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processor or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold and shall show the name of the purchaser, the date of the sale and the pounds sold.

§ 723.407 Cigar tobacco buyer's records and reports.

(a) *This section is a applicable to buyers of cigar tobacco*—(1) *Definition of cigar buyer.* With respect to this section, a buyer is any person who buys cigar tobacco including an association or cooperation that receives tobacco from producers for the purpose of:

(i) Selling it for the producers, or

(ii) Placing it under price-support loan through Commodity Credit Corporation.

(2) *Report of buyer's name and address.* Each buyer shall properly execute, detach, and promptly forward to the State ASCS office, "Receipt for Buyer's Record" contained in MQ–79 (CF&B), which is issued to the buyer.

(b) *Record of purchases.* A buyer shall keep records which provide the following information for each lot of each kind of tobacco purchased or sold by the buyer, including tobacco obtained from grading tobacco for producers or furnishing curing space, or stripping space:

(1) The name of:

(i) The operator of the farm on which the tobacco was produced; or

(ii) The name and address of the seller, in the case of a sale by a person other than the farm operator.

(2) The identification number of the farm at/from which the tobacco was purchased.

(3) The date of purchase.

(4) The pounds of tobacco purchased.

(5) The gross purchase price.

(6) The amount of penalty.

(7) The amount deducted for "No Net Cost Tobacco Account or Fund."

(c) *Report of sales.* Each buyer shall maintain records which will show, by kind of tobacco, the disposition of tobacco purchased under paragraph (b) of this section.

(d) *Deductions for producer contributions.* The buyer shall make deductions for producer contributions to the No Net Cost Tobacco Account or Fund as provided in part 1464 of this title. For nonauction purchases which are made by the dealer from producers, the buyer shall make a deduction in accordance with part 1464 of this title from the price paid to the producer for the tobacco. However, a deduction shall not be made if the marketing card used to identify the tobacco shows a converted penalty rate of 100 percent. The amount of the deduction which is applicable to such kind of tobacco marketed during each marketing year will be that amount per pound which is approved and announced by the Secretary as the producer contribution to the No Net Cost Tobacco Account or Fund for each such marketing year.

(e) *Identification of sale or marketing card memo and buyers records.* Each MQ–76 and each sale memo from an MQ–77 used to identify each sale of tobacco by a producer shall be properly executed by the buyer. The serial number of the MQ–76 marketing card or sale memo from an HQ–77 to identify such tobacco, shall be recorded on the buyer's copy of the MQ–79 (CF&B) and on the check register or check stub for the check written with respect to such tobacco.

(f) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ–79 (CF&B), Buyer's Record, showing by kinds of tobacco purchased by or for such buyer from producers. Such record and report shall show for each sale the sale date, the name of the farm operator, (and the name and address of the person selling the tobacco if other than the operator), the serial number of the within quota marketing card (MQ–76), and from each excess card (MQ–77), the sale memo number used to identify the sale, the pounds of tobacco represented in the sale, the rate of penalty shown on the sale memo (MQ–77), and the amount of penalty. If a marketing card is not presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "None" in the space for the serial number of the marketing card (MQ–76) or sale memo (MQ–77), the applicable rate of penalty per pound in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ–79 (CF&B), excess sale memos (MQ–77), and a remittance for all penalties shown by entries on MQ–79 (CF&B) and on the excess sale memos (MQ–77) to be due shall be forwarded to the State ASCS office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(3) In addition to Form MQ–79 a Form MQ–79 (Supplemental) shall be executed to record information relating to each purchase of tobacco for which a contribution to the No Net Cost Tobacco Account or Fund is deducted from the price paid to the producer for the tobacco. The Form MQ–79 (Supplemental) shall be forwarded to the State ASCS office at the time of forwarding the Form MQ–79 on which the purchase is recorded. A check, draft, or money order in the amount of the deduction recorded on Form MQ–79 (Supplemental) and drawn payable to Commodity Credit Corporation shall be forwarded to the State ASCS office at the same time as Form MQ–79 and MQ–79 (Supplemental).

§ 723.408 Producer's records and reports.

(a) *Failure to file reports or filing false reports.* (1) With respect to any kind of tobacco, if the producer on a farm files an incomplete or incorrect report, fails to file a report, or files or aids or acquiesces in the filing of any false report with respect to the amount of such kind of tobacco produced on or marketed from the farm, applicable tobacco acreage allotment or burley farm marketing quota next established for such farm shall be reduced, unless the county and State ASC committees determine, according to instructions issued by the Deputy Administrator, that such reduction is not required.

(2) For all kinds of tobacco except burley tobacco, if a farm operator files a report of acreage of the applicable kind of tobacco on the farm and, after a determination of the acreage, it is determined by the county ASC committee (with approval of the State ASC committee) that the report was false (either significantly under reported or significantly over reported by more than the tolerance for reporting as provided in part 718 of this chapter) in what amounts to a scheme or device to defeat the purpose of the program, the allotment next established for the farm shall be reduced by an amount determined by multiplying the acreage falsely reported (difference between reported and determined acreage) by:

(i) With respect to flue-cured tobacco, the farm yield established for the farm for the year in which the false report was filed, or

(ii) For any other kind of tobacco, the actual yield per acre for the year in which the false report was filed.

(b) *Harvesting second crop tobacco from the same farm.* For all kinds of tobacco except burley, if in the same calendar year more than one crop of tobacco was grown from:

(1) The same tobacco plants, or

(2) Different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested.

(c) *False identification.* If there is false identification of any kind of tobacco, the applicable farm acreage allotment or farm marketing quota next established for the farm and kind of tobacco involved shall be reduced, except that such reduction for any such farm shall not be made if the county and State ASC committees determine,

according to instructions issued by the Deputy Administrator, that such reduction is not required.

(d) *Report on marketing card.* (1) The operator of each farm on which tobacco is produced shall return to the county ASCS office each marketing card issued for the farm whenever marketings from the farm are completed and, in no event, later than,

(i) June 1 of the marketing year in the case of cigar tobacco, and

(ii) For all other kinds of tobacco, not later than 20 days after the close of the tobacco auction markets for the marketing year for the locality in which the farm is located. Failure to return the marketing card within 15 days after written request by certified mail from the county ASCS executive director shall constitute failure to account for disposition of all tobacco marketed from the farm unless disposition of tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county ASC committee.

(2) For all kinds of tobacco except burley and flue-cured:

(i) At the time the marketing card is returned to the county ASCS office, the farm operator must certify with respect to each:

(A) MQ–77, to the quantity of tobacco on hand and its location.

(B) MQ–76, to the accuracy of the Record of Sales recorded on the card.

(ii) Failure of the farm operator to make the applicable certification shall constitute failure to satisfactorily account for the disposition of tobacco marketed from the farm.

(3) Upon failure to satisfactorily account to the county ASC committee for disposition of tobacco marketed from the farm the allotment or quota next established for such farm and such kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county ASC committee and a representative of the State ASC committee that the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition. However, such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or no person connected with such farm for the year for which the acreage allotment or quota is being established caused, aided, or acquiesced in the failure to furnish such proof.

(e) *Report of production and disposition.* (1) In addition to any other reports which may be required by this subpart, the operator or any producer on a farm (even though the harvested acreage does not exceed the acreage allotment or even though no farm acreage allotment or farm marketing quota was established for the farm) shall, upon written request by certified mail from the State or county ASC committee, furnish on MQ–108, Report of Production and Disposition, a written report of the acreage, production and disposition of all tobacco produced on the farm by sending the same to the State or county ASC committee within 15 days after the request was mailed showing as to the farm at the time of filing such report with respect to the applicable kind of tobacco the:

(i) Total harvested acres,

(ii) Total amount of tobacco on hand and its location,

(iii) Total pounds of tobacco produced,

(iv) Name and address of the warehouse operator, dealer, or other person to or through whom tobacco was marketed, and the number of pounds marketed, the gross price paid and the date of the marketings, and

(v) Complete details as to any tobacco disposed of other than by sale.

(2) With respect to any farm on which burley or flue-cured tobacco was produced or available for marketing from carryover tobacco, the operator or any producer on the farm (even though the harvested acreage does not exceed the flue cured farm acreage allotment or even though no farm acreage allotment or farm marketing quota was established for the farm) shall, upon written request from the county ASC committee, furnish on Form MQ–108–1, Report of Unmarketed Tobacco, a written report of the amount and location of the applicable kind of tobacco produced on the farm which is unmarketed at the end of the marketing season and the amount the applicable kind of tobacco produced by such operator or producer on any other farm, which is unmarketed at the end of the marketing season and which is stored on the farm, by sending the report to the county ASC committee within 15 days after the request was mailed to such person at such person's last known address.

(3) Failure to file the MQ–108 or MQ–108–1 as requested, or the filing of MQ–108 or MQ–108–1 which is found by the State or county ASC committee to be incomplete or incorrect shall, to the extent that it involves tobacco produced on the farm, constitute failure to account for the disposition of tobacco produced on the farm and the allotment or quota next established for such farm shall be reduced, except that such reduction shall not be made if it is established to the satisfaction of the county or State ASC committee that failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: However, such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or no person connected with such farm for the year for which the farm acreage allotment or farm marketing quota is being established caused, aided, acquiesced in the failure to furnish such proof.

(f) *Reports by producer-manufacturers.* (1) For all kinds of tobacco except burley and flue-cured tobacco, each producer who manufactures tobacco products from tobacco produced by or for such person as a producer, shall report to the State ASCS office with respect to each farm on which such tobacco is produced and as soon as all tobacco from the farm has been weighed as follows:

(i) If the harvested acreage is within the allotment, the producer-manufacturer shall report the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the harvested acreage is in excess of the allotment, the producer-manufacturer shall report the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. If the required reports are not made, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county ASC committee at any time separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, such producer-manufacturer shall notify in writing the buyer of the manufactured product or the buyer of any residue resulting from processing the tobacco, at time of sale of such product or residue, of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the State ASCS executive director and shall account for the disposition of such

tobacco by furnishing the State ASCS executive director a report on a form to be furnished by such State ASCS executive director, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue to indicate, together with copies of the written notice that was given to the buyer of such products or residue to indicate the exact amount of the penalty due.

(3) Failure to file the report required in paragraph (f)(2) of this section, or the filing of a report which is found by the State ASC committee to be incomplete or incorrect, shall be considered failure of the producer-manufacturer to account for the disposition of tobacco produced on the farm and the allotment next established for the farm shall be reduced for such failure, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State ASC committees, that:

(i) The failure to furnish such report of disposition was unintentional and the producer-manufacturer on such farm could not reasonably have been expected to furnish such report of disposition. However such failure will be construed as intentional unless such report of disposition is furnished and payment of all additional penalty is made, or

(ii) No person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such report. The producer-manufacturer shall be liable for the payment of penalty.

(g) *Amount of allotment or quota reductions*—(1) *Burley tobacco.* For burley tobacco, the farm marketing quota determined for a farm for the current year shall be reduced by that amount of tobacco which is involved in a marketing quota violation as described in paragraphs (a), (b), (c), (d), or (e), of this section which occurred in any prior year. However, the amount of such reduction shall not exceed the current year farm marketing quota. The county ASC committee shall determine the amount of tobacco involved in the marketing quota violation. If the actual quantity of tobacco involved in such violation is unknown, the county ASC committee shall determine the quantity by considering both the condition of the crop during production, if known, and such other information as is available.

(2) *Kinds of tobacco except burley tobacco.* The amount of reduction in the allotment for the current year for a violation described in paragraphs (a), (c), (d), (e), or (f) of this section shall be that percentage, but not to exceed 100 percent, which the amount of the tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred times the current year farm acreage allotment. The quantity of tobacco in violation shall be determined by the county ASC committee. If known, the actual quantity shall be determined by the county ASC committee to be the amount of tobacco involved in the violation. If the actual quantity is unknown, determine the quantity by taking into consideration the condition of the crop during production, if known, and such other information that is available.

(h) *Allotment or quota reduction for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the allotment or quota reduction shall be applied as heretofore provided in this section to that portion of the farm acreage allotment or farm marketing quota for which a reduction is required.

(i) *Allotment or quota reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments or quota for the divided farms required to be reduced.

(j) *Quota reductions for flue-cured tobacco.* For flue-cured tobacco only, if an acreage allotment reduction is made under this section, the marketing quota shall be reduced to reflect such reduction in an amount determined by multiplying the acreage reduction by the farm yield.

(k) *County administrative hearing in connection with violations.* Except for the failure to return a marketing card, the allotment or quota for any farm shall not be reduced for a violation under this section until the operator of the farm has been afforded an opportunity to discuss the nature and extent of the violation with the county ASC committee. If after having been afforded an opportunity to discuss a violation with the county ASC committee the farm operator fails or refused to discuss the violation, the county ASC committee shall take action as required by this part.

(l) *Sequence of allotment or quota reductions.* For burley and flue-cured tobacco, if the tobacco farm acreage allotment or farm marketing quota for a farm is to be reduced in the current year because of both:

(1) A violation, and

(2) Overmarketings in a prior year, the reduction in the farm acreage allotment or farm marketing quota for the violation shall be made before making the reduction for overmarketings.

(m) *Correction of farm records.* For burley and flue-cured tobacco, where farm data for actual marketings are determined to be incorrect because of a violation, the records shall be corrected for each farm on which the tobacco was produced, and for each farm whose card was used to identify marketings.

(n) *Report on Form MQ–92, Estimate of Production.* An estimate of production, Form MQ–92, shall be prepared immediately prior to harvest for each farm for which the county or State ASC committee or a representative of the county or State ASC committee believes than an MQ–92 for the farm would be in the best interests of the program. The county ASC committee shall have the authority to visit any farm for the purposes of making an estimate of production or determination of planted acreage needed to complete an estimate of production.

(o) *Effect of false identification on establishing future farm marketing quotas.* Notwithstanding any other provision of this section, with respect to burley or flue-cured tobacco, if a producer falsely identifies such tobacco as having been produced on or marketed from a farm, the quantity of the tobacco which is falsely identified shall be considered, for the purpose of establishing future farm marketing quotas, as having been produced on both the farm for which it was identified as having been produced, and the farm of actual production, if known, or, as the case may be, such quantity of tobacco shall be considered as actually marketed from the farm.

§ 723.409 Producer penalties; false identification and related issues.

(a) *Penalties for marketing over 103 percent of farm quota-burley and flue-cured tobacco.* For burley and flue-cured tobacco, a penalty at the full rate shall be due on any marketings which exceeds 103 percent of the effective farm marketing quota.

(b) *Penalties for false identification or failure to account-burley tobacco*—(1) *For burley tobacco.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, penalty at the full rate shall be due on the larger of the:

(i) Actual marketings above 103 percent of the effective farm marketing quota, or

(ii) Amount of tobacco equal to 25 percent of the effective farm marketing quota. The requirement of paragraph (b)(ii) of this section shall not be applied

if the county ASC committee determines with concurrence of State ASC committee, that assessment of penalty based on 25 percent of the effective farm marketing quota would be unduly harsh when compared with the pounds in violation and no adverse effect on the program would result.

(2) *For flue-cured tobacco.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on the farm, a penalty at the full rate shall be assessed on the larger of:

(i) The actual marketings above 103 percent of the effective farm marketing quota; or

(ii) The sum of pounds equal to 25 percent of the effective farm marketing quota plus the pounds determined by multiplying the farm yield times the acres harvested in excess of the effective farm acreage allotment. If such amount exceeds the amount determined in accordance with paragraph (b)(2)(i) of this section the penalty assessed may be based on the amount determined in accordance with such paragraph if the county ASC committee determines, with the concurrence with the State ASC committee, that the penalty assessed on the amount determined in accordance with this paragraph would be unduly harsh in relation to the quantity of tobacco which is falsely identified or which is not accounted for and the tobacco program would not be adversely effected.

(3) *For kinds of tobacco other than burley or flue-cured tobacco.* (i) If any producer falsely identifies or fails to account for the disposition of any kind of tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in the current year in excess of the farm acreage allotment for the kind of tobacco shall be deemed to have been marketed from such farm.

(ii) If any producer who manufactures tobacco products from tobacco produced by or for such person fails to make the reports or makes a false report, the producer shall be deemed to have failed to account for the disposition of tobacco produced on the farm(s) involved. The filing of a report by a producer under § 723.408 of this part which the State ASC committee finds to be incomplete or incorrect, shall constitute a failure to account for the disposition of tobacco produced on the farm.

(c) *Canceled allotment or quota.* If part or all of the tobacco produced on a farm has been marketed and the farm acreage allotment or farm marketing quota for the farm is canceled, any penalty due on the marketings shall be paid by the producers.

(d) *Overmarketing proportionate share of effective farm marketing quota-burley or flue-cured tobacco.* With respect to burley or flue cured tobacco, if the county ASC committee determines that the farm operator or another producer on the farm has marketed more than 103 percent of such operator's or producer's share of the effective farm marketing quota with intent to deprive some other producer on the farm from marketing such producer's proportionate share of the same crop of tobacco, such operator or other producer shall be liable for marketing penalties at the full rate per pound for each pound of tobacco marketed above 103 percent of such producer's share of the effective farm marketing quota. However, the sum of such penalties shall not exceed the total penalties due on total marketings above 103 percent of the effective farm marketing quota for the farm on which such tobacco was produced. Before assessment of penalty pursuant to this paragraph, a hearing shall be scheduled by the county ASC committee and the operator and affected producers shall be invited to be present, or to be represented, to determine whether the operator or another producer on the farm has marketed more than 103 percent of such person's proportionate share of the effective farm marketing quota. The notice of the hearing shall request the farm operator and affected producers to bring to the hearing floor sheets and other relevant supporting documents. At least two members of the county ASC committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice and any action taken to impose penalty shall be taken after the hearing. If the farm operator or other affected producer does not attend the hearing, or is not represented, the county ASC committee shall make a determination on the basis of available records and shall assess any penalties that may be required against the applicable person.

(e) *Penalties not to be assessed-burley or flue-cured tobacco.* With respect to burley or flue-cured tobacco, if the operator or another producer on the farm markets a quantity of tobacco above 103 percent of the effective farm marketing quota for the farm and such overage is found to have been caused by the failure to record or improper recording of tobacco poundage data on the marketing card, that amount of the penalty as was due to such failure to record or improper recording will not be required to be paid by the farm operator or other producer if:

(1) For amounts of $10 or less, the county ASC committee, and

(2) For amounts over $10, the county ASC committee, with the approval of the State ASC committee, determines that each of the following conditions is applicable:

(i) The failure to record or incorrect recording resulted from action or inaction of a marketing recorder or another ASCS employee, and

(ii) The farm operator or another producer on the farm had no knowledge of such failure or error. Overmarketings for a farm for which the marketing penalty will not be paid pursuant to the provisions of this paragraph shall be determined based upon the correct effective farm marketing quota and correct actual marketings of tobacco from the farm.

(f) *Ineligible for price support.* A penalty at the full rate announced for a kind of tobacco for the current marketing shall be assessed on any marketing of any kind of tobacco by any producer on a farm if such producer is ineligible for price support because the farm operator or other producer on the farm has not agreed to make a contribution to the No Net Cost Fund or pay an assessment to the No Net Cost Account, as applicable, in accordance with part 1464 of this title.

(g) *Person to pay penalty when erroneous rate is shown on card (except burley and flue-cured tobacco).* If an erroneous penalty rate is shown on a marketing card and tobacco is identified by such card, the producer shall remit any additional penalty due for the sale.

§ 723.410 Penalties considered to be due from a warehouse operator, dealers, buyers, and others excluding the producer.

Any marketing of tobacco under one of the following conditions shall be considered to be a marketing of excess tobacco.

(a) *Auction sale without burley or flue-cured tobacco marketing card.* For burley and flue-cured tobacco, any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card at the time of marketing shall be considered to be a marketing of excess tobacco and the penalty thereon shall be collected and remitted by the warehouse operator unless prior to marketing, an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(b) *Auction sale without dark air-cured, fire-cured, or Virginia sun-cured tobacco marketing card.* For dark air-cured, fire-cured, or Virginia sun-cured tobacco, any first marketing of tobacco

at an auction sale by a producer which is not identified by a valid marketing card (MQ–76 or MQ–77 (including sale memo)) on or before the last warehouse sale day of the marketing season, or within 4 weeks following the date of marketing, whichever comes first, shall be identified by an MQ–82, and shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouse operator.

(c) *Burley or flue-cured tobacco nonauction sale.* For burley and flue-cured tobacco, any nonauction marketing of tobacco which:

(1) Is not identified by a valid marketing card and recorded at the time of marketing on MQ–79, Dealer's Report, the marketing card, and MQ–72–2, Report of Tobacco Nonauction Purchase; or,

(2) If purchased prior to the opening of the local auction market for the current year, it is not identified by a valid marketing card and recorded on MQ–79, the marketing card, and MQ–72–2, Report of Tobacco Nonauction Purchase not later than the end of the calendar week which includes the first sale day of the local auction markets, shall be considered a marketing of excess tobacco. The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ–79, unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(d) *Nonauction sale, except burley, flue-cured, and cigar tobacco.* For dark air-cured, fire-cured, or Virginia sun-cured tobacco, any nonauction sale of tobacco which:

(1) Is not identified by an MQ–76 or MQ–77 (including a valid sale memo); and

(2) Recorded on MQ–79, Dealer's Record, not later than the end of the calendar week in which the tobacco was purchased; or

(3) If purchased prior to the opening of the local auction market for the current year, is not identified by an MQ–76 or MQ–77 (including a valid sale memo) and recorded on MQ–79 not later than the end of the calendar week which includes the first day of the local auction markets, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(e) *Failure to obtain an MQ–76 and sale memo, and failure to record a sale on MQ–76-cigar tobacco.* Any sale of cigar tobacco for which a dealer:

(1) If within quota, fails to record the sale on the marketing card issued for the farm, or

(2) If the tobacco was produced on a farm for which an excess marketing card was issued, fails to obtain a valid sale memo by the end of the sale date, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the required record.

(f) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketings shall be considered to be a marketing of excess tobacco unless such warehouse operator furnishes evidence acceptable to the State ASC committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State ASC committee shall not be based on the warehouse operator's proof of purchase of tobacco that is not in the form normally marketed by producers even though such evidence indicates that resales exceed prior leaf account purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the warehouse operator's prior purchases of leaf account tobacco.

(g) *Dealer tobacco—burley or flue-cured.* The burley or flue-cured tobacco resales by a dealer (as shown or due to be shown on Form MQ–79), which are in excess of such dealer's total prior purchases of the respective kind of tobacco (as shown or due to be shown on Form MQ–79) shall be considered to be a marketing of excess tobacco and penalty thereon shall be due at the time the marketing takes place which results in the excess. If the resale which results in penalty being due is made at auction, the warehouse shall deduct the penalty from the proceeds of the sale and shall remit the penalty to the marketing recorder. Penalty due which is not withheld by a warehouse operator shall be remitted weekly by the dealer to the State ASCS office with his reports on Form MQ–79.

(h) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouse operator or dealer, but which is not reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouse operator or dealer furnishes proof of such resale which is acceptable to the State ASCS executive director. The penalty thereon shall be paid by the warehouse operator or dealer who fails to make the report as required.

(i) *Marketing falsely identified by a person other than the producer of the tobacco.* If any marketing of tobacco by a person other than the producer is identified by a marketing card other than the marketing card issued for the farm on which the tobacco was produced, and the source of production of the tobacco is unknown, such marketing shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The marketing quota penalty shall be paid by the person who marketed the tobacco.

(j) *Carryover tobacco, except cigar tobacco.* Any tobacco on hand, except for cigar tobacco, and reported or due to be reported under § 723.403 of this part for warehouse operators and § 723.404 of this part for dealers shall be included as a resale in determining whether an account for a kind of tobacco has excess resales. Unless the warehouse operator furnishes proof acceptable to the State ASC committee and unless the dealer furnishes proof acceptable to the State ASCS executive director, showing that such account does not represent excess tobacco, penalty at the full rate for the respective kind of tobacco shall be paid thereon by such warehouse operator or dealer.

(k) *Unrecorded sale of cigar tobacco.* Any sale of cigar tobacco which is not recorded on MQ–79 (CF&B), Buyer's Record Book, by the 10th day of the month following the month during which the sale dated occurred shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the record.

(l) *Floor sweepings.* Any person who markets floor sweepings in excess of allowable floor sweepings shall be subject to a civil penalty of 150 percent of the average market price for the immediately preceding marketing year, as determined by the U.S. Department of Agriculture. The calculated penalty rate shall be rounded to the nearest whole cent. Any floor sweepings on hand more than 30 days (15 days with respect to flue-cured tobacco) after the warehouse closes for the auction season shall be considered marketed. The floor sweepings on hand shall be weighed by the warehouse operator and the weight shall be certified by the warehouse operator, such weighing to be done in the presence of a representative of either the county ASC committee or State ASC committee. Floor sweepings which are destroyed in the presence of a representative of the county ASC committee, within 30 days (15 days with respect to flue-cured tobacco) after the warehouse closes shall not be considered as marketed when determining the quantity of floor sweepings marketed. If the county ASC committee determines, after the warehouse has been closed for the

auction season for more than 30 days (15 days with respect to flue-cured tobacco), that the cumulative quantity of floor sweepings marketed and considered marketed in the current marketing year is in excess of the allowable floor sweepings, the person responsible for such marketings shall be given notice of the determination and shall be afforded an opportunity to request reconsideration of such determination in accordance with the provisions of part 780 of this chapter. A determination that a civil penalty is due for marketing floor sweepings in excess of the allowable floor sweepings shall not become final and shall not be assessed until such person has been afforded an opportunity for a hearing and such person has exhausted the applicable administrative remedies. The notice of assessment shall require such person to pay the civil penalty to the "Agricultural Stabilization and Conservation Service, USDA" within 15 days after the mailing of the notice.

(m) *Blending tobacco not in the form normally marketed by producers—burley and flue-cured tobacco.* Tobacco purchased from processors or manufacturers that is considered not in the form normally marketed by producers that is blended with tobacco in the form normally marketed by producers shall not be credited as a purchase to the dealer's or warehouse operator's account by the State ASC committee when reconciling the warehouse operator's leaf account or the dealer's purchases and resales. Tobacco not in the form normally marketed by producers that is blended with other tobacco shall be deemed to be excess tobacco and penalty shall be due on the pounds of tobacco by which a warehouse operator's or dealer's resales exceed prior purchases.

§ 723.411 Records and reports regarding hauling, processing, and storage of tobacco.

(a) *Trucker records.* Each trucker shall keep such records as will enable such trucker to furnish the State ASCS office a report with respect to each lot of tobacco received by such trucker showing.

(1) The name and address of the producer;

(2) The date of receipt of the tobacco;

(3) The number of pounds received;

(4) The location where received; and

(5) The name and address of the person to whom it was delivered.

(b) *Processor records.* Each firm engaged in the business of processing tobacco shall keep records with respect to each lot of tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouse operator, or other person for whom the tobacco was received.

(2) The date of receipt of tobacco.

(3) The number of pounds (green weight) received.

(4) The purpose for which tobacco was received (redrying or stemming).

(5) The amount of any advance or loan made by such person on the tobacco.

(6) The disposition of the tobacco including the net weight of the tobacco processed and the number of containers by classification (strips, stems, scrap or leaf).

(7) Person to whom delivered and pounds involved.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased at auction or tobacco which was previously reported on Form MQ–79. Where such firm qualifies for the exemption in § 723.405 of this part, such firm is required to report only such tobacco received that does not belong to such firm.

(c) *Records for stored tobacco.* Each firm engaged in storing unprocessed tobacco shall keep records with respect to each lot of unprocessed tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouse operator, marketing agent or other person for whom the tobacco was received;

(2) The date and receipt of the tobacco;

(3) The number of pounds received;

(4) The amount of any advance or loan made by such firm;

(5) The disposition of the tobacco; and

(6) The person to whom delivered and the pounds involved.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by such firm at auction or for which such firm had previously reported on Form MQ–79. Where such firm qualifies for the exemption in § 723.405 of this part, the firm is only required to report such tobacco received for storage that does not belong to such firm.

§ 723.412 Separate records and reports from persons engaged in tobacco related businesses.

Any person who is required to keep any record or make any report as a warehouse operator, dealer, buyer, trucker, or as a person engaged in the hauling, processing, or storage of tobacco, and who is engaged in more than one such business, shall keep such records as will enable such person to make separate reports for each such business in which such person is engaged to the same extent for each such business as if the person were engaged in no other business.

§ 723.413 Length of time records and reports are to be kept.

Records to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained for 3 years after the end of the marketing year. Records shall be kept for such longer period of time as may be requested in writing by the State ASCS executive director, or the Director.

§ 723.414 Failure to keep records and make reports or making false report or record.

(a)(1) *Failure to keep records and make reports.* Under the provisions of section 373(a) of the Act, any warehouse operator, processor, buyer, dealer, trucker, or person engaged in the business of sorting, redrying, stemming, packing, or otherwise processing tobacco who fails to make any report or keep any record as required, or who makes any false report or record, is guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than $500 for each offense. In addition, any tobacco warehouse operator, dealer, or buyer who fails, upon being requested to do so, to remedy a violation by submitting complete reports and keeping accurate records shall be subject to an additional fine, not to exceed $5,000.

(2) *Failure to obtain producer marketing card or sale memo.* The failure of any dealer or warehouse operator to obtain a:

(i) Producer's marketing card, MQ–76 and MQ–77, to identify a sale of producer tobacco, or

(ii) Dealer identification card, MQ–79–2, to cover a resale of tobacco, shall constitute a failure to make a report.

(b) *False representation—warehouse operators, dealers, and processors.* The monetary penalties described in this part are in addition to penalties

prescribed by other criminal statutes including 18 U.S.C. 231 which provides for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly committing such acts as making a false acreage report, altering a marketing card, falsely identifying tobacco or buying and selling unused "103 percent of quota poundage" on marketing cards.

§ 723.415 Examination of records and reports.

For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining the information required to be furnished, in any report, but not so furnished, any warehouse operator, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, stemming, picking, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State ASCS executive director and by employees of the Office of Investigation and Office of Audit, and of the Tobacco and Peanuts Division of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture upon written request by the State ASCS executive director, all such books, papers, records, lot tickets, tobacco sale bills, buyer adjustment invoices, accounts, canceled checks, check register, check stubs, correspondence, contracts, documents, warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ-72-l, Report of Tobacco Auction Sale, journal of producer marketing cards retained at warehouse and memoranda as the State ASCS executive director has reason to believe are relevant and are within the control of such person.

§ 723.416 Information confidential.

All data reported to or acquired by the Secretary pursuant to the provisions of this subpart shall be kept confidential by all officers and community committees, and all county ASCS office employees. Only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under title III of the Act. The provisions of this section shall not be deemed to prohibit the issuance of general statements based upon the report of a number of parties which statements do not identify the information furnished by any person.

Signed in Washington, DC, on September 20, 1990.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 90-22779 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ANE-18; Amt. 39-6749]

Airworthiness Directives; Garrett Engine Division, Allied-Signal Incorporated, Models TPE331 Series Turboprop and TSE331-3U Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires the periodic replacement of the third stage stator assembly. This AD is needed to prevent thermal fatigue of the sheet metal inner seal support and/or the outer ring nozzle support, which has resulted in uncontained third stage turbine rotor failures. Uncontained rotor fragments can cause structural/system airplane damage, passenger injury, and possible loss of the airplane.

DATES: Effective October 1, 1990.

Comments for inclusion in the docket must be received on or before October 31, 1990.

ADDRESSES: Submit comments in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket Number 90-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments may be inspected at the above location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable engine manufacturer's service bulletins (SB) may be obtained from Garrett General Aviation Services Division, Distribution Center, 2340 East University, Phoenix, Arizona 85034; telephone (602) 225-2548, and may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Costa, Aerospace Engineer, Propulsion Branch, ANM-140L, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5246.

SUPPLEMENTARY INFORMATION: Three incidents of multiple circumferential cracking of the inner seal support and outer ring nozzle support of the third stage stator assembly have been reported. The accumulated cyclic life of the assemblies were within a range of 2,232 to 4,226 cycles. The FAA has determined that failure of the inner seal support and outer ring nozzle support of the third stage stator may result in the seal support moving aft and making contact with the third stage turbine wheel. If uncorrected, this contact could result in an uncontained separation of the third stage turbine rotor assembly. Uncontained rotor fragments can cause structural/system airplane damage, passenger injury, and possible loss of airplane.

The FAA has determined, based on service experience, that the manufacturer's recommended replacement interval of 6,000 hours for the Part Number (P/N) 868379-5 third stage stator assembly is inadequate. Therefore, the FAA has reduced the service life limit of the P/N 868379-5 third stage stator assembly to 1,800 cycles.

Since this condition is likely to exist or develop in other engines with stators of the same type design, this AD requires the periodic replacement of the third stage turbine stator assembly on certain TSE/TPE331 series engines to correct an unsafe condition.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, therein, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01803.

All communications received by the deadline date indicated above will be considered by the Administrator and the AD may be amended in light of comments received.

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.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It had been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13, the following new airworthiness directive (AD):

Garrett Engine Division, Allied-Signal, Inc. (formerly Garrett Turbine Engine Co., GTEC, formerly AIResearch Manufacturing Company of Arizona) applies to model TPE331–1, TPE 331–2, TPE 331–2UA, TPE 331–3U, TPE 331–3UW, TPE 331–5, TPE 331–5A, TPE 331–6, TPE 331–6A turboprop and TSE331–3U turboshaft engines equipped with Part Number (P/N) 868379–5 third stage stator assemblies.

Compliance is required as indicated, unless already accomplished.

To prevent an uncontained third stage turbine rotor failure, replace P/N 868379–5 third stage stator assembly with a serviceable assembly, in accordance with the following schedule:

a. Replace within the next 300 cycles in service after the effective date of this AD, if the stator assembly has more than 1,500 cycles, since new or since rework to a P/N 868379–5 configuration, on the effective date of this AD.

b. Replace prior to accumulating 1,800 cycles in service since new or since rework to P/N 868379–5 configuration if the stator assembly has less than 1,500 cycles or less in service on the effective date of this AD.

Note: Guidance and information regarding the replacement of the stator assembly can be obtained from Garrett Service Bulletin (SB) TPE331–A72–0699, R2, dated June 28, 1990.

c. Thereafter, replace at intervals not to exceed 1,800 cycles in service since new or rework.

Note: Refer to Garrett SB TPE/TSE331–72–0019, R14, dated July 24, 1990, for definition of critical component service life limits, including the required life limit, cycle definitions, and stator serviceability.

d. Aircraft may be ferried in accordance with the provisions of FAR 21, 197 and 21.199 to a base where the AD can be accomplished.

e. Upon submission of substantiating date by an owner or operator through an FAA Airworthiness Inspector, the Manager, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 3229 East Spring Street, Long Beach, California 90806–2425, may approve an equivalent means of compliance or an adjustment of the compliance schedule which provides an equivalent level of safety.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Garrett General Aviation Services Division, Distribution Center, 2340 East University, Phoenix, Arizona 85034. This information may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803.

This amendment becomes effective on October 1, 1990.

Issued in Burlington, Massachusetts, on September 11, 1990.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90–23061 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ANE–37; Amdt. 39–6641]

Airworthiness Directives; Air Cruisers Co., TSO–C69a; Emergency Evacuation Slide/Rafts System P/N D30659–( )

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires relocation of the slide/raft life-line on Air Cruisers Co., TSO–C69a Emergency Evacuation Slide/Raft System P/N D30659–( ) installed on Boeing Model 757 series airplanes. The AD is needed to prevent the life-line from being ingested into the aspirator during inflation. This condition, if not corrected, could result in damage to the aspirator and prevent completion of the inflation of the slide/raft unit, resulting in hinderance of emergency evacuation of the airplane.

DATES: Effective October 31, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of October 31, 1990.

ADDRESSES: The applicable service bulletin may be obtained from Air Cruisers Co. P.O. Box 180, Belmar, New Jersey 07719–0180 or may be examined in the Office of the Assistant Chief Counsel, room 311, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, Aerospace Engineer, New York Aircraft Certification Office, Systems and Equipment Branch, ANE–173, Engine & Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6427.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (FAR) to include an airworthiness directive (AD) which will require relocation of the slide/raft life-line on Air Cruisers Co. TSO–C69a Emergency Evacuation Slide/Raft

System P/N D30659-( ), installed on Boeing Model 757 series airplanes, was published in the Federal Register on December 12, 1989 (54 FR 51034).

The proposal was prompted by Air Cruisers Co. Emergency Evacuation Slide/Raft deployment tests by Boeing Commercial Airplane Co. wherein the slide/raft located on the left hand side at door 4 of a Boeing Model 757 series airplane failed to inflate properly. It was determined that this was caused by the life-line webbing, located on the lower tube aspirator-side of the slide/raft forming an unrestrained loop when the slide/raft is folded. During the initial stages of inflation, the loop can be sucked into the lower tube aspirator which could result in damage to the aspirator and prevent proper inflation of the slide/raft which could hinder emergency evacuation of the airplane.

A previous amendment to part 39, AD 89-19-06, Amendment 39-6321, published in the Federal Register on September 15, 1989 (54 FR 38209), adopted an AD which applies to Boeing Model 757 series airplanes, equipped with certain Air Cruisers Co. escape slides and certain Air Cruisers Co. slide/rafts. As AD 89-19-06 requires modification of the slide/raft assemblies to which this AD would be applicable, compliance with this AD would not be possible without the earlier changes. Therefore, compliance with the requirements of AD 89-16-06 must be accomplished before compliance with the requirements of this AD. The FAA has considered the effect that the required compliance time for AD 89-16-06 has on the compliance time for this AD. Even if compliance with AD 89-16-06 is not attained until April 1991, compliance with this AD can be accomplished within the required time and should not disrupt service. Accordingly, this AD does not alter AD 89-16-06 and reference to AD 89-16-06 is made only to note that AD 89-16-06 must be complied with before complying with this AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received indicating agreement and no foreseeable, difficulties in meeting the compliance requirements of 18 months after the effective date of this AD. Accordingly, the proposal is adopted without change.

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.

The FAA has determined that this regulation involves approximately 241 slide/rafts, and will take approximately 1 manhour per slide/raft and that the average labor cost would be $40 per manhour. Parts will be supplied by Air Cruisers at no cost. Based on these figures, the total cost impact of the AD is estimated to be $9,640. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (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 is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD);

Air Cruisers Company: Applies to Air Cruisers Company TSO-C69a Emergency Evacuation Slide/Raft System, P/N D30659-( ), which are listed below, and are installed on Boeing Model 757 airplanes:

Slide/Raft System P/N D30659-106, having Slide/Raft Assembly P/N D30656-106 (pre Service Bulletin (SB) 105-25-17);

Slide/Raft Systems P/N D30659-109 and -112, having Slide/Raft Assemblies P/N D30656-118 and -115 respectively (post SB 105-25-17 and pre SB 105-25-27);

Slide/Raft Systems P/N D30659-115 and -118, having Slide/Raft Assembly P/N D30656-115 and -118 respectively (post SB 105-25-27 and pre SB 105-25-29);

Slide/Raft Systems P/N D30659-121 and -124, having Slide/Raft Assembly P/N D30659-121 and -124 respectively (post SB 105-25-29.

The above listed slide/raft assemblies bear one of the following serial numbers (S/N): 0001 through 0233, 0160MOD, 01064MOD, 0165MOD, 0205MOD, 0207MOD, 0225MOD, 0226MOD, and 0230MOD.

Compliance with the requirements of AD 89-19-06, Amendment 39-6321, published in the Federal Register on September 15, 1989, (54 FR 38209), is required prior to compliance with the requirements of this AD.

Compliance is required by January 1, 1992, unless already accomplished.

To prevent ingestion of the life-line, which could hinder the emergency evacuation of the airplane, accomplish the following:

(a) Modify and re-identify the slide/raft in accordance with paragraph 2 (Accomplishment Instructions) of Air Cruisers company Service Bulletin No. 105-25-30, Revision 1, dated August 21, 1989.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance (schedule) times specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, Engine & Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Valley Stream, New York 11581.

The modification and re-identification procedures shall be done in accordance with the following Air Cruisers' document:

Document	Page No.	Issue/Rev	Date
Air Cruisers.	1, 2, 3, 4, 5	Rev. 1	August 21, 1989.
SB 105-25-30.	6, 7, 8	Original.....	April 10, 1989.

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 Air Cruisers Company, P.O. Box 180, Belmar, New Jersey 07719-0180. Copies may be inspected at the Regional Rules Docket Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region 12, New England Executive Park, room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., room 8301, Washington, DC 20591.

This amendment becomes effective on October 31, 1990.

Issued in Burlington, Massachusetts, on September 11, 1990.

Jay J. Pardee,

Acting Manager, Engine & Propellor Directorate, Aircraft Certification Service

[FR Doc. 90-23060 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-ASW-43; Amdt. 39-6689]

Airworthiness Directives; McDonnell Douglas Helicopter Co. Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends an existing airworthiness directive (AD) which requires repetitive inspections of the main rotor (M/R) drive shaft on MDHC Model 369D series helicopters. The amendment extends the applicability of the inspection requirements to include all Model 369 series helicopters; reflects the latest service information notices; and clarifies the main rotor drive shaft retirement life. This action is necessary because undetected cracks in the main rotor drive shaft may result in structural failure and as a consequence loss of the helicopter.

DATES: Effective: October 31, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of October 31, 1990.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Attention: Publications Department, MS543/D213, Mesa, Arizona 85205, or may be examined in the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, ANM-143L, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5247.

SUPPLEMENTARY INFORMATION: A proposal to amend Amendment 39-4275 (46 FR 60807, December 14, 1981), AD 81-26-01, by requiring repetitive inspections of the main rotor (M/R) drive shaft on MDHC Model 369D series helicopters and clarifying the main rotor drive shaft retirement life, was published in the **Federal Register** on April 18, 1990 (55 FR 14428). Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposed amendment is adopted without change.

After issuing Amendment 39-4275, which currently requires a visual inspection of the main rotor drive shaft for cracks on the Hughes Model 369D helicopter, the FAA determined that: (1) All Model 369 series helicopters should be affected, and (2) the main rotor drive shaft retirement life for specific models should be changed. Therefore, the FAA is amending Amendment 39-4275 by extending the applicability to include all Model 369 series helicopters. In addition, paragraph (a) has been changed to include compliance time for the later models; Hughes Service Information Notice (SIN) FN-4, dated July 29, 1983, and MDHC SIN EN-4, dated April 29, 1983, for the later models are added to the requirement of paragraph (a)(1); the information in the "NOTE" following paragraph (a)(2) is included as a new paragraph (a)(3) to clarify that mandatory language is included to specify the main rotor drive shaft retirement life for specific Model 369 aircraft; and finally, paragraph (c) is amended to update the FAA address.

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.

The FAA has determined that this regulation involves 365 aircraft at an approximate cost to each aircraft of only $100 per year, or a total annual cost to the affected fleet of only $36,500. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal; and (4) 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.

List of Subjects in 14 CFR Part 39

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

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 39.13) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39-4275 (46 FR 60807, December 14, 1981), AD 81-26-01, by revising the applicability paragraph; by revising paragraphs (a) and (a)(1); by revising the "NOTE" paragraph following paragraph (a)(2) and redesignating it as paragraph (a)(3); and by revising paragraph (c), as follows:

McDonnell Douglas Helicopter Company (MDHC): Applies to all Model 369 series helicopters equipped with main rotor drive shaft, part number (P/N) 369D25510, certificated in any category. (Docket Number 89-ASW-43)

Compliance is required as indicated, unless already accomplished.

To prevent failure of the main rotor drive shaft, P/N 369D25510, which could result in the loss of the helicopter, accomplish the following:

(a) Prior to the accumulation of 300 hours' total time in service on the P/N 369D25510 drive shaft, or within the next 25 hours' additional time in service from December 17, 1981, for the Model 369D or from the effective date of this amended AD for Models 369E and F (whichever occurs later), and thereafter at repetitive intervals not to exceed 300 hours' additional time in service since the last such inspection:

(1) Visually inspect the spherical spline and adjacent shaft area of the drive shaft, P/N 369D25510, in accordance with the instructions contained in Hughes Service Information Notices (SIN) DN-99, dated November 30, 1981; FN-4, dated July 29, 1983; or MDHC SIN EN-4, dated April 29, 1983; as applicable.

* * * * *

(3) Drive shaft retirement is established at 3,410 hours' time in service for Models 369F and FF, and 5,020 hours' time in service for Models 369D and E.

* * * * *

(c) An alternative method of compliance, which provides an equivalent level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, ANM-100L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425, telephone (213) 988-5200.

The repair and inspection procedures shall be done in accordance with Hughes Service Information Notices (SIN) DN-99, dated

November 30, 1981; previously incorporated by reference at 46 FR 60807 (December 14, 1981); FN-4, dated July 29, 1983; or MDHC SIN EN-4, dated April 29, 1983, as applicable. 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 McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Attention: Publications Department, MS 543/P 213, Mesa, Arizona 85205. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, 4400 Blue Mount Road, Room 158, Bldg. 3B, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC.

This amendment becomes effective October 31, 1990.

This amendment amends Amendment 39-4275 (46 FR 60807, December 14, 1981), AD 81-26-01.

Issued in Fort Worth, Texas, on July 30, 1990.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90-23059 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 510

Implementation of the Minimum Wage Provisions of the Fair Labor Standards Amendments of 1989 in Puerto Rico

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; amendment.

SUMMARY: On March 30, 1990, an interim final rule was published implementing the minimum wage provisions of the 1989 Amendments to the Fair Labor Standards Act (FLSA) in the Commonwealth of Puerto Rico. These Amendments provide, in part, that the increases in the FLSA minimum hourly wage rates from $3.35 to $3.80 (effective April 1, 1990) and to $4.25 (effective April 1, 1991) may, for certain employers, be phased in over extended periods of time in the Commonwealth, based on the average hourly earnings in particular industries as those industries are defined in the Standard Industrial Classification (SIC) Code.

In preparing this interim final rule, the Department found that only limited employment and earnings information was available for employees in agriculture. While the available information was considered sufficient for a short-term interim final rule placing agriculture within the phase-in schedules provided for the Commonwealth, the Department requested the Commonwealth to conduct an additional study of the wages paid agricultural workers and to report its findings to the Department by June 1, 1990.

The interim final rule also stated that the provision with respect to agriculture would expire on its own terms on August 1, 1990, and, if the survey was not timely completed and forwarded to the Department, all employers in agriculture would become subject to the full minimum wage increases to $3.80 and $4.25 required by the 1989 Amendments retroactive to April 1, 1990.

The survey was conducted but the Department was unable to complete its review prior to the August 1, 1990, deadline. On July 26, 1990, the Department published an amendment in the **Federal Register** extending the August 1 deadline with respect to agriculture to October 1, 1990, during which time the provisions of the original interim final rule published on March 30 with respect to agriculture remained in effect. In conducting a thorough review of the material submitted, the Department determined that additional information was necessary to complete its review prior to issuing a final decision with respect to agriculture in Puerto Rico. The Department is therefore extending the October 1 deadline with respect to agriculture to January 1, 1991. As with the previous extension, the provisions with respect to agriculture of the original interim final rule published on March 30 will remain in effect.

EFFECTIVE DATE: This amendment to the interim final rule is effective on October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Samuel D. Walker, Acting Administrator, Wage and Hour Division, U.S. Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

On March 30, 1990 (55 FR 12114), interim final regulations were published in the **Federal Register** implementing the minimum wage provisions of the 1989 FLSA Amendments in Puerto Rico. With respect to agricultural activities in Puerto Rico (SIC major groups 01, 02, 08, and 09), the Department found, after reviewing available information on agriculture, that only limited employment and hourly earnings data were available for agricultural workers from various sources within the Commonwealth government, and that no survey had been conducted. (Agricultural activities included within SIC Major Group 07, Agricultural Services, were surveyed and treated previously under nonmanufacturing industries.)

The information available at the time the interim final rule was prepared provided a basis for concluding that it was probable that average hourly earnings in agriculture fell below $4.00 an hour except in sugarcane farming activities where the average was probably above $4.00 an hour but less than $4.65. Accordingly, a determination was made to place agricultural workers under Tier 3, the tier applicable to industries in which the average hourly wage rate is less than $4.00 and that is subject to a five-year phase-in of the minimum wage increases, with the exception of sugarcane workers who were placed under Tier 2, applicable to industries in which the average hourly wage rates are greater than $4.00 but less than $4.65 and subject to a four-year phase-in.

While the available information was considered sufficient for purposes of placement under the interim final rule, the Department, pursuant to its verification responsibilities under the statute, requested the Commonwealth government to conduct a more complete and thorough study of the wages paid agricultural workers. The survey was to be conducted for a current representative time period and was to cover various crop categories. The Commonwealth agreed to conduct this survey and to forward the results to the Department for review not later than June 1, 1990.

In the interim final rule, the Department stated that the tier placements for agriculture were being done on an interim basis and would expire on their own terms on August 1, 1990, if the survey to be conducted by the Commonwealth was not timely completed and forwarded to the Department for review and evaluation. The Commonwealth submitted its survey to the Department prior to June 1, 1990.

The initial review of the data submitted could not be completed prior to the original August 1 deadline. Thus, on July 26, 1990 (55 FR 30453), the Department published an amendment extending the deadline until October 1, 1990. During its review the Department found that additional information, including applicable collective bargaining agreements, was necessary

and that a thorough review could not be completed prior to the October 1 deadline. Therefore, the Department is extending the expiration date of the interim final rule with respect to agriculture until January 1, 1991. During this time, the conditions stated in the interim final rule remain in effect.

II. Procedural Matters

The application of the Paperwork Reduction Act, Executive Order 12291, and Regulatory Flexibility Act to this rule is discussed in the Preamble to the interim final rule published on March 30, 1990 (55 FR 12114).

III. Administrative Procedure Act

The Secretary has determined that the public interest requires immediate issuance of this amendment in order to continue to comply with the requirements of the 1989 Amendments. Insufficient time existed between the receipt of the special survey and October 1, 1990, for the Department to complete its review of the data submitted. Failure to extend the expiration date would result in employers in agriculture not being able to utilize the minimum wage relief intended by Congress. Accordingly, the Secretary for good cause finds, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and public comment are impracticable and contrary to the public interest.

For the same reasons, the Secretary also for good cause finds, pursuant to 5 U.S.C. 553(d)(3), that this amendment to the interim final rule cannot be published 30 days before its effective date.

This document was prepared under the direction and control of Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 510

Employment, Investigations, Law enforcement, Puerto Rico, Incorporation by reference, Minimum wages.

Signed at Washington, DC., on this 26th day of September 1990.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

PART 510—IMPLEMENTATION OF THE MINIMUM WAGE PROVISIONS OF THE 1989 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT IN PUERTO RICO

1. The authority citation for part 510 continues to read as follows:

Authority: Sec. 4, Pub. L. 101–157, 103 Stat. 938; 29 U.S.C. 201 *et seq.*

2. In § 510.20, paragraph (d) is revised to read as follows:

§ 510.20 Wage surveys in Puerto Rico.

* * * * *

(d) *Agriculture.* The supplemental survey conducted for nonmanufacturing industries did not include agricultural employers. The Commonwealth agreed to conduct a survey of wages paid agricultural workers. The survey was to be conducted for a current representative time period and to cover various crop categories. The results of the survey were to be forwarded to the Department no later than June 1, 1990, in order to be incorporated in a final regulation. The Commonwealth submitted its survey to the Department for review. In conducting its review of this survey, the Department found that additional information was necessary to complete its review. The results of this survey will be incorporated in a subsequent rule.

* * * * *

3. Section 510.23 is revised to read as follows:

§ 510.23 Agricultural activities eligible for minimum wage phase-in.

Based on limited information available at the time of the adoption of 29 CFR part 510, the Department concluded that it was probable that average hourly earnings fell below $4.00 per hour in all agricultural activities except sugarcane farming. In sugarcane farming, it was probable that average earnings fell between $4.00 and $4.65 per hour. Accordingly, a determination was made to categorize, on an interim basis, sugarcane workers in Tier 2 and all other agricultural workers in Tier 3 pending the receipt of more complete data. A survey was forwarded by the Commonwealth prior to June 1, 1990, but the Department needed additional time to obtain supplemental information and to conduct a thorough review of this survey. Therefore, the interim placements of agricultural workers under Tiers 2 (sugarcane) and 3 (all other agricultural workers) are extended until January 1, 1991. Any correction in the applicable tier with respect to agriculture that may be necessary following completion of the review of the data submitted will be retroactive to April 1, 1990.

[FR Doc. 90–23219 Filed 10–28–90; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 317 and 321

Issuance and Payment By Banks and Other Financial Institutions of United States Savings Bonds and Savings Notes (Freedom Shares)

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

ACTION: Final rule.

SUMMARY: The purpose of the final rule is to amend, separately and simultaneously, the regulations governing issuing and paying agents to authorize the discontinuance, reduction, or delay in payments of fees for issuing Series EE savings bonds on or after October 1, 1990, and for paying savings bonds and savings notes on or after the aforesaid date. These changes are being made to authorize the Secretary of the Treasury to take actions to meet budgetary reductions effected pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. A companion notice is also being published in the Federal Register to announce the actions taken.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Washington, DC 20039–0001, (202) 376–4320.

SUPPLEMENTARY INFORMATION: The final rule will provide the Secretary of the Treasury with authority to discontinue, reduce, or delay the payment of fees to qualified issuing and paying agents of United States Savings Bonds and Savings Notes, referred to herein collectively as "bonds". The provisions of 31 CFR part 317, also issued as Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision, at § 317.6(b), and of 31 CFR part 321, also issued as Department of the Treasury Circular No. 750, Fourth Revision, at § 321.23(a), provide for the payment of fees to savings bond issuing and paying agents. They further provide that a schedule of fees, and the basis on which the fees are computed and paid, will be separately published in the Federal Register.

The regulatory amendments are being made to grant the Secretary the authority to effect the mandatory cuts that may be required to comply with the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 2 U.S.C. 901, *et*

seq. (commonly referred to as the Gramm-Rudman-Hollings Act).

The final rule authorizes the Secretary to discontinue, reduce or delay the payment of fees to issuing and paying agents for servicing savings bonds, effective October 1, 1990, and until further notice, in the event the sequestration provisions become effective, or budgetary reductions otherwise make such action necessary. Payment of fees withheld, as described above, may be made once appropriations are authorized, at least to the extent funds are available therefor, and as permitted by law. The final rule reflects this intention.

Accordingly, the regulations are being amended to authorize the discontinuance, reduction or delay of the payment of fees, should such action be deemed necessary to meet in part the budgetary cuts made under the Gramm-Rudman-Hollings Act, or in appropriations legislation. A separate notice is also being issued to amend the current fee schedules. The notice is being published simultaneously with the final rule.

31 CFR parts 317 and 321 will be amended by adding identical paragraphs 317.6(b)(2) and 321.23(a)(3), respectively, to authorize discontinuance, reduction or delay of the payment of fees.

Procedural Requirements

This rule is not considered a "major rule," as defined in Executive Order No. 12291, "Federal Regulation." A regulatory impact analysis, therefore, is not required.

Because this final rule relates to public contracts and procedures for United States securities, the notice, public comment and delayed effective date provisions of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There are no collections of information contained in these regulations; therefore, no approval by the Office of Management and Budget, pursuant to the Paperwork Reduction Act, is required.

List of Subjects in 31 CFR Parts 317 and 321

Banks, Banking, Bonds, Government securities.

Dated: September 26, 1990.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

In 31 CFR chapter II, part 317 (Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision) and part 321 (Department of the Treasury Circular No. 750, Fourth Revision), are hereby amended as follows:

PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF UNITED STATES SAVINGS BONDS

1. The authority citation for part 317 is revised to read as follows:

Authority: 31 U.S.C. 3105, 2 U.S.C. 901, 5 U.S.C. 301.

§317.6 [Amended]

2. Section 317.6 is amended by designating paragraph (b) as (b)(1) and adding a new paragraph (b)(2) to read as follows:

* * * * *

(b) *Fees.* * * *

(2) To comply with the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901, *et seq.*), or the legislative resolution resulting therefrom, the Secretary may authorize, upon notice in the **Federal Register**, the discontinuance, reduction or delay of fee payments. Fee payments so affected may subsequently be paid in accordance with the schedule of fees as hereafter published, subject to the availability of funds therefor, and to the extent permitted by law. Fee payments for servicing occurring after notice of the resumption of such payments has been published in the **Federal Register** will be made in accordance with the schedule of fees published in such notice.

* * * * *

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

1. The authority citation for part 321 is revised to read as follows:

Authority: 31 U.S.C. 3105, 2 U.S.C. 901, 5 U.S.C. 301.

§ 321.23 [Amended]

2. Section 321.23 is amended by adding a new paragraph (a)(3) to read as follows:

(a) Fees. * * *

(3) To comply with the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901, *et seq.*), or the legislative resolution resulting therefrom, the Secretary may authorize, upon notice in the **Federal Register**, the discontinuance, reduction or delay of fee payments. Fee payments so affected may subsequently be paid in accordance with the schedule of fees as hereafter published, subject to the availability of funds therefor, and to the extent permitted by law. Fee payments for servicing occurring after notice of the resumption of such payments has been published in the **Federal Register** will be made in accordance with the schedule of fees published in such notice.

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[FR Doc. 90–23233 Filed 9–27–90 10:39 am]

BILLING CODE 4810–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 775

Procedures for Implementing the National Environmental Policy Act

AGENCY: Department of the Navy, DoD.

ACTION: Correction to final rule.

SUMMARY: The final regulations providing procedures for Department of the Navy compliance with the National Environmental Policy Act of 1969, as amended, were published in the **Federal Register** of August 20, 1990 (55 FR 33898–01). An error in § 775.6(c) was published by mistake. The following text replaces that section.

EFFECTIVE DATE: This correction to the final regulations will become effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas J. Peeling, telephone (202) 325–7344/0521, Special Assistant for Environmental Planning, Office of the Deputy Chief of Naval Operations (Logistics), room 10N67, Hoffman Bldg. II, 200 Stovall St., Alexandria, Virginia 22332–2300.

Section 775.6(c) is corrected to read as follows:

§ 775.6 Planning considerations.

* * * * *

(c) CEQ regulations (40 CFR 1508.18(a)) define major federal actions subject to evaluation under NEPA to include, among other things, "new and continuing activities". The term "new activities" is intended to encompass future actions, i.e., those which are not ongoing at the time of the proposal. The term "continuing activities" which may necessitate the preparation of a NEPA document will be applied by the

Department of Navy to include activities which are presently being carried out in fulfillment of the Navy mission and function, including existing training functions, where:

(1) The currently occurring environmental effects of which have not been previously evaluated in a NEPA document, and there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations (*e.g.*, a discovery that significant beach erosion is occurring as a result of continuing amphibious exercises, new designation of wetland habitat, or discovery of an endangered species residing in the area of the activity), or

(2) There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity.

A substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts should be considered a proposal for a new action and be documented accordingly. Preparation of a NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

Dated: September 26, 1990.

Sandy Melancon,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90-23145 Filed 9-28-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-71]

Special Local Regulations for Marine Events; Riverfest 1990; Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Riverfest 1990 to be held October 6, 1990. The event consists of approximately 35 homebuilt rafts racing on a course on the Cape Fear River, Wilmington, North Carolina. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 11 a.m. to 2:30 p.m. October 6, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received in the district office until September 7, 1990, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

Old Wilmington Riverfront Celebration, Inc. submitted an application dated August 26, 1990 to hold the Riverfest 1990 Raft Races. The event consists of approximately 35 homebuilt, manually powered rafts racing on a course on the Cape Fear River, Wilmington, North Carolina. These regulations are necessary to control spectator craft and provide for the safety of life and property on navigable waters during the event. Since the main shipping channel will not be closed for an extended period of time, commercial traffic should not be severely disrupted.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary and the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and determined the final rule does not raise sufficient implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This final rule has been thoroughly reviewed by the Coast Guard and determined categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in permanent regulations 33 CFR 100.515 rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-0571 is added to read as follows:

§ 100.35-0571 Cape Fear River, Wilmington, North Carolina.

(a) *Definitions*—(1) *Regulated area.* The waters of the Cape Fear River from shoreline to shoreline and bounded to the north by a line drawn from latitude 34°14'22.5" North, longitude 77°57'23.0" West, to latitude 34°14'24.0" North, longitude 77°57'06.5" West and to the south by the U.S. Route 74/76 highway bridge, center point latitude 34°13'38.0" North, longitude 77°57'08.5" West.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Any spectator vessel may anchor outside of the regulated area specified in

paragraph (a)(1) of these regulations, but may not block a navigable channel.

(c) *Effective dates:* These regulations are effective from 11 a.m. to 2:30 p.m. October 6, 1990.

Dated: September 21, 1990.

H.B. Gehring,

Captain, U.S. Coast Guard Commander, Fifth Coast Guard District Acting.

[FR Doc. 90-23169 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5-90-074]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of the Federal Highway Administration, the Coast Guard is issuing temporary regulations that govern the operation of the drawbridge across the Potomac River, mile 103.8, between Alexandria, Virginia, and Oxon Hill, Maryland, to extend the times that the draw remains closed to vessel traffic. The purpose of the temporary regulation is to allow the bridge owner the time needed to replace the electrical system which has reportedly been short-circuiting during bridge openings and to make other repairs necessary for the smooth operation of the drawbridge. This action provides for the reasonable needs of navigation.

DATES: This temporary rule is effective from September 22, 1990, until January 25, 1991, unless amended or terminated before that date.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398-6222.

SUPPLEMENTARY INFORMATION: In the regulation of this drawbridge, this temporary regulation was preceded by a temporary deviation from the regulations in 33 CFR 117.255. That temporary deviation was published in the Federal Register (55 FR 31384) on August 2, 1990.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and CAPT M. K. Cain, Project Attorney.

Discussion of Temporary Regulation

The Federal Highway Administration has requested that the drawbridge regulations be temporarily amended to restrict openings during September 22, 1990, through January 25, 1991, for the Woodrow Wilson Bridge across the Potomac River, mile 103.8, between Alexandria, Virginia and Oxon Hill, Maryland. The requested change will reflect the emergency schedule, with some modification, that is now in effect until September 21, 1990, on the Woodrow Wilson Bridge. In order for the bridge owner to repair the electrical system on this bridge, the Coast Guard is temporarily restricting the number of drawbridge openings and scheduling all openings to occur at designated times for all vessels, with certain concessions for large commercial ships that call at Robinson Terminals located above the bridge at Alexandria, Virginia. Advance notification will continue to be required for all openings in order that maintenance personnel may be on site at each scheduled opening to correct any electrical malfunction that may occur. According to the bridge owner, there is an immediate need to relocate the catwalk that is located under the main span of the bridge and change the material the catwalk is presently constructed of from steel to aluminum to help solve the problem of electrical breakdowns. The electrical cables are located in this catwalk, and it appears that heavy vibration is occurring whenever large trucks cross over the drawbridge. This supposedly causes the electrical system to short-circuit and the electrical cables to snap. Work will also have to be completed on the center switch which operates the locks that hold the bascule spans in place once the draw has been closed to navigation. Because of the immediate need for repairs to this bridge, good cause exists for publishing this temporary regulation without publication of a notice of proposed rulemaking. Delaying this rule for publication of a notice of proposed rulemaking would be contrary to the public interest. The Coast Guard believes these temporary restrictions will not unduly restrict vessel passage through the bridge, as vessel operators and the marine industry can plan transits around this temporary regulation.

Federalism Assessment

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

Economic Assessment and Certification

This temporary regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this temporary regulation on commercial navigation or on any industries that depend on waterborne transportation should be minimal. Since the economic impact of this temporary regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This temporary regulation has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 449; 49 CFR 1.46; 33 CFR 1.05.1(g).

2. Section 117.255 is temporarily amended by revising paragraphs (a) (1) and (2) and by adding paragraphs (a) (3) through (7) to read as follows. This is a temporary rule and will not appear in the Code of Federal Regulations.

§ 117.255 Potomac River.

(a) * * *

(1) Shall open for all vessels with a 2-hour advance notice on weekdays from 12 midnight to 4 a.m., and on Saturdays, Sundays, and Federal Holidays from 12 midnight to 6 a.m.

(2) Shall open for all vessels with a 2-hour advance notice on weekdays at 12 noon, and on weekends and Federal Holidays falling on Fridays or Mondays at 12 noon and 9 p.m.

(3) Shall open for commercial vessels over 1800 gross tons on weekdays from 10 a.m. to 1 p.m. and from 9 p.m. to 12 midnight and on Saturdays, Sundays and Federal Holidays from 9 p.m. to 12 midnight with a 2-hour advance notice.

(4) Advance notification for all openings other than those provided for in paragraph 5 below should be directed to the operator in the bridge tower by telephone at (202) 727–5522 or by marine radio VHF Channels 13 or 16.

(5) Commercial vessels requiring transit at other than any of the above times due to tidal stages may receive special permission from Commander, Fifth Coast Guard District, Portsmouth, VA, and must provide a 24-hour advance notice followed by a 1-hour advance confirmation of arrival.

(6) Need not open for any vessel from 6:30 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m., Monday through Friday, except Federal Holidays.

(7) This temporary regulation is effective beginning September 22, 1990, and will terminate January 25, 1991, after which time the existing subparagraphs (a) (1) and (2) of § 117.255 shall again be effective.

Dated: September 20, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 90–23164 Filed 9–26–90; 3:39 pm]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD5–90–074]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule, supplementary information and request for comments.

SUMMARY: On September 20, 1990, at the request of the Federal Highway Administration, temporary regulations were issued governing the operation of the drawbridge across the Potomac River, mile 103.8, between Alexandria, Virginia, and Oxon Hill, Maryland, (the Woodrow Wilson Bridge) to extend the times that the draw remains closed to vessel traffic during the time necessary to complete repairs to the bridge. This document provides additional information concerning the temporary rule and provides for public comment on the provisions of that rule. The temporary rule may be modified based on the comments received.

DATES: Comments must be received on or before October 16, 1990.

ADDRESSES: Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704–5005.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398–6222.

SUPPLEMENTARY INFORMATION: The permanent regulations for this drawbridge are contained in 33 CFR 117.255. On August 2, 1990 temporary deviations from those regulations were published in the **Federal Register** (55 FR 31384) to facilitate emergency repairs to the electrical systems. These emergency deviations expired on September 21, 1990. The temporary regulations issued on September 20, 1990 modified the restrictions on bridge openings authorized by the temporary deviations, and were effective September 22, 1990. The temporary regulations will remain in effect until January 25, 1991, unless amended or terminated before that date. The temporary regulations were published elsewhere in this edition of the **Federal Register**. Good cause was found to exist for issuing the temporary regulations without publishing a notice of proposed rulemaking and, in order to facilitate permanent repairs and ensure the continued reliable operation of the bridge until those repairs are completed, the temporary rules were made effective in less than 30 days from the date of publication. An opportunity for public comment is, however, desirable to ensure that the temporary regulation is both reasonable and workable. The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD5–90–074) and the specific section of the rule to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Drafting Information:

The drafter of this notice is Alfred F. Bridgman, Office of Chief Counsel.

Discussion of Temporary Regulation

The temporary regulations were issued at the request of the Federal Highway Administration (FHWA). Before issuing the temporary regulations, the Coast Guard and the FHWA held a meeting on September 14, 1990, with known interested parties. The meeting was attended by representatives of state and local governments, highway users, commercial and recreational vessel operators, the Virginia Pilot Association, and local trade organizations.

As a result of this meeting, it was apparent that additional time would be needed to effect repairs to the bridge and it also appeared that these repairs could be carried out with less restrictions on bridge openings than authorized by the emergency deviations. In particular, commercial vessels may request openings at night starting at 9 p.m. rather than at midnight. This change, when combined with provisions for openings from 10 a.m. to 1 p.m., or when necessitated due to tidal conditions, should meet the reasonable needs of navigation during the extended period of the temporary regulations.

For the convenience of the reader, the following comparison of the opening of the Woodrow Wilson Bridge under the provisions of 33 CFR 117.255, the temporary deviations, and the temporary regulations is summarized as follows:

1. Under the provisions of 33 CFR 117.255, the bridge operated as follows:

a. Would not open for any vessel except large commercial vessels needing tidal considerations from 6 a.m. to 10 a.m. and from 3 p.m. to 8 p.m., Monday through Friday. Larger commercial vessels were given slightly less restrictive hours for openings.

b. At all other times, the bridge would open provided one hour advance notice was given.

2. Under the 60-day temporary deviation in effect from July 23, 1990, through September 21, 1990, the bridge operated as follows:

a. Would open for all vessels on weekdays at 12 noon and from 12 midnight to 4 a.m., with advance notice.

b. Would open for all vessels on weekends at 12 noon, 9 p.m., and from midnight to 6 a.m., with advance notice.

c. Would open for commercial vessels on weekdays from 10 a.m. to 1 p.m. and at certain other pre-approved times for tidal considerations, with advance notice.

d. Would not open at any other time.

3. Under the temporary regulations issued on September 20, 1990, the bridge will operate as follows through January 25, 1991.

a. Will open for all vessels on weekdays at 12 noon and from 12 midnight to 4 a.m., with advance notice.

b. Will open for all vessels on weekends at 12 noon, 9 p.m. and from 12 midnight to 6 a.m., with advance notice.

c. Will open for commercial vessels on weekdays from 10 a.m. to 1 p.m. and from 9 p.m. to 12 midnight, with advance notice.

d. Will open for commercial vessels on weekends from 9 p.m. to 12 midnight.

e. Will open at certain other pre-approved times, except during rush hours, for commercial vessels needing

tidal considerations, with advance notice.

f. Will not open at any other time.

Although representatives of all known interested parties were invited to the meeting held on September 14, 1990, and their views were fully considered, the Coast Guard is providing this further opportunity for comment. Comments should be limited to the restrictions imposed by the temporary regulations and the appropriate duration of those restrictions. The Coast Guard has received petitions for changes to the regulations in 33 CFR 117.255 that would apply after repairs to the bridge are completed, and will be considering these petitions, or other modifications to the "permanent" rules, in a separate rulemaking. The Coast Guard will provide public notice and opportunity to comment on that future rulemaking.

Dated: September 24, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 90-23163 Filed 9-26-90; 3:39 pm]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-64]

Drawbridge Operation Regulations; Indian Creek, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule—revocation.

SUMMARY: This amendment revokes the regulations for the 63rd Street drawbridge, mile 4.0, in order to ease the burden on navigation since special operating restrictions are no longer necessary to accommodate the needs of vehicular traffic.

EFFECTIVE DATE: This rule becomes effective on October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Brodie Rich, (305) 536-4103.

DRAFTING INFORMATION: The drafters of this rule are Mr. Brodie E. Rich, project officer, and Lt. Genelle Tanos, project attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are no longer needed to accommodate the needs of vehicular traffic. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. This action will not have a significant economic impact on a substantial number of small entities.

Discussion of Comments

A proposed rule was published in the Federal Register on July 17, 1990, and Coast Guard Public Notice 22-90 was issued on July 31, 1990. No comments were received.

Federalism

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

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-01(g).

§ 117.293 [Removed]

2. Section 117.293 is revoked.

Dated: September 19, 1990.

J.L. Linnon,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 90-23167 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-67]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, South Carolina

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of the State of South Carolina, the Coast Guard is temporarily changing the regulations governing the operation of the Wappoo Creek Drawbridge, mile 470, at Charleston, by permitting the draw to be closed to all non-exempt vessels an additional one-half hour at the beginning of the morning regulated period. This change is being made because of complaints about highway traffic delays caused by the increased bridge openings as a result of the seasonal migration of vessels on the Atlantic Intracoastal Waterway. This action will accommodate the increase in vehicular commuter traffic originating from James Island and will continue to provide for the reasonable needs of navigation.

EFFECTIVE DATE: These temporary regulations become effective on October 1, 1990 and will terminate on November 30, 1990.

ADDRESSES: Comments regarding this temporary change should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE. 1st Avenue, Miami, Florida 33131-3050. Any comments received will be available for inspection and copying in the Office of the Bridge Administrator located in room 484, Brickell Plaza Building, 909 SE. 1st Avenue, Miami, Florida. Documents and comments concerning this regulation may be inspected Monday through Friday between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Pruitt, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested parties submitting written views, comments, data, or arguments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the temporary regulation.

Drafting Information

The drafters of this notice are Mr. Gary Pruitt, Bridge Administration Specialist, project officer, and LT Genelle G. Tanos, project attorney.

Discussion of Temporary Regulations

This temporary regulation changes only the morning regulated period on weekdays. The draw presently opens on signal except that the draw need not open from 6:30 a.m. to 9 a.m. Monday through Friday except federal holidays. This temporary change, which increases the existing authorized morning closed period by one-half hour is intended to decrease the number of openings caused by recreational vessels just prior to the beginning of the morning rush hour traffic. Elimination of the bridge openings from 6 a.m. to 6:30 a.m. on weekdays should improve the morning traffic flow with minimum impact on normal navigation. Because this is a temporary regulation, it will not appear in the Code of Federal Regulations.

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 rulemaking does not have sufficient

federalism implications to warrant the preparation of Federalism Assessment.

Economic Assessment and Certification

This temporary regulation is considered to be non-major under under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because it exempts public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property. Since the economic impact is expected to be minimal, the Coast Guard certifies that it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In Consideration of the foregoing, the Coast Guard has amended part 117 of title 33 Code of Federal regulations as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. For the period between October 1, 1990, and November 30, 1990, paragraph (d) of § 117.911 is revised to read as follows:

Note: This regulation is temporary and will not appear in the Code of Federal Regulations.

117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(d) SR 171/700 bridge across Wappoo Creek Mile 470.8 at Charleston. The draw shall open on signal, except that the draw need not open from 6 a.m. to 9 a.m. and from 4 p.m. to 6:30 p.m. Monday through Friday, except federal holidays. From April 1 to November 30 from 9 a.m. to 4 p.m. Monday through Friday, except federal holidays, the bridge need not open except on the hour and on the half-hour. From April 1 to November 30, from 9 a.m. to 7 p.m., on Saturdays, Sundays and federal holidays, the bridge need not open except on the hour and half-hour.

* * * * *

Dated: September 13, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90–23168 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Los Angeles/Long Beach Reg. 90–07]

Security Zone Regulations; Port of Los Angeles, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the Port of Los Angeles, California around any vessels moored at LA berths 54 and 55 during the effective period of these regulations. The zone is needed to safeguard vessels involved in military equipment outloads at LA berths 54 and 55 against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATES: This regulation becomes effective at 1 p.m., September 13, 1990. It terminates at 12 midnight, October 3, 1990.

FOR FURTHER INFORMATION CONTACT: LCDR R.M. Miles at (213) 499–5570.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to vessels involved in military equipment outloads at LA berths 54 and 55.

Drafting Information

The drafters of this regulation are LCDR R.M. Miles, project officer for the captain of the port, and LCDR J.J. Jaskot, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation will begin 1 p.m. on September 13, 1990. This security zone is necessary to ensure the security of vessels involved in military equipment outloads at LA berths 54 and 55.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T1108 is added to read as follows:

§ 165.T1108 Security Zone: Vessels Moored at Berths 54 and 55, Port of Los Angeles, California.

(a) *Location.* The following area is a security zone: The waters of Los Angeles Harbor within 100 yards of any vessels moored at LA berths 54 and 55.

(b) *Effective date:* This regulation becomes effective at 1 p.m., September 13, 1990. It terminates at 12 midnight, October 3, 1990.

(c) *Regulations.* In accordance with the general regulations in section 165.33 of this part, entry into this zone is prohibited unless authorized by the captain of the port. Section 165.33 also contains other general requirements.

Dated: September 13, 1990.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles/Long Beach.

[FR Doc. 90–23170 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Charleston, SC Reg. 90–92]

Safety/Security Zone Regulations; Cooper River, Ordnance Reach and Port Terminal Reach, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a combined safety and security zone in the Cooper River in the vicinity of Ordnance Reach and Port Terminal Reach from Buoy 63 to Daymarker 58. The zone extends across the entire width of the Cooper River. The zone is needed to safeguard personnel, vessels, facilities, and the environment against injury destruction or loss from sabotage or other subversive acts, accidents or other

causes of a similar nature, and protect boats and onlookers from harm and to prevent interference with ongoing Department of Defense cargo loading operations. Entry into this zone is prohibited unless authorized by the Captain of the Port, Charleston, SC.

EFFECTIVE DATES: This regulation becomes effective at approximately 12 p.m. Eastern Daylight Time (E.D.T.), September 11, 1990. It terminates at the conclusion of vessel loading operations, at approximately 12 p.m. E.D.T., October 15, 1990 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Steven J. Boyle (803) 724-7689.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard personnel, vessels, waterfront facilities, and the environment against injury, loss, or destruction.

Drafting Information

The drafters of this regulation are LT Steven J. Boyle, project officer for the Captain of the Port, and LT Genelle Tanos, project attorney, Seventh Coast Guard District.

Discussion of Regulation

The incident requiring this regulation will occur on September 11, 1990 through October 15, 1990 when military cargo will be loaded at the Army T.C. Dock and the State Ports Authority North Charleston Terminal. The protection of vital United States assets as well as the safety of unwary boaters and onlookers necessitates the establishment of both a safety and security zone. Coast Guard and other security vessels will patrol and enforce the zone and manage vessel traffic as necessary. Other vessels will not be permitted to enter, transit, or loiter in the safety/security zone without the permission of the Captain of the Port or his on-scene representatives. Only minor delays to mariners is forseen.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of 33 CFR part 165.

Federalism:

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Security measures, Vessels, Waterways.

Regulation:

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—MARINE SAFETY, SECURITY MEASURES

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 33 CFR 160.5.

2. A new § 165.T0792 is added to read as follows:

§ 165.T0792 Safety/Security Zone: Establishment of Temporary Safety and Security Zone, Cooper River, Ordnance Reach and Port Terminal Reach, Buoy 63 to Daymarker 58, Charleston, South Carolina.

(a) *Location.* The following area is a safety/security zone zone: An area encompassing the entire width of the Cooper River, between buoy 63 and daymarker 58.

(b) *Effective date.* This regulation becomes effective on September 11, 1990, at approximately 12 p.m. E.D.T. It terminates at the conclusion of vessel loading operations, approximately 12 p.m. E.D.T., on October 15, 1990 unless sooner terminated by the Captain of the Port.

(c) *Regulations.* (1) The COTP Charleston will activate this zone or specific portions thereof by means of locally promulgated broadcast notice to mariners. Once implemented, all vessels and persons are prohibited from entering unless authorized by the Captain of the Port Charleston, SC.

(2) The general regulations governing safety and security zones contained in 33 CFR 165.23 and 165.33 apply.

Dated: 11 September 1990.

Robert L. Storch, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 90-23004 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD-05-90-72, COTP Hampton Roads, Regulation 90-RFR 072]

Security Zone Regulations; Chesapeake Bay, James River, Port of Hampton Roads, VA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone encompassing the grounds, piers and waterside of Newport News Marine Terminal, Newport News, Virginia. This zone is needed to prevent destruction, loss or injury to military equipment and supplies while military operations are being carried out at Newport News Marine Terminal. The Captain of the Port, Hampton Roads, Virginia will enforce a security zone consisting of the Newport News Marine Terminal property enclosed within the perimeter fence and extending southwesterly from the shoreline at position 36-58-09.2N latitude, 76-25-43.0W longitude to a point at 36-58-00.0N latitude, 76-25-58.1W longitude, thence northwesterly to a point at 36-58-19.5N latitude, 76-26-13.1W longitude, and returning northeasterly to the shoreline at position 36-58-27.0N latitude, 76-25-58.4W longitude. Individuals or vessels will not be allowed to approach within 200 yards of the Newport News Marine Terminal, except as permitted by the Captain of the Port or his designated representative. Movement of individuals and vehicles within Newport News Marine Terminal may be restricted or prohibited.

EFFECTIVE DATE: This regulation is effective beginning September 17, 1990 and terminates on or about November 31, 1990, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

FOR FURTHER INFORMATION CONTACT: LCDR J. J. Saboe, Project Officer, at USCG Marine Safety Office Hampton Roads. Telephone: (804) 441-3294, (FTS) 827-3294. Normal working hours are 7:30 a.m. to 4 p.m. weekdays except for holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss or injury to resources involved in the

military operations taking place in the vicinity of the Newport News Marine Terminal.

Drafting Information

The drafter of this regulation is LTJG C. E. Rawson, project officer for the Captain of the Port, Hampton Roads.

Discussion of Regulation

A security zone is being established encompassing the grounds, piers and waterside of Newport News Marine Terminal, Newport News, Virginia from September 18, 1990 until the completion of military operations taking place there. This zone is needed to safeguard materials and persons in the vicinity from sabotage or other subversive acts, accidents, or other causes of a similar nature while military operations are being conducted. This security zone will encompass the Virginia Port Authority property known as Newport News Marine Terminal, at Warick Blvd, Newport News, Virginia, 23607, that is enclosed by a perimeter fence. The security zone will also include the waters of the James River within 200 yards of the piers of Newport News Marine Terminal, bounded by a line extending southwesterly from the shoreline at position 36–58–09.2N latitude, 76–25–43.0W longitude to a point at 36–58–00.0N latitude, 76–25–58.1W longitude, thence northwesterly to a point at 36–58–19.5N latitude, 76–26–13.1W longitude, and returning northeasterly to the shoreline at position 36–58–27.0N latitude, 76–25–58.4W longitude. The security zone will be enforced from September 18, 1990 until approximately November 30, 1990. Coast Guard personnel will be on scene at all times while the security zone is in effect. Coast Guard vessels will enforce the security zone over the water whenever a vessel involved in the military operations is inside the security zone. Commercial and recreational boats will not be permitted to enter the security zone, except as permitted by the Captain of the Port.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 reads as follows

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

2. In part 165, a new section is added, to read as follows:

§ 165.T0572 Security zone: Chesapeake Bay, James River, Port of Hampton Roads, Virginia.

(a) *Location:* The following area is a security zone: The grounds of the Newport News Marine Terminal, Newport News, Virginia, enclosed by a fence surrounding the perimeter, and the waters of the James River within 200 yards of the piers of Newport News Marine Terminal, encompassed by a line drawn southwesterly from the shoreline at position 36–58–09.2N latitude, 76–25–43.0W longitude to a point at 36–58–00.0N latitude, 76–25–58.1W longitude, thence northwesterly to a point at 36–58–19.5N latitude, 76–26–13.1W longitude, and returning northeasterly to the shoreline at position 36–58–27.0N latitude, 76–25–58.4W longitude.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf. The following officers have or will be designated by the Captain of the Port: The senior Coast Guard boarding officer on each vessel enforcing the security zone, the senior member of each Coast Guard Maritime Security Patrol, the Coast Guard Officer of the Day at Newport News Marine Terminal and the Duty Officer at the Marine Safety Office, Norfolk, VA.

(1) The Captain of the Port, Hampton Roads and the Duty Officer at the Marine Safety Office, Norfolk, Virginia can be contacted at telephone number (804) 441–3307.

(2) The senior boarding officer on each vessel enforcing the security zone can be contacted on VHF–FM channel 13 and 16.

(c) *Regulation:* (1) In accordance with the general regulations in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia.

(2) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(3) Any individual inside the perimeters of the fence surrounding Newport News Marine Terminal shall be subject to the direction and control of any commissioned, warrant or petty officer of the United States Coast Guard.

(d) *Effective date:* This regulation is effective beginning September 17, 1990 and terminates on or about November 31, 1990 unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

Dated: September 14, 1990.

G.J.E. Thornton,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 90–23003 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Part 25

[CGD 88–002]

RIN 2115–AC89

Regulations Implementing the Pollution-Prevention Requirements of Annex V of MARPOL 73/78; correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting an error in the final rule published in the **Federal Register** on September 4, 1990 (55 FR 35986; CGD 88–002). The interim rule under this rulemaking (54 FR 18384; April 28, 1989) amended 46 CFR 25.50–1, a section intended to remind the reader that certain provisions of title 33 also apply. On May 2, 1990, a separate Coast Guard rulemaking (CGD 88–002a) further amended 46 CFR 25.50–1 in an interim rule (55 FR 18578). The amended language in the interim rule in the separate rulemaking (CGD 88–002a) was inadvertently omitted in the final rule of the present rulemaking (88–002). This notice corrects the text of 46 CFR 25.50–1 accordingly.

EFFECTIVE DATE: September 4, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce P. Novak, Regulations and Administrative Law Division (G–LRA), (202) 267–0128, between 7 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The following correction is made in CGD 88–002, Regulations Implementing the Pollution-Prevention Requirements of Annex V of MARPOL 73/78, published in the **Federal Register** on September 4, 1990. On page 35988, column three, add new paragraphs 5 and 6 to read as follows:

PART 25—REQUIREMENTS

5. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

6. Section 25.50–1, including the note, is revised to read as follows:

§ 25.50–1 Criteria.

Each uninspected vessel must meet the garbage discharge, waste management plan, and placard requirements of 33 CFR part 151.

Note: 33 CFR 151.67 prohibits the discharge of plastic or garbage mixed with plastic into the sea or the navigable waters of the United States. "Plastic" and "garbage" are defined in 33 CFR 151.05.

Dated: September 25, 1990.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–23046 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Parts 50, 56, and 61

[CGD 77–140]

RIN 2115–AA17

Vessel Piping Systems

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The U.S. Coast Guard is correcting errors in an amendment to regulations governing vessel piping systems which appeared in the Federal Register on Monday, October 2, 1989 (CGD77–140).

FOR FURTHER INFORMATION CONTACT: Howard L. Hime, Engineering Branch, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–2206.

SUPPLEMENTARY INFORMATION: The Coast Guard published a final rule concerning vessel piping systems in the Federal Register on Monday, October 2, 1989 (CGD77–140). In preparing the final regulations, editorial errors were made. As this is a technical amendment that does not change the substance of the rules, publication of this document for comment is not required.

Correction

In rule document 77–140 beginning on page 40590 in the issue of Monday, October 2, 1989, make the following corrections:

§ 56.01–2 [Corrected]

1. On page 40599, in the third column, in the second line, in the entry for ANSI B16.1–75, in § 56.01–2(b), the word "Pipe" should be removed.

§ 56.01–2 [Corrected]

2. On page 40599, in the third column, in the nineteenth line, in the entry for ANSI B16.10–86, in § 56.01–2(b), "Dimensions of Valves" should read "Dimensions of Ferrous Valves".

§ 56.01–2 [Corrected]

3. On page 40599, in the third column, in the seventy-fifth and seventy-sixth lines, in the entry for ANSI B18.2.2–87 in § 56.01–2(b), "[Inch Series]" should be removed.

§ 56.01–2 [Corrected]

4. On page 40600, in the first column, in the forty-ninth line, in the entry for ASTM A 134–80 in § 56.01–2(b), "NPS 16 and Over." should read "NPS 16 and over.)"

§ 56.01–2 [Corrected]

5. On page 40600, in the third column, in the sixty-eighth line, in the entry for ASTM B 16–85 in § 56.01–2(b), "Road" should read "Rod".

§ 56.01–2 [Corrected]

6. On page 40600, in the third column, in the seventieth line, in the entry for ASTM B 16–85 in § 56.01–2(b), the words "Shapes for use in" should be removed.

§ 56.01–2 [Corrected]

7. On page 40601, in the first column, in the second line, in the entry for ASTM B 68–83 in § 56.01–2(b), "Tubes" should read "Tube".

§ 56.01–2 [Corrected]

8. On page 40601, in the second column, in the twenty-ninth line, in the entry for ASTM D 2863–77 in § 56.01–2(b), "Plastic" should read "Plastics".

§ 56.01–2 [Corrected]

9. On page 40601, in the second column, beginning in the fifty-second line, in the entry for ASTM F 1120–87 in § 56.01–2(b)d, "Expansion Joints for Piping" should read "Expansion Joints for Use in Marine Piping".

§ 56.01–2 [Corrected]

10. On page 40601, in the second column, in the fifty-sixth line, in the entry for ASTM F 1123–87 in § 56.01–2(b), "Joints" should read "Joints for Use in Marine Piping Applications".

§ 56.01–2 [Corrected]

11. On page 40601, in the second column, beginning in the sixty-ninth line, in the entry for ASTM F1199–88 in § 56.01–2(b), "(All Temperatures and Pressures)" should be removed.

§ 56.01–2 [Corrected]

12. On page 40601, in the second column, beginning in the seventy-second line, in the entry for ASTM F 1199–88 in § 56.01–2(b), "(150 psig and 150 °F Maximum" should be removed.

§ 56.01–2 [Corrected]

13. On page 40601, in the second column, beginning in the seventy-sixth line, in the entry for ASTM F 1200–88 in § 56.01–2(b), "(Above 150 psig and 150 °F)" should be removed.

§ 56.01–2 [Corrected]

14. On page 40601, in the third column, in the tenth line, in § 56.01–2(b), "303, Morristown, NY 07960:" should read "303, Morristown, NJ 07960".

§ 56.01–5 [Corrected]

15. On page 40602, in the first column, in amendatory instruction 19, amending Table 56.01–5(a), "revised" should read "amended".

§ 56.20–1 [Corrected]

16. On page 40604, in the first column, in section 56.20–1, the first line of paragraph (c)(2) which reads, "2. Valves must be designed so that the" should read "(2) Valves must be designed so that the".

§ 56.50–50 [Corrected]

17. On page 40608, in the third column, in 56.50–50, in the twelfth line of paragraph (k), "Alternated designs" should read "Alternative designs".

§ 56.50–55 [Corrected]

18. On page 40609, in the first column, in § 56.50–55, in the last sentence of paragraph (e)(1), "practical" should read "practicable".

§ 56.59–60 [Corrected]

19. On page 40609, in the second column, in § 56.50–60, in the eighth line of paragraph (j), "practicale" should read "practicable".

§ 56.50–60 [Corrected]

20. On page 40609, in the third column, in § 56.50–60, in the fifth line of paragraph (1), "56.50(k)" should read "56.50–55(k)".

§ 56.60–1 [Corrected]

21. On page 40612, in the first column, in Table 56.60–1(b), in the seventeenth line, "B16.18–Cast Brass Solder Joints.[4]" should read "B16.18–Cast Copper Alloy Solder Joints.[4]".

§ 56.60-1 [Corrected]

22. On page 40612, in the first column, in Table 56.60-1(b), beginning in the nineteenth line, "B16.22-Wrought Copper and Bronze Solder Joint Fittings.[4]" should read "B16.22-Wrought Copper and Copper Alloy Solder Joint Fittings.[4]".

§ 56.60-1 [Corrected]

23. On page 40612, in the first column, in Table 56.60-1(b), beginning in the twenty-first line, "B16.23-Cast Bronze Solder-Joint Drainage Fittings.[4]" Should read "B16.23-Cast Copper Alloy Solder-Joint Drainage Fittings.[4]".

§ 56.70-15 [Corrected]

24. On page 40615, in Table 56.70-15, in the second line, "Maximum thickness (in inches of reinforcement for design temperature" should read "Maximum thickness (in inches) of reinforcement for design temperature".

Dated: September 25, 1990.

D.H. Whitten,

Captain, U.S. Coast Guard Acting Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 90-23047 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-426; RM-6776]

Radio Broadcasting Services; Sylvania, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 293A to Sylvania, Georgia, as that community's first local FM service, at the request of Sam Mac Broadcasting System, Inc. *See* 54 FR 41127, October 5, 1989. Channel 293A can be allotted to Sylvania in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 32-44-54 and West Longitude 81-37-36. With this action, this proceeding is terminated.

DATES: Effective November 8, 1990; the window period for filing applications will open on November 9, 1990, and close on December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-426, adopted September 11, 1990, and released September 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding Sylvania, Georgia, Channel 293A.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23050 Filed 9-28-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-389; RM-6821]

Radio Broadcasting Services; Abbeville, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 286C3 for Channel 285A at Abbeville, Louisiana, and modifies the license of Station KROF-FM to specify operation on the higher powered channel at the request of Abbeville Broadcasting Service, Inc. *See* 54 FR 39021, September 22, 1989. The coordinates for Channel 286C3 at Abbeville are 30-00-40 and 92-07-21. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-389, adopted September 11, 1990, and released September 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Louisiana by removing Channel 285A and adding Channel 286C3 at Abbeville.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23051 Filed 9-28-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-598; RM-7148]

Radio Broadcasting Services; Lampasas and Franklin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Shamrock Communications, Inc., substitutes Channel 255C1 for Channel 256C1 at Lampasas, Texas, and modifies the license of Station KLTD(FM) to specify operation on the alternate class C1 channel, in order to improve service within Station KLTD(FM)'s primary coverage area. In addition, the Commission substitutes Channel 270A for unoccupied but applied-for Channel 255A at Franklin, Texas. *See* 55 FR 327, January 4, 1990. The applicant for Channel 255A at Franklin, Franklin Community Broadcasting, will be permitted to amend its application to specify Channel 270A without loss of cut-off protection. Channel 255C1 can be allotted to Lampasas in compliance with the Commission's minimum distance separation requirements and can be used at Station KLTD(FM)'s present transmitter site. The coordinates for Channel 255C1 at Lampasas are North Latitude 30-43-34 and West Longitude 97-59-23. Channel 270A can be allotted to Franklin in compliance with the

Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 270A at Franklin are 31–01–36 and 96–29–00. Channel 270A can also be used at the Franklin applicant's proposed transmitter site at coordinates 31–02–58 and 96–26–06. Mexican concurrence has been received since Lampasas is located within 320 kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–598, adopted September 11, 1990, and released September 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73 [AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Texas, is amended by removing Channel 255A and adding Channel 270A at Franklin, and by removing Channel 256C1 and adding Channel 255C1 at Lampasas.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–23052 Filed 9–28–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–444; RM–6861]

Radio Broadcasting Services; Pulaski, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 296C3 for Channel 296A at Pulaski, Virginia, and modifies its license for Station WPSK(FM) to specify operation on the higher class co-channel at the request of New River Media Group. *See* 54 FR, 42808, October 18, 1989. The coordinates for the allotment of Channel 296C3 at Pulaski, Virginia, are 37–01–43 and 80–48–18. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTRACT: Leslie K. Shapiro, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–444, adopted September 13, 1990, and released September 25, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73 [AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended, under Virginia, by adding Channel 296C3 and removing Channel 296A at Pulaksi.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–23053 Filed 9–28–90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 53

Federal Acquisition Regulation (FAR); Miscellaneous Amendments and Technical Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration) (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; Correction.

SUMMARY: This final rule corrects the amendatory language in two documents published in the **Federal Register**. The documents were published on November 28, 1989 (54 FR 48978) and September 18, 1990 (55 FR 38516). This document is necessary to ensure that the Code of Federal Regulations is correctly amended.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon A. Kiser, (202) 501–4755.

Corrections

1. In FR Doc. 89–27616 beginning on page 48978 in the **Federal Register** of Tuesday, November 28, 1989, amendatory instruction 112 appearing on page 49000 is corrected to read: "112. Section 53.301–1447 is added to read as follows:".

2. In FR Doc. 90–21554 beginning on page 38516 in the **Federal Register** of Tuesday, September 18, 1990, amendatory instruction 59 appearing on page 38520 is corrected to read: "59. Section 53.301–1447 is revised to read as follows:".

Dated: September 27, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 90–23243 Filed 9–28–90; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF DEFENSE

48 CFR Parts 219, 237, 247 and 252

Department of Defense Acquisition Regulations; Miscellaneous Amendments; Correction

AGENCY: Department of Defense.

ACTION: Final rule; corrections.

SUMMARY: DoD has promulgated regulations in two separate issues the **Federal Register** which require correction. The **Federal Register** of December 19, 1989 (54 FR 53612) contains two errors that are hereby corrected by this notice. In addition, the **Federal Register** of May 8, 1990 (55 FR 19070) contains two errors that are hereby corrected by this notice. These documents contained miscellaneous amendments to the acquisition regulations.

EFFECTIVE DATES: Section 247.573–1 is effective January 30, 1990. The effective date for the correction to amendatory instruction for section 219.704 is April 16, 1990; the effective date for the correction to amendatory instruction for section 237.7407 is April 16, 1990, and the effective date for the correction to

amendatory instruction for section 252.215–7003 is January 30, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Lucile Hughes, DAR Council, ODASD(P)/DARS, c/o OASD(P&L)(M&RS), room 3D139, Pentagon, Washington, DC 20301–3062, (703) 697–7266.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulatory System.

Therefore, 48 parts 219, 237, 247 and 252 are corrected as follows:

1. The authority citation for 48 CFR parts 219, 237, 247 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35 and FAR subpart 1.3.

2. In Federal Register document 90–10632 beginning on page 19070 in the issue of May 8, 1990 make the following corrections:

a. On page 19078, in the first column, amendatory instruction No. 34 is corrected, in the ninth line, by removing "of the second sentence."

b. On page 19080, in the first column, amendatory instruction No. 61 is corrected, in the second line, by adding "introductory text" after "paragraph (b)."

3. In Federal Register document 90–29807 beginning on page 53612 in the issue of December 29, 1989, an amendment to section 247.573–1 which appeared on page 53620, in columns 1 and 2, and in Federal Register document 90–10632 beginning on page 19070 in the issue of May 8, 1990, an amendment to section 247.573–1 which appeared on page 19080, in column 2, incorrectly amended this section. Section 247.573–1 is correctly revised to read as follows:

247.573–1 Purchase of ocean transportation incidental to a contract for supplies, services, or construction.

(a) This subsection applies to those acquisitions where ocean transportation is not the purpose of the contract.

(b) The contracting officer shall obtain assistance from the cognizant transportation activity (see 247.105), in developing the following:

(1) The Government estimate for transportation costs, irrespective of whether freight will be paid directly by the Government;

(2) Appropriate shipping instructions and delivery terms for inclusion in solicitations and contracts that may involve transportation by sea of supplies.

(c) The contracting officer shall ascertain from each offeror whether the supplies will be transported by sea under the resulting contract (see 247.574(a)).

(1) When the successful offeror indicates in the response to the solicitation, that ocean transportation will be used, the contractor must comply with the requirements of the Cargo Preference Act of 1904.

(2) If the successful offeror's response to the solicitation provision is that the offeror does not anticipate that supplies will be transported by sea, there still remains the possibility that during contract performance the contractor will discover that ocean transportation must be used. In that event, the terms of the statute still apply to the contractor, requiring the contractor to use U.S.-flag vessels unless certain narrow conditions exist (see 247.572(b) above). The contractor must notify the Government of the changed circumstances, i.e., that it intends to use ocean transportation, and comply with the requirements of the Cargo Preference Act.

(d) When the contracting officer is notified in accordance with the clause at 252.247–7203, Transportation of Supplies by Sea, that the contractor or subcontractor considers that:

(1) No U.S.-flag vessels are available: the contracting officer shall request confirmation from the Director, Office of Contracts and Business Management, Military Sealift Command (MSC), that no U.S.-flag vessels are available.

(2) The freight charges to the armed services, the contractor or any subcontractor, are higher than charges for transportation of like goods to private persons having no involvement in the contract: The contracting officer may waive or approve any request for a waiver of the requirement to ship on U.S.-flag vessels for a particular shipment. Prior to granting such a waiver, the contracting officer shall solicit oral or written advice from the Commander, MSC or designated representative, MSC. The Commander, MSC shall consider, as appropriate, evidence from published tariffs, industry publications, the Maritime Administration, and other available sources when advising the contracting officer whether the waiver should be granted.

(3) The freight charged by U.S.-flag carriers is considered excessive or otherwise unreasonable: The contracting officer shall forward a report to the Commander, MSC through the head of the contracting activity and the Director, Office of Contracts and Business Management, MSC. The report shall take into consideration that the Cargo Preference Act of 1904 is, in part, a subsidy of the U.S.-flag commercial shipping industry which starts from the premise that lower prices can be obtained from foreign shippers. Accordingly, the report should consider not only excessive profits to the vessel owner, if ascertainable, but also excessive costs (*i.e.*, costs beyond the economic penalty normally incurred by excluding foreign competition) resulting from the mandatory use of U.S.-flag vessels in extraordinarily inefficient circumstances. If the Commander, MSC or designated representative concurs with the contracting officer, the report will be forwarded to the Secretary of the Navy, via ASN(S&L)(CBM), for a determination.

(i) The report shall be in D&F format and include, as appropriate, an analysis of whether the cost to the armed services is excessive, taking into account factors such as the differential between freight charges by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis; a comparison of U.S.-flag rates charged on comparable routes; efficiency of operation regardless of rate differential (*i.e.*, suitability of the vessel for the required transportation in terms of cargo requirements/vessel capacity; the commercial reasonableness of vessel positioning required, *etc.*); and any other relevant economic and financial considerations affecting the armed services.

(ii) The fact that it would be less expensive to use a foreign-flag vessel is an insufficient basis, on its own, to determine that the freight rate proposed by the U.S.-flag carrier is excessive or otherwise unreasonable. However, such a differential may indicate a need for further review.

4. In Federal Register document 90–29807 beginning on page 53612 in the issue of December 29, 1989, an amendment to section 252.215–7003 which appeared on page 53620, in the third column, in amendatory instruction No. 46, in the third and forth lines, " '(JAN 1990)' in lieu of '(FEB 1989)' " is corrected to read " '(JAN 1990)' in lieu of '(MAR 1988)' ".

[FR Doc. 90–22836 Filed 9–28–90; 8:45 am]

BILLING CODE 3810–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 503, 504, 505, 515, and 552

[APD 2800.12A, CHGE 14]

Acquisition Regulation; Procurement Integrity

AGENCY: Office of GSA Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) (APD 2800.12A), chapter 5, is amended to add § 503.104 and related subsections to subpart 503.1 in order to implement and supplement the Federal Acquisition Regulation (FAR) requirements on procurement integrity; to revise § 504.803 to provide instructions to contracting officers on the placement of documents related to procurement integrity requirements in the contract file; to revise § 505.303–70 to provide for notification of certain contract awards to be made to the Office of Congressional Affairs on the same day the contract is awarded; to revise § 505.403 to provide for use of a caution notice on any proprietary or source selection information provided to members of Congress; to add § 515.612 to identify the releasing authority for proprietary or source selection information after source selection; to add §§ 552.203–71, 552.203–72 and 552.203–73 to provide the text of provisions and clauses related to procurement integrity to be included in solicitations and contracts for the acquisition of leasehold interests in real property; to revise the matrix at 552.370 to add references to the provisions at FAR 52.215–12, Restrictions on Disclosure and Use of Data; GSAR 552–203–71, Prohibited Conduct; GSAR 552.203–72, Requirement for Certificate of Procurement Integrity; to add references to the clauses at FAR 52.203–9, Requirement for Certificate of Procurement Integrity—Modification and GSAR 552.203–73, Price Adjustment for Illegal or Improper Activity. GSA is also adding to the GSAR looseleaf GSA Form 3608, Procurement Integrity Certification of Departing GSA Procurement Official, GSA Form 3611, Cover Page Source Selection Information, and GSA Form 3617, Record of Authorization of Access to Proprietary or Source Selection Information. The matrixes and GSA Forms are not published in this document and do not appear in the Code of Federal Regulations. Copies may be obtained from the Director of the Office of GSA Acquisition Policy (VP), 18th and F Streets, N.W, Washington, DC 20405. The intended effect is to implement and supplement the FAR as amended by FAC 84–60 and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

GSA's initial implementation of the FAR procurement integrity provisions was published as a temporary rule with request for comments on July 14, 1989 (54 FR 29720). Comments submitted by the Electronic Industries Association, the Council of Defense and Space Industry Associations, the Office of Federal Procurement Policy and various GSA offices were considered in formulating this rule. Revisions made to the FAR by FAC 84–60 have also been considered.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

This 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.*) because it implements the FAR by providing agency procedures for implementing the procurement integrity provisions at FAR subpart 3.1. In addition, the rule supplements the FAR by codifying provisions and clauses for use in contracts for the acquisition of leasehold interests in real property. Therefore, a Regulatory Flexibility Analysis has not been prepared.

D. Paperwork Reduction Act

This rule contains information collection requirements which implement the provisions of Public Law 100–679, the Office of Federal Procurement Policy Act Amendments of 1988, as amended by section 814 of Public Law 101–189. The referenced public laws require contractors to certify, prior to execution of each contract, modification or extension in excess of $100,000, with respect to conduct prohibited by the Act in contracts for the acquisition of leasehold interests in real property. Because the FAR does not apply to acquisitions of leasehold interests in real property a Certificate of Procurement Integrity substantially the same as the FAR Certificate of Procurement Integrity is provided for use in such acquisitions in this rule. The information collections have been approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned control number 3090–0247. The title of the collection is 48 CFR part 503—Procurement Integrity. The estimated annual burden for this collection is 1,668 hours. This is based on an estimated average burden hour per response of approximately 2 hours, 1 response per respondent, and an estimated 800 respondents per year. Comments on the information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503.

List of Subjects in 48 CFR Parts 503, 504, 505, 515, and 552

Government procurement.

1. The authority citation for 48 CFR parts 503, 504, 505, 515, 552 and 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 503—[AMENDED]

2. Sections 503.104, 503.104–4, 503.104–5, and 503.104–7 through 503.104–12 are added to read as follows:

503.104 Procurement integrity.

503.104–4 Definitions.

Property, as used in FAR 3.104 and in this section, also means acquisitions of leasehold interests in real property.

503.104–5 Disclosure, protection, and marking of proprietary and source selection information.

(a) The contracting officer or any other individual who prepares, makes or controls proprietary and source selection information shall—

(1) Ensure documents are marked as prescribed in FAR 3.104–5(c).

(2) Provide physical security for documents in the office environment during and after duty hours.

(3) Ensure security of interoffice mailing of documents by using opaque envelopes, "double wrapping" with more than one envelope and sealing of envelopes.

(4) Maintain strict control over oral communications regarding the acquisition.

(b) The GSA Form 3611, Cover Page Source Selection Information, may be used as the cover page for documents that contain source selection information. The use of the GSA Form

3611 does not eliminate the requirement to mark each page of the document that contains source selection information.

(c)(1) The following classes of persons are authorized access to proprietary and source selection information to the extent necessary to accomplish their requisite duties and responsibilities with respect to a particular procurement:

(i) Requirements generators, including client agency representatives, program and technical experts involved in the development of statements of work, specifications or similar documents.

(ii) Contracting personnel acting in support of the contracting officer.

(iii) Secretarial, clerical and administrative personnel of the contracting activity directly involved in the procurement.

(iv) Supervisors in the contracting officer's chain of command.

(v) Attorneys in the Office of General Counsel and Regional Counsel's Offices.

(vi) Contract auditors in the Office of Inspector General and Regional Inspector General's offices.

(vii) Engineers and other technical support personnel who provide support to the contracting officer.

(viii) Small Business Technical Advisors.

(ix) Small Business Administration (SBA) personnel responsible for reviewing determining not to set-aside acquisitions, determining the small business status of offerors under FAR 19.302, processing applications for Certificates of Competency under FAR subpart 19.6, reviewing subcontracting plans, or awarding contracts under the 8(a) program.

(x) Department of Labor (DOL) personnel responsible for making eligibility determinations under the Walsh-Healey Public Contracts Act or for processing preaward EEO clearances under FAR 22.805.

(xi) Personnel in the Credit and Finance Branch, Region 6, and other personnel who provide support to the contracting officer in making contractor responsibility determinations.

(xii) Personnel serving on technical evaluation boards or source selection evaluation boards.

(xiii) Contract clearance personnel.

(2) The Associate Administrator for Acquisition Policy may authorize additional classes of persons access to proprietary or source selection information.

(3) The contracting officer may authorize persons access to proprietary or source selection information when such access is necessary to the conduct of the procurement and to the extent that the person has a "bona fide need to know." Access must be limited to only that information needed by the person to perform his/her responsibilities.

(4) The GSA Form 3617, Record of Authorization of Access to Proprietary or Source Selection Information, may be used to maintain the list of individuals authorized access to proprietary or source selection information.

(5) Release of proprietary or source selection information under FAR 3.104-5(d)(3) must be made by letter citing obligation to maintain a list of persons authorized access to proprietary or source selection information and to provide the list to the contracting officer for inclusion in the contract file.

(6) In accordance with FAR 3.104-5(i), the following caution notice must be prominently displayed on any document that releases proprietary or source selection information:

This document, or portions thereof, contains proprietary or source selection information related to the conduct of a Federal agency procurement, the disclosure of which is restricted by section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). The unauthorized disclosure of such information may subject both the discloser and recipient of the information to contractual, civil, and/or criminal penalties as provided by law.

(7) For requests from an individual Member of Congress see 505.403.

§ 503.104-7 Postemployment restriction applicable to Government officers and employees serving as procurement officials and certifications required from procurement officials leaving Government service.

(a) The supervisor of each departing GSA employee shall determine whether the departing employee is a procurement official within the meaning of the statute, that is, the employee has participated personally and substantially in the conduct of a GSA procurement or contract modification outside the scope of the contract in excess of $100,000 that has not been completed at the time of the employee's departure. For purposes of this determination, a procurement is not considered complete until all actions associated with the award or modification of the procurement have been taken. If the supervisor determines the departing employee is a procurement official, even though the employee's duties may be completed, the supervisor shall have the departing employee read, sign, and date the GSA Form 3608, Procurement Integrity Certification of Departing GSA Procurement Official. The supervisor will forward the GSA Form 3608, or copy thereof, to the applicable contracting officer(s) for inclusion in the applicable contract file(s). Copies of the GSA Form 3608 should be annotated to identify the contract file which contains the original certification so that it can be retrieved, if necessary.

(b) The contracting officer shall obtain the GSA Form 3608 from any contractor employee serving as a procurement official who ceases performance of those duties during the conduct of a procurement expected to result in a contract or modification in excess of $100,000. (See FAR 3.104-10(d) and 52.203-13).

503.104-8 Knowing violations, duty to inquire, and ethics advisory opinions.

(a) If a contracting officer has not been appointed, the contracting director shall serve as the Administrator's designee and respond to inquires under FAR 3.104-8(d) and (e) regarding proprietary and source selection information.

(b) Requests for ethics advisory opinions under FAR 3.104-8(e) must be submitted to the appropriate ethics official.

503.104-9 Certification requirement.

Contracting Officer shall submit requests for waiver of certification requirements under FAR 3.104-9(f)(2) to the HCA for transmittal to the Senior Procurement Executive (see 502.101). The Senior Procurement Executive will recommend that the Administrator approve or disapprove the request.

503.104-10 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 552.203-71, Prohibited Conduct, in solicitations for the acquisition of leasehold interests in real property expected to exceed $25,000.

(b) The contracting officer shall insert the provision at 552.203-72, Requirement for Certificate of Procurement Integrity, in solicitations for the acquisition of leasehold interests in real property expected to exceed $100,000 unless pursuant to FAR 3.104-9(f) a certification is not required or a waiver has been granted.

(c) The contracting officer shall insert a clause substantially the same as the clause at 552.203-73, Price Adjustments for Illegal or Improper Activity, in solicitations and contracts for the acquisition of leasehold interests in real property expected to exceed $25,000 and all contracts and modifications to contracts exceeding $25,000 which do not already contain the clause when the modification is expected to exceed $25,000.

503.104-11 Processing violations or possible violations.

(a)(1) The contracting officer's determination that a reported violation or possible violation of the statutory prohibitions has no impact on the pending award or selection of a source shall be submitted, along with supporting documentation, to the HCA or SES designee for review and concurrence before award of a contract. In addition, the nature and circumstances of the violation or possible violation, together with any supporting documentation, must be referred to the Inspector General in accordance with agency regulations.

(2) The contracting officer's determination that a reported violation or possible violation of the statutory prohibitions has an impact on the pending award or selection of a source must be referred along with all related information available to the HCA, who will:

(i) Refer the matter immediately to the Inspector General.

(ii) Determine the action to be taken on the procurement in accordance with FAR 3.104-11 (b) and (d).

(b) If the HCA or SES designee determines under FAR 3.104-11(f) that there are urgent and compelling circumstances, or that it is otherwise in the Governments interest to award or modify a contract, the HCA or SES designee shall notify the Administrator.

503.104-12 Ethics program training requirements.

(a) Except as provided in paragraph (b) of this section, the contracting officer is not responsible for ensuring that another agency's employee(s), who may function as a procurement official on behalf of that agency in interacting with GSA personnel, has executed the Procurement Official's Procurement Integrity Certification pursuant to FAR 3.104-12. Such interaction may occur in the requirements determination process and the development of specifications or statements of work.

(b) Where a non-Government person or another agency's employee(s) act on behalf of GSA (e.g., serves on a Source Selection Board) the contracting officer is responsible for obtaining the Procurement Officials's Procurement Integrity Certification from non-GSA or non-Government persons involved in the selection of a source in a GSA procurement.

PART 504—[AMENDED]

3. Section 504.803 is amended by revising paragraphs (a) (23) and (25) to read as follows:

504.803 Contents of contract files.

(a) * * *

(23) Contractual action. Successful bid or proposal and all pertinent correspondence applicable to the contractual action. Subcontracting plans that are incorporated in and made a material part of a contract, as required by FAR 19.705-5(a)(5), and the successful competing contractor's certificate of procurement integrity required by FAR 3.104-9(b), should be filed under this tab.

* * * * *

(25) Any required approvals—GSA Form 1535, Recommendation for Award, or GSA Form 3584, Checklist for Review of Subcontracting Plan (as applicable). The contracting officer's and any departing procurement official's certificate of procurement integrity, required by FAR 3.104-7(a) and 503.104-7 and the record of individuals authorized access to proprietary or source selection information, required by FAR 3.104-5(d)(2) and 3.104-9(e)(iii) should be filed under this tab.

* * * * *

PART 505—[AMENDED]

4. Section 505.303-70 is amended by revising paragraph (b)(2) and adding paragraphs (b)(4) and (c) to read as follows:

505.303-70 Notification of proposed substantial awards and awards involving Congressional interest.

* * * * *

(b) *Notification procedures.* * * *

(2) Except for submittals hand delivered to S, the submittal must be made by facsmile transmission and, in the case of proposed 8(a) awards, on GSA Form 2677, Minority Contract Fact Sheet. Except for contracts awarded under urgent and compelling circumstances, notification to S of an award must be made on the same day that the award is made and 24 hours before telephonic notice (if applicable) is provided to the contractor. If the timeframe for notification to S cannot be met, the Contracting Director must notify S by telephone.

* * * * *

(4) The notification to S will contain sensitive preaward information and should be labeled accordingly. S and regional Congressional liaison offices will be responsible for the security of such information and will establish procedures governing the release of such information before official notification of award. Unless otherwise authorized by the contracting officer, the release of such information prior to award shall be limited to Members of Congress and their staff.

(c) *Release of awards.* (1) Release of notifications which require priority processing as determined by the Associate Administrator for Congressional Affairs will be accomplished at the time and date specified.

(2) Unless notified to the contrary, contracting activities may release awards of the type described in (a) and (b) of this section, or information pertinent thereto, upon the expiration of two full workdays (48 hours) after the time and date of notification to S established either by the facsimile transmission or hand delivery.

5. Section 505.403 is added to read as follows:

505.403 Requests from Members of Congress.

When responding to a Congressional inquiry would result in disclosure of classified material, confidential business information, proprietary or source selection information as defined in FAR 3.104-4 or information prejudicial to a competitive acquisition, the contracting officials shall consult with assigned legal counsel, refer the proposed reply to the head of the contracting activity (HCA), include the caution notice prescribed in 503.104-5(d)(6) in the response, and inform the Office of Congressional Affairs of the action taken.

PART 515—[AMENDED]

6. Section 515.612 is added to read as follows:

515.612 Formal source selection.

After the source selection, the releasing authority under FAR 15.612(e)(1) shall be the Contracting Officer. The contracting officer shall obtain the advice and concurrence of assigned legal counsel before releasing proprietary or source selection information outside the agency.

PART 552—[AMENDED]

7. Sections 552.203-71, 552.203-72 and 552.203-73 are added to read as follows:

552.203-71 Prohibited conduct.

As prescribed in 503.104-10(a), insert the following provision:

Prohibited Conduct (SEP 1990)

(a) *Prohibited conduct.* The Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), provides that during the conduct of any Federal agency procurement of property or services, no competing contractor or officer, employee,

representative, agent, or consultant of any competing contractor shall knowingly—

(1) Make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of the agency, except as provided in FAR 3.104-6(b);

(2) Offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of the agency; or

(3) Solicit or obtain, directly or indirectly, from any officer or employee of the agency, prior to the award of a contract any proprietary or source selection information regarding the procurement.

(b) *Penalties.* Civil penalties for violation of these prohibitions are up to $100,000 for an individual or $1,000,000 for an offeror or prospective offeror other than an individual. Criminal penalties are up to 5 years imprisonment and/or a fine in accordance with Title 18, United States Code.

(End of Provision)

552.203-72 Requirement for Certificate of Procurement Integrity.

As prescribed in 503.104-10(b), insert the following provision:

Requirement for Certificate of Procurement Integrity (SEP 1990)

(a) *Definitions.* The definitions at FAR 3.104-4 are hereby incorporated in this provision, except that "property" also means acquisitions of leasehold interests in real property.

(b) *Certifications.* The officer or employee responsible for the offer submitted in response to this solicitation shall submit the following certification to the Contracting Officer within the time period specified by the Contracting Officer when requesting the certificate. The Contracting Officer will request the successful offeror to submit the certificate before awarding a lease contract exceeding $100,000.

Certificate of Procurement Integrity

(1) I, *[Name of certifier]*, am the officer or employee responsible for the preparation of this offer and hereby certify that to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of subsection 27 (a), (b), (d) or (f) of the Office of Federal Procurement Policy Act, as amended* (41 U.S.C. 423) (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement *(solicitation number)*.

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that, to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of *[Name of offeror]* who has participated personally and substantially in the preparation or submission of this offer has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations:
(Continue on plain bond paper if necessary and label Certificate of Procurement Integrity (Continuation Sheet)),
ENTER "NONE" IF NONE EXISTS———

(4) I agree that, if awarded a contract under this solicitation, the certifications required by subsection 27(e)(1)(B) of the Act shall be maintained in accordance with paragraph (f) of this provision.

[Signature of officer or employee responsible for offer] Date

[Typed name of officer or employee responsible for offer]

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under title 18, United States Code, section 1001.

(c) Pursuant to FAR 3.104-9(d), the offeror may be requested to execute additional certifications at the request of the Government. Failure of an offeror to submit the additional certification may cause its offer to be rejected.

(d) A certification containing a disclosure of a violation or possible violation will not necessarily result in the withholding of award under this solicitation. However, the Government, after the evaluation of the disclosure, may cancel this procurement or take any other appropriate actions in the interest of the Government, such as disqualification of the offeror.

(e) In making the certification in subparagraph (b)(2) of the certificate, the officer or employee of the competing contractor responsible for the offer may rely upon a one-time certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be maintained by the Contractor for 6 years from the date of a certifying employee's employment with the company ends or, for an agent, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the Contractor.

(f) Certifications under paragraphs (b) and (c) of this provision are material representations of fact upon which reliance will be placed in awarding a contract.

(End of Provision)

552.203-73 Price adjustment for illegal or improper activity.

As prescribed in 503.104-10(c), insert the following clause:

Price Adjustment for Illegal or Improper Activity (Sep 1990)

(a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

(1) Reduce the monthly rental under this lease by 5 percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover 5 percent of the rental already paid;

(2) Reduce payments for alterations not included in monthly rental payments by 5 percent of the amount of the alterations agreement; or

(3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.

(b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis therefor. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee, upon good cause shown, determine to deduct less than the above amounts from payments.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

(End of Clause)

Dated: September 20, 1990.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 90-23088 Filed 9-28-90; 8:45 am]

BILLING CODE 6820-61-M

* Section 27 became effective on December 1, 1990.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 734, 737, and 752

[AIDAR Notice 90-3]

Major Systems Acquisition and Advisory and Assistance Services

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation is being amended to reflect the most recent OMB control number and expiration date for the various AIDAR information collections, to lower the dollar threshold for application of major system acquisition procedures, based on consultations with the Office of Federal Procurement Policy, and to conform the current FAR coverage of advisory and assistance services.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, MS/PPE, Room 1600I, SA-14, Agency for International Development, Washington, DC 20523-1435. Telephone: (703) 875-1534.

SUPPLEMENTARY INFORMATION: The list of AIDAR information collection has been updated and the current OMB Control Number and expiration date are reflected, together with the current address to which comments directed to OMB may be sent. No new information collections have been added, nor have existing information collections been revised in any way which will increase recordkeeping or reporting burdens.

AID's regulations on major system acquisition have been revised based on consultations with the Office of Federal Procurement Policy. As revised, our coverage provides a lower dollar threshold, calls for a review of proposed major systems acquisitions against the criteria for such systems established by OMB Circular A-109 and FAR part 34, and requires advance approval of major systems designations by the Procurement Executive.

Our regulations on contracting for consulting services have been revised to conform to the requirements of the current FAR and OMB Circular governing advisory and assistance services.

The changes being made by this final rule are not considered significant rules under FAR 1.301 or subpart 1.5, nor major rules as defined in Executive Order 12291. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature and subject matter of this final rule, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this final rule or any other part of the AIDAR at any time. Comments or questions may be addressed as specified in the **FOR FURTHER INFORMATION CONTACT** section of the Preamble.

List of Subjects in 48 CFR Parts 701, 734, 737, and 752

Government procurement.

For the reasons set out in the Preamble, chapter 7 of title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in parts 701 and 752 continue to read as follows:

Authority: Section 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

2. Section 701.105 is revised to read as follows:

701.105 OMB approval under the Paperwork Reduction Act.

(a) The following information collections established by the AIDAR have been approved by OMB and assigned OMB control number 0412-0520 (expiration date 12/31/90):

AIDAR segment	Burden hrs. per report
733.7003(c)	40
752.209-70	4
752.219-8	1
752.245-70	1
752.245-71	1
752.7001(a)	.5
752.7001(b)	.5
752.7002(j)	1
752.7003	8
752.7004(b)(4)	.5
752.7032	2

(b) Public reporting burden for these collections of information is estimated as shown in paragraph (a) of this section. The estimated burden includes 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 the burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to:

Agency for International Development, Office of Procurement Policy, Planning & Evaluation, MS/PPE, Washington, DC 20523-1435; and

Office of Management and Budget, OMB Paperwork Reduction Project (0412-0520), Washington, DC 20503.

3. Part 734 is revised to read as follows:

PART 734—MAJOR SYSTEM ACQUISITION

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

734.002-70 AID policy.

In order for an AID acquisition to be considered a major system acquisition it must meet the criteria of OMB Circular A-109 and FAR part 34, and must have an estimated value of $15 million or more during the first year of the contract. All major systems acquisition must be approved in advance by the Procurement Executive.

4. Part 737 is revised to read as follows:

PART 737—SERVICE CONTRACTING

Subpart 737.2—Advisory and Assistance Services

Sec.
737.205-70 Management controls.
737.206 Requesting activity responsibilities.
737.207 Contracting Officer responsibilities.
737.270 AID advisory and assistance executive.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

Subpart 737.2—Advisory and Assistance Services

737.205-70 Management controls.

At the conclusion of each contract for advisory and assistance services, the Contracting Officer will require a written evaluation assessing the utility of deliverables and the performance of the Contractor from the cognizant project office. One copy of the evaluation will be retained in the contract file, and one copy will be sent to the AID Advisory and Assistance Executive (see 737.270). Failure to submit the required written evaluation may, at the discretion of the AID Advisory and Assistance Executive, result in refusal to process further requests for contracts for advisory and assistance services from the delinquent project office pending submission of the missing evaluation.

737.206 Requesting activity responsibilities.

(a)-(b) [Reserved]

(c) AID's written approval procedures for advisory and assistance services are as follows:

(1) A signed justification and approval, as specified in paragraph (c)(2) of this section, must accompany each request for a contract for advisory and assistance services. If the Contracting Officer determines that a requested contract is for advisory and assistance services and the required justification and approval has not been prepared, the request will be returned to the cognizant project office together with a Memorandum stating that the requested contract has been determined to be for advisory and assistance services, that justification and approval

is required, and that the request for contract services will be acted upon when it is returned accompanied by the required justification and approval.

(2) The justification and approval must be clearly identified as a justification for advisory and assistance services, and must provide the following information:

(i) *Need and utilization:* State concisely the specific need for procuring the advisory and assistance service, including the objectives and the anticipated benefits for the Agency. State the estimated cost of the services, and evaluate the cost in terms of anticipated utilization of the work product.

(ii) *Review of prior work:* Briefly describe efforts made to ensure that the proposed advisory and assistance service does not, in the given circumstances, duplicate work conducted previously. Where appropriate, describe the results of an AID Data Bank search. (The AID Data Bank is located in the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division—PPC/CDIE/DI).

(iii) *In-house capability:* Describe the expertise needed for the service and state whether such expertise exists in AID. If it is found that the expertise does exist in AID, and is available for assignment to the work, state why AID personnel are not being assigned to the task.

(3) The justification must be approved by an officer one level above the organizational unit requesting the service but two levels above during the fourth quarter of the fiscal year. For Mission-awarded direct contracts, these guidelines regarding approval levels should be followed whenever possible; however, throughout the fiscal year, the approval officer need be no higher than the principal AID Officer at the post. Over and above these requirements, any advisory and assistance services contract of $1,000,000 or more must be approved by the AID Advisory and Assistance Executive (see 737.270).

737.207 Contracting Officer responsibilities.

(a)–(f) [Reserved]

(g) In cases where a single contract finances activities included within the definition of advisory and assistance services and activities excluded from the definition, the Contracting Officer is responsible for determining whether the primary purpose of the contract is advisory and assistance services, in which case the contract will be classed as a contract for advisory and assistance services.

737.270 AID advisory and assistance executive.

(a) As required by OMB Circular A-120, the Administrator has designated the Assistant to the Administrator for Management Services as the AID Advisory and Assistance Executive, responsible for assuring that advisory and assistance acquisitions comply with the terms of OMB Circular A-120.

(b) The AID Advisory and Assistance Executive is designated as the official who shall review and approve each request for acquisition of advisory and assistance services with a total estimated obligation of $1,000,000 or more.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.70—Texts of AID Contract Clauses

752.7020 [Removed and Reserved]

5. Section 752.7020 is removed and reserved.

Dated: August 3, 1990.

John F. Owens,

Procurement Executive.

[FR Doc. 90-23074 Filed 9-28-90; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, 172, 173, 175, 177, 178, and 179

[Docket No. HM-189I, Amdt. Nos. 106-7, 107-22, 171-109, 172-121, 173-223, 175-46, 177-77, 178-96, and 179-44]

Hazardous Materials Regulations; Editorial Corrections and Clarifications

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

ACTION: Final rule.

SUMMARY: This amendment corrects editorial errors and makes minor regulatory changes to the Hazardous Materials Regulations (HMR). This action is necessary to reduce misunderstandings of the HMR. The intended effect is to promote accuracy of the HMR. These amendments are minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATES: October 1, 1990. The correction to § 173.247(a)(12)(iii) is effective December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Beth L. Romo, Standards Division, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-4488.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, RSPA performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in title 49, Code of Federal Regulations (49 CFR), parts 100 through 199, revised as of October 1, 1989, include typographical errors, incorrect references to the other rules and regulations in the CFR, and misstatements of certain regulatory requirements. Additionally, in response to inquiries which RSPA received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties.

Since these amendments do not impose new requirements, notice and public procedure are unnecessary. For the same reason, these amendments are effective without the customary 30-day delay following publication. This will allow the changes to appear in the next revision of 49 CFR.

RSPA has determined that this rule, are promulgated, is not a major rule under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment were not prepared, as these amendments are not substantive changes to the HMR.

Based on limited information available concerning the size and nature of entities likely to be affected by these amendments, I certify that these amendments will not, as promulgated have a significant economic impact on a substantial number of small entities.

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

The following is a section-by-section summary of the amendments:

Section 107.315. In paragraph (c), the room number "2228" is removed and replaced with the room number "9112".

Section 107.402. In paragraph (a), the parenthetical routing designation "(DHM-20)" is removed and replaced with the routing designation "(DHM-32)".

Part 172. In the table of sections to part 172, subpart F, the heading to § 172.525 is amended by removing the word "EMPTY" and inserting, in its place, the word "RESIDUE".

Section 172.101. In the Hazardous Materials Table, the following changes are made:

a. In the line entry "1,1-Difluoroethylene (R-1132A)", in column 1 the letter "A" is removed, and in column 3(a) the identification number "UN1959" is added.

b. In the line entry "Methyl formate", in column 5(a) the wording "allons" is removed and replaced with the section reference "173.118", the section reference "173.119" is added in column 5(b), and the maximum net quantities "1 quart" and "10 gallons" are added in column 6(a) and column 6(b) respectively.

Section 172.331. In the first sentence in paragraph (d), the wording "Each person who offers a motor carrier a hazardous material in a bulk packaging for transportation * * *" is removed and replaced with the wording "Each person who offers a bulk packaging containing a hazardous material for transportation * * *" to provide clarity and consistency with paragraph (e).

Section 172.510. In paragraph (a), the spelling for the EXPLOSIVES A placard is corrected.

Section 173.12. In paragraph (e), the ending of the last sentence is revised to read "* * *; and oleum (*fuming sulfuric acid)*" for clarity.

Section 173.217. In the section heading and in paragraph (a), the description "trichloroisocyanuric acid, dry" is added. This material is currently authorized by the § 172.101 Table to be packaged in accordance with this section.

Section 173.247. In paragraph (a)(12)(iii), effective December 31, 1990, the word "tank" was inadvertently omitted. The provision is corrected to read "the cargo tank is not made of aluminum."

Section 173.252. In paragraph (a)(5), the word "confirm" is replaced by the correct word "conform".

Section 175.10. In paragraph (a)(7), a period is added in the section reference to read "§ 135.91".

Section 175.630. In paragraph (a), two incorrect spellings of the word "poisons" are corrected.

Section 177.870. In paragraph (f), sixth line, the word "paranitraniline" is revised to read "paranitroaniline".

Throughout parts 106, 107, 171, 172, 173, 175, 177, 178, and 179, amendments are made to reflect a change in the zip code for the Department of Transportation, Nassif Building, from "20590" to "20590-0001".

List of Subjects

49 CFR Part 106

Administrative practice and procedure, Hazardous materials transportation.

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

Hazardous materials transportation, Hazardous waste, Labeling, 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 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.

PART 106—RULEMAKING PROCEDURES

1. The authority citation for part 106 is revised to read as follows:

Authority: Sec. 902(h)(1), Pub. L. 85-726, 72 Stat 784 (49 U.S.C. 1472(h)(1)); sec. 3, Pub. L. 90-481, 82 Stat. 720 (49 U.S.C. 1672); secs. 104, 105, 109, Pub. L. 93-633, 88 Stat. 2157 (49 App. U.S.C. 1803, 1804, 1808); sec. 21(a), Pub. L. 89-670 (49 U.S.C. 1653, 1657(e)); sec. 203, Pub. L. 96-126, 93 Stat. 1004 (49 U.S.C. 2002).

§§ 106.5 and 106.9 [Amended]

2. In part 106, the zip code "20590" is revised to read "20590-0001" in the following places: § 106.5(a); § 106.9.

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

3. The authority citation for part 107 continues to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1806, 1808-1811; 49 CFR 1.45 and 1.53; Pub. L. 89-670 (49 App. U.S.C. 1653(d), 1655).

§ 107.315 [Amended]

4. In § 107.315(c), the wording "Room 2228" is revised to read "Room 9112".

§ 107.402 [Amended]

5. In § 107.402(a), the parenthetical wording "(DMT-20)" is revised to read "(DHM-32)".

§§ 107.103, 107.105, 107.111, 107.123, 107.203, 107.215, 107.315, 107.325, 107.335, 107.402, 107.502, Subpart B (Appendix A) [Amended]

6. In addition to the amendments set forth above, the zip code "20590" is revised to read "20590-0001" in the following places:

§ 107.103(b)(1)
§ 107.105(a)(1)
§ 107.111(b)(1)
§ 107.123(a)
§ 107.203(b)(1)
§ 107.215(b)(1)
§ 107.315(c)
§ 107.325(a)
§ 107.325(b)
§ 107.335
§ 107.402(a)
§ 107.502(c) (Redesignated as § 107.502(d) effective December 31, 1990)
Part 107, subpart B, appendix A (both places it appears)

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

7. The authority citation for part 171 is revised to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

§§ 171.7, 171.16 and 171.20 [Amended]

8. In part 171, the zip code "20590" is revised to read "20590-0001" in the following places: § 171.7(b); § 171.16(b); § 171.16 Note; § 171.20(b).

PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

9. The authority citation for part 172 is revised to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808; 49 CFR part 1.

§ 172.101 [Amended]

10. In § 172.101, the Hazardous Materials Table is amended by revising, in appropriate alphabetical sequence, the entries listed below:

172.10—HAZARDOUS MATERIAL TABLE

+AW	Hazardous materials description and proper shipping names	Hazard class	Identification number	Labels required (if not excepted)	Packaging		Maximum net quantity in one package		Water Shipments		(c) Other requirements
					(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	Passenger vessel	
(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
	[Revised]										
	1,1-Difluoroethylene	Flammable gas.	UN1959	Flammable gas.	173.306	173.304	Forbidden	300 pounds	1, 2	5	Stow away from living quarters.
	Methyl formate	Flammable liquid.	UN 1243	Flammable liquid.	173.118	173.119	1 quart	10 gallons	1, 3	4	

§ 172.331 [Amended]

11. In § 172.331(d), the beginning of the first sentence is amended by removing the wording "Each person who offers a motor carrier a hazardous material in a bulk packaging for transportation" and adding, in its place, the wording "Each person who offers a bulk packaging containing a hazardous material for transportation".

§ 172.407 [Amended]

12. In § 172.407, in paragraphs (d)(1) and (d)(3), the zip code "20590" is revised to read "20590–0001".

§ 172.510 [Amended]

13. In § 172.510(a), the term "EXPLOSIVE A" is revised to read "EXPLOSIVES A".

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

14. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

§ 173.12 [Amended]

15. In § 173.12(e), at the end of the sentence, the phrase "and sulfuric acid, fuming." is revised to read "and oleum *(fuming sulfuric acid)*."

§ 173.217 [Amended]

16. § 173.217, in the section heading, the description "trichloroisocyanuric acid, dry;" is added between the description "sodium dichloro-s-triazinetrione, dry;" and the description "tricholoro-s-triazinetrione, dry.".

§ 173.217 [Amended]

16a. In § 173.217, in the introductory text of paragraph (a), the description "trichloroisocyanuric acid, dry," is added between the description "sodium dichloro-s-triazinetrione, dry," and the description "trichloro-s-triazinetrione, dry,".

§ 173.247 [Amended]

17. In § 173.247, in paragraph (a)(12)(iii), effective 12–31–90, the sentence "The cargo is not made of aluminum" is revised to read "The cargo tank is not made of aluminum.".

§ 173.252 [Amended]

18. In § 173.252, in the fourth sentence of paragraph (a)(5), the word "confirm" is revised to read "conform".

§§ 173.22, 173.28, 173.34, 173.300a, 173.300b, and 173.471 [Amended]

19. In addition to the amendments set forth above, the zip code "20590" is revised to read "20590–0001" in the following places:

§ 173.22a(b)
§ 173.28(m)(3)(ii)
§ 173.34(e)(l)(iv)
§ 173.300a(b)(1)
§ 173.300a(e)
§ 173.300b(b)(1)
§ 173.471(e)

PART 175—CARRIAGE BY AIRCRAFT

20. The authority citations for part 175 is revised to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1807, 1808; 49 CFR part 1.

§ 175.10 [Amended]

21. In § 175.10(a)(7), the section reference" 135 91" is revised to read "135.91".

§ 175.45 [Amended]

22. In § 175.45(c), the zip code "20590" is revised to read "20590–0001".

§ 175.630 [Amended]

23. In § 175.630(a), the word "posions" and the word "poisions" are removed each place they appear and are replaced with the word "poisons".

PART 177—CARRIAGE BY PUBLIC HIGHWAY

24. The authority citation for part 177 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 49 CFR part 1.

§ 177.825 [Amended]

25. In § 177.825, in paragraph (b)(1)(iii)(A), effective 10–1–90, the zip code "20590" is revised to read "20590–0001".

§ 177.870 [Amended]

26. In § 177.870(f), the word "paranitraniline" is revised to read "paranitroaniline".

PART 178—SHIPPING CONTAINER SPECIFICATIONS

27. The authority citation for part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808, 49 CFR part 1, unless otherwise noted.

§§ 178.16–19, 178.17–6, 178.45–17, 178.65–14 [Amended]

28. In part 178, the zip code "20590" is revised to read "20590–0001" in the following places: § 178.16–19(c)(2); § 178.17–6(b)(2); § 178.45–17(e); § 178.65–14(d).

PART 179—SPECIFICATIONS FOR TANK CARS

29. The authority citation for part 179 continues to read as follows:

Authority: 49 App U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

§ 179.105–4 [Amended]

30. In § 179.105–4(c), the zip code "20590" is revised to read "20590–0001'.

Issued in Washington, DC, on September 25, 1990, under the authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 90–23109 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–60–M

Proposed Rules

Federal Register
Vol. 55, No. 190
Monday, October 1, 1990

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 AGRICULTURE

Farmers Home Administration

7 CFR Parts 1930 and 1944

RIN 0575-AA60

Farm Labor Housing Loan and Grant Program, Loan Agreement and Income Eligibility for Domestic Farm Laborers

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Farm Labor Housing Loan and Grant Regulations. The intended effect is to make changes to the basic rules of the Labor Housing Regulations affecting potential applicants and the FmHA field staff concerning unauthorized rents, income eligibility, occupancy of labor housing, and delegation of authority. These revisions are proposed because of Agency agreements with the Inspector General and are determined to be in the best interest of farm labor tenants and the government.

DATES: Comments must be received on or before Novembers 30, 1990.

ADDRESSES: Submit written comments in duplicate to the office of the Chief, Directives and Forms Management Branch, Farmers Home Administration Room 6348, South Agriculture Building, Washington, DC 20250. All comments made pursuant to this notice will be available for public inspection at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tom Sanders, Senior Loan Officer, Special Authorities Branch, Multi-family Housing Processing Division, FmHA, USDA, Washington, DC 20250, Telephone (202) 382-1606 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined "Non major." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions, or significant adverse effects on competition, employment investment, productivity, innovation, or on the ability to United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart C, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environmnet and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an environmental impact statement is not required.

This program/activity is listed in the Catalog of Federal Domestic Assistance under numbers 10.405, Farm Labor Housing Loans and Grants, and 10.427, Rural Rental Assistance Payments (Rental Assistance), and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983).

The Administrator has determined that the proposed action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements. The proposed action will effect new borrowers for non-rental labor housing, unauthorized rents, and above-moderate income tenant occupancy.

General Infomation

The Labor Housing program provides housing financing for the exclusive use of domestic farm labor through the use of loans, grants and rental assistance to farmers, family farm partnership, family farm corporation, association of farmers, public bodies, and public or private nonprofit organizations. However, the use of grant funds is restricted to public bodies and public or private nonprofit organizations.

The Labor Housing program serves two borrower groups. The first group, farm owners, use the Labor Housing loan program as an adjunct to their farming operations; such loans are referred to as "on-farm" loans. The second group, public bodies and nonprofit organizations, use the loan grant, and rental assistance programs to provide affordable rental housing for farm laborers serving the local agricultural market area; such housing is referred to as "off-farm".

The owners of Labor Housing may or may not charge rent to the farmworker based on the purpose for which the original assistance was provided. If the original assistance is "on-farm", then housing for the farmworker may be on a non-rental basis. If the original assistance is "off-farm", then housing for the farmworker is on an affordable rent basis, in accordance with statutes.

The Officer of Inspector General made several recommendations pertaining to loan and grant administration and borrower servicing procedures. This proposed rule change addresses the necessary loan and Grant Making and Borrower Servicing rules.

The Inspector General recommended that the Agency:

1. Ensure the proposed rule contains sufficient provisions addressing (1) the use of loan agreements when rental income is to be collected by LH [Labor Housing] borrowers, (2) required servicing of cases where unauthorized rent was collected by LH borrowers, and (3) whether unauthorized rent collections should be collected and applied to LH loan accounts.

2. Establish procedures to (1) require that above-moderate-income LH tenants pay rental rates based on their ability to pay or comparable market rental rates, or (2) prohibit temporary LH occupancy by above-moderate-income households.

3. Establish procedures for rental payments which exceed approved/subsidized rental rates to be remitted to FmHA as additional payments on LH loans.

The basic issues to be addressed for public comment are (1) Use of loan agreements, (2) income eligibility for occupancy, and (3) use and disposition of authorized and unauthorized rents.

Waiving the use of loan agreements has been within the State Director's authority, if "the applicant receives no rental income from the tenants, and * * * the applicant is an individual or family farm corporation or partnership." However, the audit showed that many borrowers who had not signed loan agreements were charging rents. Therefore, the waiver authority is being removed and a loan agreement for "on-farm" non-rental housing is proposed. A loan agreement signed at the time of loan making will provide full disclosure to the farm owner of what the Government will require if the non-rental basis of the dwelling changes.

For tenant income eligibility, it is necessary to distinguish between "on-farm" tenants and "off-farm" tenants. There exists in the regulations an unintended link of income eligibility and farm worker eligibility for the "on-farm" tenant. We have expanded the definition of substantial portion of income to include the provision of housing as partial compensation for farm work. In view of the employment relationship of the farm worker with the farm owner when housing is provided rent free, we consider such farmworkers to meet the substantial portion of income rule. Income verification of farm workers housed and in his/her employment will not be required of the farm owner.

For tenants who reside in labor housing "off-farm", there has been no change in FmHA rules concerning their income eligibility, reporting requirements, or substantial portion of income. However, when eligible "off-farm" housing tenants become income ineligible, FmHA hereby proposes that they pay an appropriate tenant shelter cost contribution or prevailing rental rate for the area. They may choose to remain in the rental housing as long as vacancies exist, but must vacate should the housing be needed for income eligible farm workers. This revision will also promote full occupancy of FmHA financed farm labor housing and enable such facilities to maintain economic viability, lessen possible vandalism of vacant units, and reduce the long-term subsidy costs.

By permitting occupancy and charging a market rent to above-moderate income ineligibles, we propose that excess rents collected must go for the tenants' housing benefit: (1) Operating and maintenance expenses, (2) debt service, and (3) refunded to the Agency for reduction of interest subsidy. This applies to both the "on-farm" and "off-farm" housing. Any changes to rents must be authorized by the Agency in advance. In those circumstances, as raised by the OIG audit, any rent charged for non-rental housing is unauthorized and must be refunded to the tenant. If the tenant has moved on, then the disposition of unauthorized rent should be in the order cited above.

Due to the nature of the Labor Housing programs, the provision of housing through an intermediary, similar to the Rural Rental Housing Section 515 program, and unclear lines of servicing authorities as reflected in the OIG recommendation, all labor housing loan and grant servicing is proposed to be delegated to the District Director.

List of Subjects

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant Programs—Housing and community development, Loan programs—Housing and community development, Low and moderate income housing—Rental, and Reporting requirements.

7 CFR Part 1944

Farm labor housing, Migrant labor, Nonprofit organizations, Public housing, Rent subsidies, and Rural housing.

Therefore, as proposed, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1930—GENERAL

1. The authority citation for part 1930 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

2. Exhibit B of subpart C is amended by revising paragraphs VI B 6 a 5, VII C 1, and VII C 2; and by adding paragraph VI B 6 a 7 to read as follows:

Exhibit B Exhibits to Subpart C—Multiple Housing Management Handbook

* * * * *

VI. Renting Procedure

* * * * *

B. * * *

6. * * *

a. * * *

(5) Tenants residing in RRH units who are ineligible, because their household income exceeds the maximum for the RRH project, will be charged the FmHA approved market rental rate for the size of unit occupied in a Plan II RRH project. In projects operated under Plan I, ineligible tenants will be charged rental surcharge of 25 percent of the approved market rental rate.

* * * * *

(7) Tenants residing in LH units who are ineligible because their household income exceeds the maximum for the area will be charged rents as set out in this section. Such tenants will be charged the lessor of the required shelter cost contribution set out in paragraph II NN of this Exhibit or the prevailing rental rates for the area, as determined by the Agency, based on the best information available. Any income derived from such tenants which is in excess of that needed to meet annual LH project expenditures, FmHA LH loan payment, and any authorized reserve contribution must be used as set out in this section. Such income may be used to properly maintain the security property in accordance with an FmHA approved budget or remitted to the Agency for crediting to the Rural Housing Insurance Fund.

* * * * *

VII. Verification and Certification of Tenant Income and/or Employment

* * * * *

C * * *

(1) Verification of income is required for domestic farm laborers, including migrants, except in instances where housing is provided as part of employment compensation for farm labor. When the tenants do not have easily verifiable income, the borrower may project monthly income expected to be received by the tenants during occupancy for determining eligibility and subsidy assistance.

(2) Verification that all LH tenants have sufficient income from farm labor employment, that meets the definition of domestic farm labor, is required for all domestic farm laborers, including migrants. Employment verification is an addition to income verification for those tenants described in paragraph VII C 1 above. Verification must be documented and filed in the "Tenant Record File" or in the borrower loan docket.

* * * * *

PART 1944—HOUSING

3. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

4. Section 1944.153 is amended by redesignating paragraphs (bb) (1) (i) and (ii) as (bb) (1)(i)(A) and (B), by adding new paragraphs (bb) (1)(i) introductory

text and (ii), and by revising the introductory text of paragraph (bb) (1) and paragraph (bb) (4) to read as follows:

§ 1944.153 Definitions.

* * * * *

(bb) *Substantial portion of income.* That portion of income received which has been derived from farm labor performed by a farm laborer as defined in paragraph (a) of this section.

(1) To determine if income is considered substantial, the measure to be used will be as follows:

(i) For housing rented to farm laborers and owned by public bodies and public or private nonprofit organizations, and other owners (farmer, family farm partnership, family farm corporation, or an association of farmers) when charging rent on a rental basis by choice or servicing regulations:

* * * * *

(ii) For housing owned by a farmer, family farm partnership, family farm corporation, or an association of farmers and operated on a nonrental basis, substantial portion of income is earned when housing is provided by the owner as part of employment compensation for farm labor.

* * * * *

(4) The tenant who qualifies as a domestic farm laborer in order to reside or continue to reside in any project with a nonrestrictive farm labor clause in the mortgage convenants § 1944.176 (d)(5)) must not have household income which exceeds the moderate income limit as shown in exhibit C of subpart A of part 1944 of this chapter (which is available in any FmHA office), for the appropriate household size and appropriate geographical area.

(i) Income for purposes of this section is defined in Exhibit B (II)(c) of subpart C of part 1930 of this chapter and also includes the full amount of periodic payments received from Social Security (including Social Security payments received by adults on behalf of minors or by minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits (except lump sum settlements) and other similar types of periodic receipts, as well as any payments that will begin during the next 12 months, such as payments in lieu of earnings, such as unemployment and disability compensation, worker compensaion and serverance pay.

(ii) Exempted income is income of dependents, unmarried minors, under 18 years of age except as specified in paragraph (bb)(4)(i) of this section. (tenants or co-tenants or spouses of either are not considered as minors for purposes of this section).

(iii) For servicing purposes, an exception to the moderate income rule is permitted in accordance with Exhibit B, paragraph VI of part 1930, subpart C of this chapter.

* * * * *

5. Section 1944.154 is revised to read as follows:

§ 1944.154 Responsibility for LH processing and servicing.

All LH loan and/or LH grant application processing and servicing is the responsibility of the FmHA District Director.

6. Section 1944.164 is amended by revising paragraph (g)(2) to read as follows:

§ 1944.164 Limitations and conditions.

* * * * *

(g) * * *

(2) All other loan applicants of this subpart will execute a loan agreement in substantially the same format as exhibit D (for rental units) or exhibit K (for non-rental units). Any necessary changes must be approved by OGC.

* * * * *

7. Section 1944.176 is amended by redesignating paragraphs (c), (d), (e) and (f) as paragraphs (d), (e), (f) and (g) respectively; by removing paragraph (d)(5) and redesignating paragraphs (d) (6) and (7) as (d) (5) and (6); and by adding new paragraph (c) to read as follows:

§ 1944.176 Loan and/or grant closing.

* * * * *

(c) *LH loan agreement.* A LH loan agreement, prepared and authorized as provided in § 1944.164 (g) will be dated and executed by the applicant on the date of loan closing. The executed agreement will be filed with the mortgage or other security instrument in the District Office case file.

* * * * *

8. Exhibit K of subpart D is added to read as follows:

Exhibit K—Loan Agreement (LH Insured Loan to Individual for Non-Rental Housing)

A. General Provisions

1. This agreement is entered into on _____ (Date).

2. This agreement is between _____

_____ (borrower's name whether one or more), whose mailing address is _____

and the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (the Government).

3. This agreement is made in return for receiving Labor Housing (LH) loan assistance from the Government totaling $_____ as evidenced by a Promissory Note dated _____.

4. The borrower agrees to comply with Government regulations governing the LH loan program.

5. This agreement is in addition to any other agreements entered into with the Government such as any promissory note, mortgage or deed of trust, loan approval requirements, etc.

B. Rent and Occupancy

Occupany of the housing will be limited to domestic farmworkers or migrants as defined in this Subpart unless the Government gives prior written approval for other occupany, except that in no case will a member of the borrowers's immediate family occupy the housing.

The borrower agrees:

(1) To meet the LH loan objectives by providing decent, safe, and sanitary housing for eligible tenants;

(2) To provide the housing rent free to eligible farmworker tenants, except for any customary and reasonable damage deposit or clean-up fee;

(3) To get the Government's prior approval before collecting utility charges (i.e. fuel, water, waste disposal, etc.) from tenants;

(4) To get the Government's prior approval if there is a need to permit occupancy by tenants who are normally not eligible to occupy the housing unit and in no case will a member of the borrower's immediate family occupy the housing, and;

(5) To get the Government's prior approval if there is a need to charge rent to tenants. The borrower agrees to provide a management plan, which meets requirements set out in Government regulations, whenever rents are charged to tenants. The management plan will describe how the housing operation will be conducted. The borrower agrees to get the Government's prior approval before charging rents to tenants or changing any existing rents.

C. Recordkeeping

The borrower agrees:

(1) To provide the Government financial information as required by Government regulations;

(2) To provide annual certification of employment of eigible tenants as occupany changes, not less than once per year, and;

(3) To keep information required by Government regulations and make the information available for Government inspection.

D. Compliance with federal, state, and local laws and regulations

The borrower agrees to comply with applicable federal, state, and local laws and regulations, including but not limited to, the following:

(1) To provide equal housing opportunities to tenants;

(2) To operate the housing in a safe environment;

(3) To maintain comprehensive property insurance on the property taken as security;

(4) To pay taxes and assessments on the property taken as security, and;

(5) To make the security property available for inspection by the Government.

E. Disposition of Labor Housing Security Property

The borrower agrees:

(1) Not to sell or otherwise dispose of property taken as security for the LH Loan without the Government's prior written approval;

(2) Not to sell or enter into any business arrangement which may potentially or acutally place the housing operation under the management or control of another party without the prior approval of the Government, and;

(3) To prohibit any liens to be taken on the security property without the prior approval of the Government.

F. Enforcement Considerations

The borrower understands that any violation of the terms of this agreement may enable the Government to declare the note immediately due and payable and may adversely affect the borrower's ability to obtain other Government loans or grants.

G. General Provisions

This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of _____ 19_____."

(date of this instrument)

H. Signature(s).

_____

Signature of Borrower

_____

Signature of Borrower

_____

Witness

_____

Witness

Dated: August 8, 1990.

David T. Chen,

Associate Administrator, Farmers Home Administration.

[FR Doc. 90-23028 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

(CGD1-90-063)

Special Anchorage Area; Burlington Harbor, VT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish a special anchorage area in Lake Champlain. This anchorage is located in the waters contiguous to Burlington, Vermont. The Harbormaster for the Department of Parks and Recreation, City of Burlington, Vermont requested this area be designated to facilitate the growing number of pleasure craft needing mooring space in the area. This regulation will provide a safe anchorage well away from fairways where vessels less than 65 feet in length can safely remain unlighted at night and during periods of reduced visibility. There are no such anchorages available in the immediate area.

DATES: Comments must be received on or before November 15, 1990.

ADDRESSES: Comments should be mailed to Commander, Coast Guard Group New York, Bldg. 109, Governors Island, New York, NY 10004-5096. The comments and other materials referenced in this notice will be available for inspection and copying at the Waterways Management Office, Bldg. 109, Governors Island, New York. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade C. W. Jennings, Waterways Management Officer, Commander, Coast Guard New York, at (212) 668-7933.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1-90-063) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG C. W. Jennings, Project Officer, Coast Guard Group New York and Lt. J. B. Gately, Project Attorney, First Coast Guard District Legal Office.

Discussion of Proposed Regulations

The area proposed for designation as a special anchorage is located in the waters contiguous to Burlington, VT, in Lake Champlain known as the Inner Harbor. The Captain of the Port, New York was contacted by Mr. Donald Bessler, Harbormaster for the City of Burlington, Vermont regarding the establishment of this special anchorage. The principal reason for the request is to provide a clearly defined area for recreational vessels to moor. Increased recreational vessel traffic in the Burlington area has prompted a need to specify exactly where vessels may moor to keep them from anchoring in harms way. The City of Burlington has indicated that it is willing to manage and administer this mooring area. The area will be available to the general public. There are no special anchorages designated in this area at this time.

This rule would allow anchoring of small boats (vessels under 65 feet in length) without requiring them to display anchor lights or sound fog signals. The area will not affect navigable channels and is located where general navigation will not endanger or be endangered by unlighted vessels. This regulation is issued pursuant to 33 U.S.C. 2030, 2035, and 2071 as set out in the authority citation for all of part 110.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Establishment of this proposed special anchorage area will not require dredging or result in increased cost to any segment of the public.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Lists of Subjects in 33 CFR Part 110

Special Anchorage Areas.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 110 of title 33, Code of Federal Regulations as follows:

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.8 is amended by adding paragraph (h) to read as follows:

§ 110.8 Lake Champlain, NY and VT.

* * * * *

(h) *Burlington Harbor, VT.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
44°28'14.2" N	73°13'18.0" W
44°28'14.2" N	73°13'21.0" W
44°28'24.2" N	73°13'19.9" W

and thence along the shoreline to the point of the beginning.

Dated: August 29, 1990.

R.I. Rybacki,

Rear Admiral U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 90-23171 Filed 9-28-90; 8:45 am]

BILLING CODE 491-14-M

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33 CFR Part 165

[CGD 13-90-03]

Regulated Navigation Area; Puget Sound, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations for a Regulated Navigation Area (RNA) in Puget Sound and adjacent waters in northwestern Washington. This action would delete the provisions for Temporary Special Traffic Lanes (TSTL), but would retain the requirement for vessels congesting the traffic lanes to move out of the way of through traffic in the Traffic Separation Scheme (TSS). As it currently exists, the TSTL is a temporary, two-way, 1,000 yard wide traffic lane that must be vacated for through traffic. The TSTL may be established by the Puget Sound Vessel Traffic Service (VTS) when fishing or other operations have reached or may reach such concentrations as to significantly impede navigation or create a hazard. Deleting provisions for the TSTL will result in the restoration of traffic separation between opposing through traffic at all times.

This proposed amendment would also establish prohibited fishing areas in three ferry crossings and in an area adjacent to the main ship channel draw span of the Hood Canal Bridge. Establishing prohibited fishing areas will eliminate the frequent hazardous traffic conflicts between deep draft vessels (through traffic) and fishing vessels in those areas.

This amendment also requires vessels fishing in or near the TSS to monitor the VTS VHF-FM working frequency. VTS broadcasts provide information about through traffic transiting the TSS, its location, and projected arrival time. An alternative to the radio listening requirement would be to stay clear of the TSS. This amendment eliminates the requirement for specific sound signals, which are in conflict with the Collision Regulations (hereafter called 72 COLREGS) rules 35 and 36. Vessels may continue to use sound signals in accordance with Rule 36.

This amendment is needed due to the large number of user conflicts and potentially hazardous situations which frequently develop during periods of heavy congestion. The intended effect of this proposed action is to prevent vessel collisions and groundings, property loss, loss of life, and environmental damage resulting from conflicts between the varied users of these waters, including fishing vessels, pleasure craft, passenger ferries, towboats, and deep draft vessel traffic.

DATES: A public hearing will be held on October 11, 1990. All requests to present oral testimony must be received on or before October 9, 1990. All written comments must be received on or before November 15, 1990.

ADDRESSES: Written comments, and requests to present oral testimony, should be submitted to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Comments will be available for inspection in room 3410 at the above address. Normal office hours are 8 a.m. to 4 p.m., Monday through Friday, except holidays. Written comments or requests to present oral testimony may also be hand delivered to this address. The public hearing will be conducted between 1 p.m.-4 p.m. and 6 p.m.-8 p.m. in the South Auditorium on the fourth floor of the Federal Building, 915 Second Avenue, Seattle, Washington 98174.

FOR FURTHER INFORMATION CONTACT: CDR Michael J. Haucke, USCG, Puget Sound Vessel Traffic Service, 1519 Alaskan Way South, Seattle, Washington 98134. Telephone (206) 286-5640.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 13-90-03), and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. In addition, interested persons are invited to attend the Public Hearings and present oral or written statements on this proposal. Persons wishing to make an oral statement should notify CDR Haucke by October 9, 1990 and indicate the approximate amount of time required. Comments at the Public Hearing are normally heard in the order the requests to comment are received. A written summary or copy of the oral presentation should be included with the request. The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Drafting Information

The drafters of this notice are CDR Michael J. Haucke, USCG, Puget Sound Vessel Traffic Service and LT Deborah K. Schram, USCGR, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

On August 13, 1984 the Coast Guard published a final rule to establish a Regulated Navigation Area in Puget Sound and adjacent waters in northwestern Washington. That rule was preceded by a Notice of Proposed Rulemaking (NPRM) on October 27, 1983 and a Supplemental Notice of Proposed Rulemaking (SNPRM) on May 10, 1984. The final rulemaking reestablished a former U.S. Army Corps of Engineers' regulation and established procedures for Puget Sound Vessel Traffic Service (PSVTS) to activate Temporary Special Traffic Lanes (TSTL) to facilitate a safe and orderly flow of traffic during periods of congestion. The present rule represents a compromise between commercial fishing and commercial transportation interests. In lieu of prohibited fishing zones, the present rule provides that fishing vessels and other craft will clear a path within a TSTL when through traffic approaches. The rule also requires that all vessels operating within an established TSTL monitor the VTS radio frequency

continuously. Activating the TSTL results in confining two way ship traffic in a one half mile wide lane and eliminates the separation zone. The proposed amendment to the existing rule eliminates provisions for the TSTL. The normal Traffic Separation Scheme, or TSS, is the system of traffic lanes, separation zones, and precautionary areas intended to promote safety by directing vessel traffic through distinct, separated routes. The TSS is clearly shown on all official marine charts of the Puget Sound region. It is described in detail in 33 CFR 161.183 through 161.187. The TSTL has proven to be ineffective in reducing user conflicts and defeats the most valuable feature of the TSS, the traffic separation zone.

Even with enforcement vessels on scene, the Coast Guard has had difficulty keeping the TSTL clear. Deep draft vessels following the lane are forced to maneuver to avoid concentrations of boats and nets, resulting in frequent close-quarters situations, both with fishing vessels and with opposing deep draft traffic within the single TSTL lane. The requirement, when the TSTL is implemented, for vessels engaged in fishing or other operations, to draw in their gear, maneuver, or otherwise clear the TSTL no later than 15 minutes before the arrival of through traffic, would apply to both lanes of the TSS under the proposed rule. This system is much safer because it does not eliminate the traffic separation zone afforded by the TSS. PSVTS will broadcast the Estimated Time of Arrival (ETA) of through traffic in areas of congestion. The proposed rule retains the requirement, as currently prescribed in the existing rule, to monitor the PSVTS VHF–FM frequency. Vessels with fishing gear in the water, in or near the traffic lanes, must tend their gear in a manner so as to ensure the fishing vessel and its gear are outside the separation zone and the occupied lane of the TSS when a through vessel approaches.

Prohibited fishing zones near ferry crossings would be reestablished under this amended rule. Army Corps of Engineers regulations establishing prohibited fishing zones near ferry crossings were cancelled in 1983. When the Coast Guard proposed to reestablish them in 1983, public comment persuaded the Coast Guard to establish TSTLs instead. This practice has proven to be totally ineffective. Numerous complaints to Congress, the Coast Guard, and the media, call for reinstatement of the prohibited fishing areas. The Port Angeles Pilots complain they fear collisions with fishing boats and other large ships. Towboat operators complain they have difficulty maneuvering unwieldy tows between boats and nets. Ferries, typically carrying hundreds of passengers, fear collisons and cite difficulties holding to strict schedules. Fishing grounds stretch over broad areas of Puget Sound and adjacent waters, making it difficult for ferries to alter their routes around the congestion caused by the fishing vessels. The existing rule calls for vessels operating in the Edmonds-Kingston ferry crossing to clear the lane 15 minutes prior to a ferry arrival. Ferry transit frequency coupled with the time required to set and retrieve nets make fishing in the crossing zone, for practical purposes, impossible. The proposed rule clarifies this situation by prohibiting fishing in the ferry crossing entirely.

The prohibited fishing areas around the Mukilteo-Clinton and Fauntleroy-Vashon-Southworth routes will be one quarter mile wide on either side of a line connecting the ferry landings. The prohibited fishing area around the Edmonds to Kingston ferry route is slightly larger because of a problem created by the route's proximity to the northern boundary of fishing area 10. If a one quarter mile wide zone were established on either side of a line connecting the ferry landings at Edmonds and Kingston, a very small unrestricted fishing area at the western end of the boundary would continue to exist. Experience has shown that leaving this very small area open to fishing only causes confusion and leads to further congestion. The effect of the proposed Edmonds-Kingston prohibited fishing area is to only allow commercial fishing in area 10 south of the prohibited fishing area.

A prohibited fishing area would also be established within a one half nautical mile radius of the main ship channel draw span of the Hood Canal Bridge. This restriction only applies when naval combatants are transiting the draw span. Trident Submarine commanding officers and the Commander, Submarine Group 9 have expressed grave concern over the safety of fishing vessels who maneuver near the bridge and hamper the passage of submarines.

The General portion of the existing rule, § 165.1301, dealing with sound signals is in apparent conflict with rules 35 and 36 of the Collision Regulations (72 COLREGS) and has been removed.

The General portion of the existing rule, Part 165.1301, requiring fishing vessels to show a quick flash of light and illuminate their nets has proven to be ineffective in congested areas, and has been removed.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT policy and procedures for simplification, analysis, and review of regulation (DOT Order 2100.5). The economic impact of this proposal is expected to be minimal since only a very small area, in comparison to the area of Puget Sound and the adjacent waters, is involved. The effect of the prohibited fishing areas is to move the congestioin away from ferry commuter routes and a narrow bridge opening. These prohibited fishing areas are not expected to have a significant effect on the overall ability of commercial fishing vessels to catch fish. Therefore, further economic evaluation is not necessay. This economic assessment is subject to change depending on comments received.

Based upon this assessment it is certified, in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regualtion has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it appears that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. However, comments regarding possible impact this proposed change to the rule may have on state fisheries regulations, Native American fishing rights, or other federalism concerns are requested. This assessment may be changed in light of comments received.

Environmental Concerns

The proposed change to the existing Regulated Navigation Area appears to be categorically excluded from environmental assessment requirements. However, comments addressing possible impacts this proposed change may have on the human environment or potential inconsistencies with any Federal, state, or local law or administrative determinatioin relating to the environment are solicited. A final determination regarding the possible need for an environmental assessment will be made after receipt of written comments on the public meeting.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 165 of title 33, Code of Federal Regulations as follows:

PART 165 [AMENDED]

1. The authority citation for part 165 of title 33, Code of Federal Regulations continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. Section 165.1301 is revised to read as follows:

§ 165.1301 Puget Sound, Washington—regulated navigation area.

(a) The following is a regulated navigation area—All the following northwestern Washington waters under the jurisdiction of the Captain of the Port Puget Sound: Puget Sound, Hood Canal, Possession Sound, Elliot Bay, Commencement Bay, the San Juan Archipelago, Rosario Strait, Guemes Channel, Bellingham Bay, U.S. waters of the Strait of Juan de Fuca and Georgia Strait, and all waters adjacent to the above.

(b) This regulation is intended to enhance vessel traffic safety during periods of vessel congestion. Operations potentially creating vessel congestion include, but are not limited to, vessels engaged in fishing, including gillnet or purse seine, recreational fishing derbies, sailboat races or regattas, and marine parades. For the purposes of these rules, the definition of "vessels engaged in fishing" is identical to that found in rule 3 of the 72 COLREGS.

(c) *General regulations.* (1) Vessels engaged in fishing or any operation other than through transit of a traffic lane within an established Traffic Separation Scheme (TSS), as defined in 33 CFR 161.183 through 161.187 and 161.262 through 161.264, may not remain in, nor may their gear remain in a traffic lane when another vessel or vessel with a tow engaged in through transit of a traffic lane approaches the area of congestion. Vessels not in through transit of a traffic lane within a TSS shall draw in their gear, maneuver, or otherwise clear the traffic lane at least fifteen minutes before the arrival of the through vessel to enable the through traffic vessel to pass safely and without delay. Vessels which are required by this rule to leave the traffic lane must also remain clear of the designated separation zones.

(2) Vessels engaged in fishing or operations other than through transit of a traffic lane in or near a traffic lane or separation zone must:

(i) Monitor the PSVTS VHF-FM radio channel in use for the area in which the vessel is operating, and

(ii) At all times tend nets or other gear placed in the water so as to facilitate the movement of the vessel or gear from the lane for approaching vessels.

(3) Vessels engaged in gillnet fishing at any time between sunset and sunrise in any of the above listed waters shall display, at the end of the net most distant from the vessel, an all-round (32 point) white light visible for a minimum of two nautical miles at least three feet above the surface of the water.

(4) Nothing in these rules shall be construed as relieving anyone from their responsibility to comply with the applicable rules as set forth in the 72 COLREGS.

(d) Prohibited fishing areas. Vessels engaged in fishing, including gillnet and purse seine fishing, are prohibited in the following areas.

(1) Edmonds-Kingston Ferry lane to include the waters within a line drawn from latitude 47°47'10" N, longitude 122° 29'46" W, thence northerly along the shore to Apple Cove Point Light, thence easterly to latitude 47°49'12" N, longitude 122°22'32" W, thence southerly along the shore to latitude 47°48'16" N, longitude 122°23'43" W, thence westerly to the point of beginning.

(2) Mukilteo-Clinton Ferry lane to include the waters within one quarter nautical mile on either side of a straight line connecting the Mukilteo and Columbia Beach ferry landings.

(3) Fauntleroy-Vashon-Southworth Ferry lane to include the waters within one quarter nautical mile on either side of the straight line connecting the Fauntleroy, Vashon, and Southworth ferry landings.

(e) The Hood Canal Bridge prohibited fishing area to include the waters within a one half nautical mile radius of the main ship channel draw span of the Hood Canal Bridge. Vessels engaged in fishing are prohibited within this area during the transit of the draw span by naval combatants.

Dated: September 18, 1990.

Rudy K. Peschel,

Acting District Commander, Thirteenth Coast Guard District.

[FR Doc. 90-23172 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for Dalea foliosa (Leafy Prairie-clover)

AGENCY: Fish and Wildlife Service, Interior.

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

SUMMARY: The Service has received a request, as provided for by section 4(b)(5) of the Endangered Species Act, for a public hearing on the Service's proposal to list *Dalea foliosa* (leafy prairie-clover) as an endangered species. This notice announces a public hearing for the proposal and reopens the comment period.

DATES: A public hearing on the proposal will be held October 16, 1990, from 7 p.m. to 10 p.m. in Columbia, Tennessee. The proposal comment period, which originally closed on May 29, 1990, is reopened October 1, 1990, and closes on November 1, 1990.

ADDRESSES: The public hearing will be held in the auditorium in the Clement Building at Columbia State Community College, Columbia, Tennessee. Comments should be sent to the Field Supervisor, Asheville Field Office, 100 Otis Street, room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Asheville Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above field office address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Dalea foliosa (Gray) Barneby (leafy prairie-clover), a perennial member of the pea family (Fabaceae), is known from only 15 locations—Alabama (2 sites), Tennessee (9 sites) and Illinois (4 sites). It is threatened throughout its range by habitat alteration; residential, commercial, and industrial development; livestock grazing; and conversion of its limited habitat to pasture. On March 27, 1990, the Service published in the **Federal Register** (55 FR 11230) a proposal to list *Dalea Foliosa* as an endangered species. Section 4(b)(5) of the Endangered Species Act provides for

a public hearing on a proposed listing, if requested. The Service received letters requesting a public hearing from Mr. Steve Parks, Chief Administrative Officer for the Upper Duck River Development Agency, and Mr. William E. Gentner, City Manager of the City of Columbia.

The Service has scheduled a public hearing on the proposal to list *Dalea foliosa* as an endangered species. The hearing will be held in the auditorium of the Clement Building, Columbia State Community College, Columbia, Tennessee, on October 16, 1990, from 7 p.m. to 10 p.m.

Those parties wishing to make statements for the record should provide a copy of their statements to the Service at the start of the hearing.

Author

The primary author of this notice is Mr. Robert M. Currie, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, room 224, Asheville, North Carolina 28801.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1543).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: September 19, 1990.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 90–23057 Filed 9–28–90; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

RIN 1018–AB38

Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Plant Manihot walkerae (Walker's manioc) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list *Manihot walkerae* as an endangered species, under the authority contained in the Endangered Species Act of 1973 (Act), as amended. Walker's manioc is endemic to Tamaulipan brushland in the Lower Rio Grande Valley of south Texas and northeast Mexico. At present, one population is known from Texas. There are no recently verified populations in Mexico, although plants were collected there in the past. It is likely that the plant still occurs in suitable brush habitat. This species is threatened by brush clearing, livestock grazing, and increased urbanization and recreation.

DATES: Comments from all interested parties must be received by November 30, 1990. Public hearing requests must be received by November 15, 1990.

ADDRESSES: Comments and material concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Servcies Field Office, c/o Corpus Christi State University, Campus Box 338, 6300 Ocean Dr., Corpus Christi, Texas 78412. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Philip Clayton (see **ADDRESSES**) at (512) 888–3346 or FTS 529–3346.

SUPPLEMENTARY INFORMATION:

Background

Manihot walkerae (Walker's manioc) is a perennial herb that presently is known from only one site in the U.S. The species was first collected by Schott in 1853 at Ringgold Barracks, Starr County, Texas, but this was misidentified as *Manihot carthagenesis,* a species of tropical America (Turner 1982). Subsequent collections were made in 1888, 1940, and 1960. The type material was collected by E.J. Walker in 1940 and transmitted to H.B. Parks for identification; he in turn transmitted it to V.L. Cory. Cory sent the material for identification to Croizat, who recognized it as a new species. The species was described in 1942. Rogers and Appan (1973), in their monograph of *Manihot* (Manihotoides) for the Flora Neotropica, retained the species as *Manihot walkerae.*

This member of the family Euphorbiaceae is a profusely branched perennial herb that grows to 0.5 meters (1.6 feet). The stems are slender and the alternate leaves are palmately deeply 5-lobed with the middle lobe being 2–5 centimeters (0.8–2.0 inches) long. The flowers are white, somewhat fleshy, 5–10 millimeters (0.2–0.4 inches) long, and are either male or female. The fruit is a three-parted globular capsule about 1 centimeter (0.4 inches) in diameter. Each fruit produces three seeds.

Walker's manioc has been found at 100–200 meters (328–656 feet) elevation among thorny shrubs along the Rio Grande in south Texas, presumably in relatively deep, loamy soils, and at 41 meters (135 feet) elevation, northeast of the Rio Grande on the periphery of dense native brush in sandy-loam soil. It has also been found growing up through protective thorn shrubs on sandy prairie overlying caliche in Tamaulipas, Mexico. The species occurs in Tamulipan brushland dominated by *Acacia (acacia), Prosopis glandulosa* (mesquite), *Pithecellobium flexicaule* (Texas ebony), and *Leucophyllum frutescens* (cenizo). The exact habitat preferences of Walker's manioc are unknown.

One natural population of Walker's manioc is known in the U.S. at present. The species is historically known from the Rio Grande Plains of southern Texas and northeastern Mexico. Plants have been collected in Starr and Hidalgo Counties, Texas, and in the State of Tamaulipas, Mexico. Collections from natural habitat have been made from only seven localities. The northeastern Tamaulipas populations may still exist, but their presence has not been verified. Turner (1982) made several attempts over a 5-year period to locate the species in the vicinity of previously known sites and elsewhere in Texas, but failed to locate plants. Lonard (*in litt.*) did not find *Manihot walkerae* during searches in wooded sites along the Rio Grande in Texas. Clayton (*in litt.*) located the species in 1990 at a perviously unrecorded site in Hidalgo County, Texas.

Plants are being cultivated at the University of Texas, Austin, and the San Antonio Botanical Gardens in Texas. Brush clearing for cultivation, range improvement, and urban and recreational development has destroyed much of the suitable habitat for *Manihot walkerae.* However, the collector of the type specimen believes that *M. walkerae* still occurs in brush habitats. Turner (1982) believes that natural populations still occur along the Rio Grande in areas of previous collections, and Lonard (*in litt.*) suggested an additional area to survey in Texas.

Manihot walkerae is related to the important crop plant, *Manihot esculenta* (cassava). It may be possible to interbreed *M. walkerae* and *M. esculenta* and thus provide a valuable gene pool for the improvement of cassava. Loss of *M. walkerae* could have considerable impacts to humans, judging by the potential it might hold for food and drug purposes (Turner 1982; Clayton, pers. comm.). *M. walkerae* may contain genes that provide salt or drought tolerance, or disease resistance, to the plant. These properties would be beneficial for cassava.

Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1513 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a

report of those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4 of the Act and of its intention to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act.

This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, Federal Register publication. *Manihot walkerae* was included in the July 1, 1975, notice of review and in the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979 (44 FR 70796), the Service published a notice of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with other proposals that had expired; this notice of withdrawal included *Manihot walkerae*.

On December 15, 1980 (45 FR 82480), September 27, 1985 (50 FR 39526), and February 21, 1990 (55 FR 6184), the Service published updated notices reviewing the native plants being considered for classification as threatened or endangered. *Manihot walkerae* was included in these notices as a category 1 species. Category 1 comprises taxa for which the Service has sufficient biological data to support proposing them as endangered or threatened.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 1 year of their receipt. Section 2(b)(1) of the Act's Amendments of 1982 further requires that all petitions pending on October 12, 1982, be treated as having been newly submitted on that date. Because *Manihot walkerae* was included in the 1980 notice, the petition to list this species was treated as being newly submitted on October 12, 1982. In 1983, 1984, 1985, 1986, 1987, 1988, and 1989, the Service made the required 1-year findings that listing of *Manihot walkerae* was warranted, but precluded by other listing actions of higher priority. Biological data, supplied by Turner (1982), fully support the listing of *Manihot walkerae*. This proposed rule constitutes the final 1-year finding required by section 4(b)(3)(B) of the Act for this species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Manihot walkerae* Croizat (Walker's manioc) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Manihot walkerae* is endemic to Tamaulipan brushland, a unique ecosystem found only in south Texas and northeastern Mexico. Since the early 1900's, 95 percent of native Tamaulipan brushland has been cleared for agriculture, urban development, and recreation. In riparian areas, 99 percent of native brush has been destroyed. It is estimated that 98 percent of the lush, subtropical region of the Rio Grande delta has been cleared in the United States (USFWS 1980), and a large percentage of similar habitat has been cleared in Mexico (Collins 1984). Water development on the Rio Grande has substantially reduced river flow, resulting in altered riparian habitats and additional brush clearing. Brush is destroyed in the Lower Rio Grande Valley by mechanical clearing, herbicides, and fire (Jahrsdoerfer and Leslie 1988).

Manihot walkerae is near extinction because of extensive conversion of Tamaulipan brushland to cropland and improved pasture in the Rio Grande plains of southwestern Texas and adjoining Mexico. Land that remains in native vegetation is used for cattle production and is often severely overgrazed. Attempts to locate previously known sites for *Manihot walkerae* in Texas have been unsuccessful (Lonard, *in litt.*; Turner 1982). One new *Manihot walkerae* site was discovered recently (Clayton, *in litt.*). Any existing Mexican populations are under severe threat because the region is heavily grazed and cultivated. (Turner, *in litt.*).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None known. Because of its rarity, *Manihot walkerae* is of interest to botanists, plant breeders, and drug companies. *M. walkerae* may contain genes that provide resistance to salt, drought, or disease. The species may also contain biodynamic compounds that could be useful for disease treatment. Therefore, collection is a minor but present threat.

C. *Disease or predation.* While cattle grazing or trampling may not kill mature plants with an established root system, these actions may kill seedlings and affect the reproduction of mature plants, thereby reducing recruitment rates in the population.

D. *The inadequacy of existing regulatory mechanisms. Manihot walkerae* is not currently protected by either Federal or State law in the U.S. and Mexico. The Act would provide protection and encourage active management through the "Available Conservation Measures" described below.

E. *Other natural or manmade factors affecting its continued existence.* Scarcity and limited distribution make this species vulnerable to both natural and human threats. Any further reduction in plant numbers could reduce the reproductive capabilities and genetic potential of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Manihot walkerae* as endangered without critical habitat. This status is appropriate because the previously known populations in the U.S. have been eliminated and only one site is known at present. The previously known population site in Mexico is in an area of heavy grazing and cultivation. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. There is only one known population of *Manihot walkerae* at present. Loss of even a few plants to activities such as collection for scientific purposes could extirpate the species. Publication of

critical habitat descriptions and maps would increase the vulnerability of the species without significantly increasing protection. In addition, the Service does not have authority to designate critical habitat in areas outside the jurisdiction of the United States. As discussed under factor B in the Summary of Factors Affecting the Species, *Manihot walkerae* is threatened by taking, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of: (1) Removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of a critical habitat description and map would make *Manihot walkerae* more vulnerable and increase enforcement problems. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *Manihot walkerae*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affected a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There are no known populations of *Manihot walkerae* that either occur on Federal land and/or would be affected by activities authorized, funded, or carried out by a Federal agency. However, the International Boundary and Water Commission clears brush to maintain canals on the U.S. side of the Rio Grande. The Corps of Engineers authorizes pipeline construction projects in the area. If it is determined that such activities could have an effect on *Manihot walkerae*, section 7 consultation would have to be initiated. The plant likely occurs on Federal refuge lands in south Texas.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22201 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Ecological Services Field Office, Corpus Christi, TX (see **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Collins, K. 1984. Status and management of native south Texas brushlands, U.S. Fish and Wildlife Service, Ecological Services, Corpus Christi, TX. 18 pp.

Jahrsdoerfer, S.E. and D.M. Leslie, Jr. 1988. Tamaulipan brushland of the Lower Rio Grande Valley of south Texas: description, human impacts, and management options. U.S. Fish and Wildlife Service, Biological Report 88(36). 63 pp.

Rogers, D.J. and S.G. Appan. 1973. Manihot, Manihotoides (Euphorbiaceae). Flora Neotropica, Monograph No. 13, pp. 63–65. Hafner Press, New York.

Turner, B.L. 1982. Status report, *Manihot walkerae* Croizat. U.S. Fish and Wildlife Service, Albuquerque, NM. 9 pp.

U.S. Fish and Wildlife Service. 1980. Department of the Interior Habitat Preservation Plan—preservation of areas of important fish and wildlife habitat: Cameron, Hidalgo, Starr, and Willacy Counties, Texas. Albuquerque, NM. 92 pp.

Author

The primary author of this proposed rule is Sonja Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103 (505/766–3972 or FTS 474–3972).

List of Subject in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Euphorbiaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species					
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Euphorbiaceae—Euphorb family:						
*	*	*	*	*		
Manihot walkerae	Walker's manioc	U.S.A. (TX), Mexico.	E		NA	NA
*	*	*	*	*		

Dated: September 21, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–23040 Filed 9–28–90; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 55, No. 190
Monday, October 1, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

DEPARTMENT OF LABOR

Shortage Number Determination for Special Agricultural Workers

AGENCIES: Office of the Secretary, United States Department of Agriculture; Office of the Secretary, United States Department of Labor.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Secretaries of Agriculture and Labor (the Secretaries) have determined jointly that the number of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under section 210A of the Immigration and Nationality Act (INA), to meet a shortage of workers to perform seasonal agricultural services (SAS), during fiscal year (FY) 1991, is zero.

Notice is also given that the Secretaries have calculated jointly the annual numerical limitation on the number of such aliens who should be admitted or who should otherwise acquire the status of aliens lawfully admitted for temporary residence, under section 210A of the INA. The annual numerical limitation for FY 1991 is 460,145. This number represents the upper limit on the number of aliens who may be authorized for admission or adjustment of statuus. The actual number of aliens to be admitted or whose status is to be adjusted for FY 1991 is the "shortage number" announced above.

DATES: This notice is effective during the period October 1, 1990, through September 30, 1991, unless superseded by a subsequent notice.

FOR FURTHER INFORMATION CONTACT: Mr. Gary B. Reed, DOL; telephone (202) 523-6007, or Mr. Al French, USDA; telephone (202) 447-4737.

SUPPLEMENTARY INFORMATION: Section 303 of the Immigration Reform and Control Act of 1986 added section 201A to the Immigration and Nationality Act (INA). Section 210A of the INA requires that before the beginning of each FY, starting with FY 1990 and ending with FY 1993, the Secretaries determine jointly, according to a specific statutory formula, the number of additional aliens (if any) who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence to meet a shortage of workers to perform SAS. These aliens are known as replenishment agricultural workers (RAWs) and the number of such workers to be admitted in each FY is known as the "shortage number." The INA further provides that the Attorney General shall provide for the admission of a number of RAWs equal to the shortage number, or, if less, a number of RAWs equal to the annual numerical limitation which is established by a statutory formula contained in section 210A(b) of the INA. The Secretaries make the calculation of the annual numerical limitation concurrently with their determination of the shortage number. Regulations regarding the procedure used in the determination of the shortage number and calculation of the annual numerical limitation have been promulgated jointly by the Secretaries. Identical versions of the regulations were published in the **Federal Register** on January 2, 1990 (55 FR 106), and are located at 7 CFR part 1 and 29 CFR part 503. Criteria for admission as a RAW are established by the Immigration and Naturalization Service (INS) in regulations located at 8 CFR part 210a.

Because the INS was unable to complete adjudication of all special agricultural worker (SAW) applications by the end of FY 1990, the Secretaries will recalculate the annual numerical limitation prior to the end of each fiscal quarter. This will be done each time by including all those aliens who have been finally adjudicated as SAWs subsequent to any earlier determination of the annual numerical limitation, and by adjusting the number of SAWs who worked in SAS to take into account the increase in the number of reportable workers who obtained SAW status. These quarterly recalculations will continue until the Secretaries are advised by INS and the Director of the Bureau of the Census (the Director) that all applications for SAW status have been finally adjudicated. Thereafter, the annual numerical limitation will be calculated annually for the entire FY.

In recognition of the uncertainties associated with agricultural production, section 210A(a)(7) of the INA contains emergency procedures for adjusting the shortage number. The procedures through which a group or association representing employers or potential employers of individuals who perform SAS may request an increase in the shortage number are set forth in 7 CFR le.20 and 29 CFR 503.20. Until the Secretaries are advised by INS and the Director that all applicants for SAW status have been finally adjudicated, if an emergency increase in the shortage number is granted pursuant to 7 CFR le.20 and 29 CFR 503.20, but addtional RAWs would otherwise be barred from entry due to the annual numerical limitation, the Secretaries will recalculate the annual numerical limitation based upon the most recent data available from INS and the Director.

Authority: 8 U.S.C. 1161.

Done at Washington, DC, this 26th day of September, 1990.

Jack C. Parnell,

Deputy Secretary of Agriculture.

Done at Washington, DC, this 26th day of September, 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-23151 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-01-M, 4510-23-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-180]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test a Genetically Engineered Plant-Associated Microorganism

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to the University of Wisconsin to allow the field testing in Columbia County, Wisconsin, of *Pseudomonas syringae* pv. *syringae* genetically engineered by introducing the transposon, Tn*5*, into the genetic locus responsible for the synthesis of syringomycin. The assessment provides a basic for the conclusion that the field testing of the genetically engineered plant-associated micro-organism will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ellen Liberman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 90–135–01.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

The University of Wisconsin, Madison, Wisconsin, has submitted an application for a permit for release into the government, to field test *Pseudomonas syringae pv. syringae* genetically engineered by introducing the transposon, Tn*5*, into the genetic locus responsible for the synthesis of syringomycin. The field trial will take place in Columbia County, Wisconsin.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the genetically engineered plant-associated micro-organism under the conditions described in the University of Wisconsin application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by the University of Wisconsin, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A strain derived from the phytopathogenic bacterium, *P. syringae* pv. *syringae*, is being field tested. The derived strain is less virulent than the wild-type strain. *P. syringae* pv. *syringae* is indigenous to the state of Wisconsin. The virulent wild-type strain from which the strain was derived was isolated from the proposed test site.

2. *P. syringae* pv. *syringae* was attenuated by introducing the transposon, Tn*5*, into the genetic locus responsible for the synthesis of syringomycin. Syringomycin has been identified as a virulence factor associated with brown spot disease in bean. The strain of *P. syringae* pv. *syringae* containing the Tn*5* insertion is no longer able to produce syringomycin.

3. Tn*5* is not expected to bestow on *P. syringae* pv. *syringae* plant pest characteristics. It is not expected to enhance the invasion or pathogenic characteristics of *P. syringae* pv. *syringae*.

4. Reversion of the recombinant strain would result in restoration of the virulent phenotype of the parental strain. This would not result in the introduction of a new plant pest since the parental strain is indigenous to bean fields in Wisconsin.

5. Isolates of *P. syringae* pv. *syringae* from natural sources show phenotypical and genotypic variation. Introduction of an additional variant would not be expected to disrupt the competitive balance of strains of *P. syringae* pv. *syringae* co-existing in an already diverse environment.

6. *P. syringae* pv. *syringae* will be introduced onto bean plants by two methods of inoculation. One method, inoculation of seeds, would not be expected to present a unique risk of dissemination into neighboring bean fields. The second method is the application of the bacteria to plants by an aqueous spray. This second method of inoculation will be performed under calm wind conditions to minimize dispersal by wind.

7. Monitoring for the persistence of the recombinant bacterium in the soil will be carried out post-harvest. After seed harvest, the introduced strains of *P. syringae* pv. *syringae* will be followed through the winter, and into the subsequent growing season. Roots and foliage of the rotation crop, corn, will also be sampled for these strains.

8. No human health risks are posed by the introduction of *P. syringae* pv. *syringae* carrying Tn*5*. The antibiotic resistance markers encoded for by this transposon do not target agents that are used in human anti-bacterial therapy.

9. The test site is small, approximately 1.5 acres, and is located on land that is used for experimental purposes only.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 25th day of September 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–23152 Filed 9–28–90; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

Request for Comments on the Designation Applicants in the Geographic Areas Currently Assigned to the States of California and Washington, and the Kankakee, IL Agency

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to the California Department of Food and Agriculture (California), Washington Department of Agriculture (Washington), and Kankakee Grain Inspection, Inc. (Kankakee).

DATES: Comments must be postmarked on or before November 15, 1990.

ADDRESSES: Comments must be submitted in writing to Paul Marsden, RM, FGIS, USDA, room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

SprintMail users may respond to [PMARSDEN/FGIS/USDA].

Telecopier users may send responses to the automatic telecopier machine at 202–447–4628, attention: Paul Marsden. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul Marsden, telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the August 1, 1990, **Federal Register** (55 FR 31203). Applications were to be postmarked by August 31, 1990. California, Washington, and Kankakee were the only applicants for designation in those areas, and each applied for the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 21, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–23013 Filed 9–28–90; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Gibson City (IL) and Indianapolis (IN) Agencies and the State of Wyoming

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic areas currently assigned to the specified agencies. The official agencies are Donald Swanstrom dba Gibson City Grain Inspection Department (Gibson City), Indianapolis Grain Inspection & Weighing Service, Inc. (Indianapolis), and Wyoming Department of Agriculture (Wyoming).

DATES: Applications must be postmarked on or before October 31, 1990.

ADDRESSES: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone 202–447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Gibson city, located at 207 East 8th Street, Gibson City, IL 60936, Indianapolis, located at 1250 Bethel Avenue, Beech Grove, IN 46107, and Wyoming located at 1510 East 5th Street, Cheyenne, WY 82001, were designated under the Act on April 1, 1988, as official agencies, to provide official inspection services.

The designation of this official agency terminates on March 31, 1991, Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Gibson City, in the State of Illinois, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Livingston County line from the ICG Railroad line;

Bounded on the East by the Livingston County line; the Ford County line; the southern Ford County line west to Interstate 57; Interstate 57 south to State Route 136;

Bounded on the South by State Route 136 west to a point approximately 10 miles west of the eastern McLean County line; and

Bounded on the West from this point through Arrowsmith to Pontiac along a straight line running north and south which intersects with the ICG Railroad line northeast to the northern Livingston County line.

The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: Farm Service, Arrowsmith, McLean County (located inside Bloomington Grain Inspection Department's area).

An exception to Gibson City's assigned geographic area is the following location inside Gibson City's area which has been and will continue

to be served by the following official agency:

Bloomington Grain Inspection Department: Bunge Corporation, Pontiac, Livingston County.

The geographic area presently assigned to Indianapolis, in the State of Indiana, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bartholomew; Brown; Hamilton, south of State Route 32; Hancock; Hendricks; Johnson; Madison, west of State Route 13 and south of State Route 132; Marion, Monroe; Morgan; and Shelby Counties.

The geographic area presently assigned to Wyoming, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of Wyoming, except the geographic area assigned to Denver Grain Inspection, which is as follows: Goshen County, Platte County, and these locations in Laramie County: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine bluffs Feed and Grain, Pine Bluffs.

Interested parties, including Gibson City, Indianapolis, and Wyoming, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation is each specified geographic area is for the period beginning April 1, 1991, and ending March 31, 1994. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 21, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–23014 Filed 9–28–90; 8:45 am]

BILLING CODE 3410–EN–M

Cancellation of Designation Issued to Glen Wallace dba Springfield Grain Inspection Department and Request for Designation Applicants in Illinois

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces that Glen Wallace dba Springfield Grain Inspection Department (Springfield), has requested the cancellation of his designation, effective March 31, 1991. A request for designation applicants is also included in this notice.

DATES: Applications must be postmarked on or before October 31, 1990.

ADDRESSES: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 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 (Act) specified that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

Springfield, located at 1301 North Fifteenth Street, Springfield, IL 62702 was designated under the Act on June 1, 1989, as an official agency, to provide official inspection services. The designation of this official agency was scheduled to terminate on May 31, 1992. Springfield requested the voluntary cancellation of its designation, effective March 31, 1990.

The geographic area presently assigned to Springfield, in the State of Illinois, pursuant to section 7(f)(2) of the act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Schuyler, Cass, and Menard County liners; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to Interstate 55; a straight line from the junction of Interstate 55 and State Route 16 northwest to the junction of State Route 111 and the Morgan County line; the southern Morgan and Scott County lines;

Bounded on the West by the western Scott, Morgan, Cass, and Schuyler County lines.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: East Lincoln Farmers Grain Co., Lincoln, Logan County (located inside Bloomington Grain Inspection Department's area); Chestervale Elevator Company, Chestervale, Logan County (located inside Decatur Grain Inspection, Inc.'s area); and Cargill, Inc., Florence, Pike County (located inside Quincy Grain Inspection & Weighing Service's area).

Interested parties are hereby given opportunity to apply for official agency designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning April 1, 1991, and ending March 31, 1994. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above or forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Public Law 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 21, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–20315 Filed 9–28–90; 8:45 am]

BILLING CODE 3410–EN–M

Designation Renewal of the Hastings (NE) Agency, and the State of New York

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Hastings Grain

Inspection, Inc. (Hastings), and the New York State Department of Agriculture and Markets (New York) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: November 1, 1990.

ADDRESSES: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. B ox 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service announced that Hastings' and New York's designations terminate on October 31, 1990, and requested applications for official agency designation to provide official services within specified geographic areas in the May 1, 1990, **Federal Register** (55 FR 18144). Applications were to be postmarked by May 31, 1990. Hastings and New York were the only applicants for designation in those areas and each applied for the entire area currently assigned to that agency.

The Service announced the applicant names in the July 2, 1990, **Federal Register** (55 FR 27276) and requested comments on the applicants for designation. Comments were to be postmarked by August 16, 1990. No comments were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Hastings and New York are able to provide official services in the geographic areas for which the Service is renewing their designation.

Effective November 1, 1990, and terminating October 31, 1993, Hastings and New York are designated to provide official inspection services in their specified geographic areas, as previously described in the May 1, **Federal Register.**

Interested persons may obtain official services by contacting Hastings at 402-462-4254, and New York at 716-238-8268.

Authority: Public Law 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 21, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90-23012 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-EN-M

Food Safety and Inspection Service

[Docket No. 90-021N]

Unpaid Furlough of FSIS; Employees During the Budget Sequestration Period of October 1, 1990, Through October 15, 1990

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final notice of personnel action affecting inspection services.

SUMMARY: On August 29, 1990, FSIS published a notice in the **Federal Register** (55 FR 35334) announcing its proposed plan to furlough all Agency employees for as much as the last 36 hours they are scheduled to work immediately preceding October 15, 1990. This document provides final notice that under the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177), as amended, effective October 1, 1990, FSIS' operating budget for fiscal year (FY) 1991 will be significantly reduced due to the sequestration of 32.4 percent of its appropriated funding.

By law, FSIS may not obligate funds in excess of the amount available under such a sequestration. Consequently, FSIS will furlough all Agency personnel, initially for 32 hours during the period October 1—October 14, 1990, in order to remain within the limits of funds available for administration of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). During this initial sequestration period, all employees of FSIS will be placed on unpaid furlough for the last 32 hours they are scheduled to work immediately preceding October 15, 1990.

Federally funded inspection provided at official establishments, including importers and exporters, will be reduced commensurate with such furloughs, effectively shutting down establishment operations during those periods.

Furlough days for the remainder of FY 1991 will be scheduled, as necessary, based on the final sequestration order to be issued October 15 by the President and will be the subject of a future notice.

FOR FURTHER INFORMATION CONTACT: Mr. William Hudnall, Deputy Administrator for Administrative Management, FSIS, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4425.

SUPPLEMENTARY INFORMATION:

Background

Based on the August 25, 1990, initial Presidential Order sequestering funds under the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177), as amended, also known as the Gramm-Rudman-Hollings Act (hereinafter, the Balanced Budget Act), the Food Safety and Inspection Service's FY 1991 budget will be reduced by 32.4 percent effective October 1, 1990. The sequestration of funds results in an operating budget for FSIS that is below the level needed to provide current services in FY 1991.

The following events control FY 1991 sequestration actions absent agreement between Congress and the Administration on a FY 1991 budget accommodating the Balanced Budget Act requirements:

- The Congressional Budget Office issued an initial sequestration report to Congress and the Office of Management and Budget (OMB) on August 20, 1990 (55 FR 34158, August 21, 1990).
- OMB issued an initial sequester report on August 25, 1990 (55 FR 35032, August 27, 1990).
- The President issued an initial order August 25, 1990, to take effect on October 1, 1990 (55 FR 35733, August 27, 1990).
- Between October 1st and October 15th, the amounts sequestered pursuant to the initial order are required to be withheld from obligation or expenditure.
- The Director of OMB is required to issue a final report on October 15, 1990.
- On October 15th, the President is required to issue a final order, to be effective upon issuance.
- If the final order specifies that a permanent sequester is required, then the amounts withheld under the initial order may be left unchanged, reduced, incremented, or amended.

Consequently, sequestration during the period of October 1st through October 14th will be based on the President's August 25, 1990, initial order, which requires a sequestration of 32.4 percent of the Agency's appropriated funds to be applied to that 1st 2-week portion of FY 1991.

Sequestration amounts that may apply to FSIS's FY 1991 budget subsequent to October 14th based on the President's October 15 final order, are speculative at this time, and will be the subject of a future notice, if necessary.

The PPIA and FMIA require that the Secretary of Agriculture, by delegation to the Administrator of the Food Safety and Inspection Service, shall cause to be made, by inspectors appointed for that

purpose, an examination and inspection of all livestock and poultry slaughtered for food, and food products made therefrom, and shall otherwise regulate the production and distribution of such products to assure they are wholesome, not adulterated, and properly marked, labeled and packaged. The PPIA and FMIA further provide that only inspected and passed product may be introduced into commerce. Under those laws, all establishments subject to inspection must have inspectors on duty at the establishments to inspect and pass the product being produced, or cease operations. (21 CFR part 451, *et seq.*, and 21 CFR part 601, *et seq.*, respectively).

Regulation of meat and poultry activities under the PPIA and FMIA requires annual appropriations. Federal officers and employees are legally prohibited from obligating Federal funds in excess of appropriated amounts. The Antideficiency Act, at 31 U.S.C. 1517(a), prohibits officers and employees of the United States Government from making an obligation or expenditure exceeding an apportionment. Violation of this provision is a criminal act (31 U.S.C. 1519).

Similarly, 31 U.S.C. 1341 prohibits Federal officers or employees from making obligations or expenditures exceeding the amounts available in an appropriation or fund; and 31 U.S.C. 1350 also provides criminal sanctions for violators of that provision.

31 U.S.C. 1342 also prohibits Federal officers or employees from accepting voluntary services, except in limited circumstances.

When furloughs of Federal employees are effected due to lack of funds, agencies are not authorized to permit any furloughed employee to report for or engage in any agency employment during the period of the employee's furlough. Criminal penalties apply for violation of this section as well (31 U.S.C. 1350).

The Balanced Budget Act provides that when funds provided in annual appropriations acts are sequestered, it shall be done from each affected program, project, and activity as set forth in the most recently enacted applicable appropriations act and accompanying committee reports including joint resolutions providing continuing appropriations and accompanying reports for the program, project or activity in question.

FSIS has five inspection activities for its appropriated funds: slaughter inspection, processing inspection, import-export inspection, laboratory services, and grants to States. The Balanced Budget Act also provides for a sequester of the reimbursements (industry payment for overtime and holiday services) and trust fund activities within FSIS.

There are currently about 9,000 permanent full time (PFT) employees in FSIS, approximately 82 percent of whom are directly involved in providing inspection services at official establishments. The remaining 18 percent provide technical, scientific, and administrative support.

Approximately 88 percent of the Agency's budget is spent on employee salaries and benefits. Most of the remainder of the Agency's budget is spent on fixed (nondiscretionary) costs such as space, communication systems, and direct support of inspection services such as travel, supplies, and related services (*e.g.*, laboratory analyses of product samples). Consequently, the greatest portion of the reduction in expenditures required to accommodate any sequestration of FSIS' funding must be applied against employee salaries and benefits.

Notice of Intent to Furlough Personnel

To accommodate the initial Balanced Budget Act sequestration for FY 1991, during the period of October 1 through October 14, 1990, FSIS will furlough its employees 32 hours.

Based on the Administrator's mandate to provide inspection services to the extent funding is available, furlough days will be further limited to the end of the period in question. Because different employees have differing work schedules, all employees will be furloughed the last 32 hours they are scheduled to work immediately preceding October 15, 1990.

Due to the size, scope and timing of this initial suquestration, the Administrator contemplates that no exceptions can be made to this initial FY 1991 furlough requirement.

This personnel action may yet be amended or cancelled as a consequence of legislation enacted prior to October 15, and prior to the actual furlough of FSIS employees. In that event, FSIS will try to ensure timely notification of all affected parties of such amendment or cancellation so as to minimize the potential for unncessary disruption of inspection activities.

Done at Washington, DC, on: September 27, 1990.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 90-23289 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Big Eight Mile Timber Sale, North Fork Timber Sale and Alder Timber Sale Salmon National Forest, Lemhi County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in the area between Big Eight Mile Creek and the drainage of Big Timber Creek. These actions have a proposed implementation date of 1991, and are designed to produce short-term and long-term timber outputs through timber management. The project area is located approximately eight air miles southwest of Leadore, Idaho. Portions of the proposed actions are located within the 303,127 acre Lemhi Range Roadless Area. This area is now listed as No. 13–903 on the Salmon National Forest and as No. 06–903 on the Challis National Forest. The area was formerly listed as RARE II No. 4–503.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received by November 15, 1990.

ADDRESSES: Send written comments to Salmon National Forest, P.O. Box 729, Salmon, Idaho 83467.

FOR FURTHER INFORMATION: Questions concerning the proposed action and EIS should be directed to Lynn Bennett, Environmental Coordinator, Salmon National Forest, phone: (208) 756–2215.

SUPPLEMENTARY INFORMATION: This EIS will tier to the Salmon National Forest Plan (approved January 11, 1988), which provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the Desired Future Condition for the area being analyzed. This proposed action is designed to emphasize production of short-term and long-term timber outputs through timber management. The Salmon National Forest Land and Resource Management Plan assigned the potentially affected area a 5B Management Area prescription. For a detailed description of the above Management Area prescriptions, refer to Salmon National Forest Land and Resource Management Plan pages IV–129 through IV–133.

The proposed actions will occur in Management Area 5B. The emphases for the proposed actions in this area is on

producing long term timber outputs through a moderate level of investment in regeneration and thinning.

An environmental assessment for a portion of this proposal has been completed (August 4, 1989). As a result of that analysis and extensive scoping, the Salmon National Forest concluded the proposal may have a significant effect on the quality of the human environment and decided to prepare this EIS. The previous scoping and analysis also identified the following potential issues related to the proposed action:

* What will be the effects of the proposal on big game habitat?
* What will be the impacts on water quality?
* How will the proposal affect the roadless character of the area?
* How will the proposal contribute to a healthy, productive forest that will economically provide timber for the market place on a sustainable basis for the present and the future?
* What will be the economics of the proposed action?

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the Federal Register. An open-house meeting will be held in Leadore, Salmon, and Idaho Falls for the purpose of identifying issues. The date, time, and location of these meetings will be published in *The Recorder-Herald* (Salmon, Idaho).

Preparation of the EIS will include the following steps.

1. Define the purpose of and need for action.
2. Identify potential issues.
3. Eliminate issues of minor importance or those that have been covered by previous and relevant environmental analysis.
4. Select issues to be analyzed in depth.
5. Identify reasonable alternatives to the proposed action.
6. Describe the affected environment.
7. Identify the potential environmental effects of the alternatives.

Steps 2 and 3 will be completed through the scoping process.

Step 5 will describe a range of alternatives developed in response to the key issues. One of these will be the "No Action" alternative, in which the existing roadless character of the Lemhi Range Roadless Area would be maintained. Other alternatives will be developed based on scoping.

Step 7 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest Plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of these mitigation measures will be disclosed.

The approximate boundary of the area used for this analysis is as follows: The north boundary is Big Eight Mile Creek and the Salmon National Forest Boundary. The east boundary shall be defined by the Salmon National Forest Boundary as it runs approximately nine air miles south east to the south east quarter of Section 4, T 14 N, R 26 E. From this point the south boundary runs up the north ridge of Sheephorn Peak. The west boundary starts at Sheephorn Peak and meanders in a north west direction through Rocky Peak and Gun Sight Peak, and joins the north boundary at Big Eight Mile Creek.

Of the approximately 23,000 acres in this analysis area, an estimated 18,000 acres are within the Lemhi Range Roadless Area boundary on the Salmon National Forest. These 18,000 acres are in the east central portion of the Lemhi Range Roadless Area. In addition to the boundaries defined above, the scope of analysis for the issue "effects on roadless character" will be the entire 303,127 acre Lemhi Range Roadless Area.

The proposed management activities would be administered by the Leadore Ranger District of the Salmon National Forest in Lemhi County, Idaho.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process (the next 45 days following publication of this Notice in the Federal Register) and, (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in March, 1991. At that time the EPA will publish an availability notice of the Draft EIS in the Federal Register. The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the availability notice in the Federal Register.

The Forest Service believes it is important to alert reviewers of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and so that it alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on the Draft EIS should be as specific as possible. Referring to specific pages or chapters of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.)

The final EIS is expected to be released in May, 1991. The Forest Supervisor for the Salmon National Forest, who is the responsible official for the EIS, will then make a decision regarding this proposal, after considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision, also made available in May, 1991. An availability notice of the Final Environmental Impact Statement and Record of Decision will be published by the EPA in the Federal Register.

Dated: September 21, 1990.

John E. Burns,

Forest Supervisor, Salmon National Forest.

[FR Doc. 90-23126 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-11-M

Timberline Lodge Winter Sports Resort; Mt. Hood National Forest, Clackamas County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, with assistance from the firm of Sno-engineering Inc. (Bellevue, WA), will prepare an environmental impact statement (EIS) for a proposal to impose a winter sports recreation program within the boundaries of the Timberline special use permit on the Zigzag Ranger District, Mt. Hood National Forest, Clackamas County, Oregon. The Forest Service invities written comments and suggestions on the scope of the analysis. In addition, Forest Service gives notice of the full environmental analysis and decision making process that will occur on the Forest Service proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be submitted by November 15, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Michael Edrington; Forest Supervisor; Mt. Hood National Forest; 2955 NW Division Street; Cresham, Oregon 97030.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Dan Crittenden, Timberline Ski Area Planner, Zigzag Ranger District, Mt. Hood National Forest, 70220 E. Highway 26, Zigzag, Oregon 97049, phone (503) 622-3191.

SUPPLEMENTARY INFORMATION: A final environmental statement was prepared for the Timberline winter sports resort in 1975. The permittee R.L.K. Company has now proposed additional development beyond the scope of the 1975 statement. A new environmental impact statement (EIS) will be written to replace the 1975 statement and evaluate the new development proposals.

In preparing the EIS, the Forest Service will identify and consider a range of alternatives for this site. One alternative will consider no additional development (No Action). Another alternative will consider the development specified in the proposal filed by R.L.K. Company on September 18, 1990. A range of alternatives will be developed and examined to deal with the significant issues developed during the scoping process.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will continue seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be intersted in or affected by the proposed action. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The Oregon Department of Transportation (ODOT) will be invited to participate as cooperating agency. ODOT has expressed an interest in any potential impacts to State Highway 26.

The Mt. Hood National Forest has scheduled three meetings for the public to provide comments they as follows: October 11 and 16, 1990, 7:30 pm at the Mt. Hood's Supervisor Office and October 27, 1990, 2:00 p.m. at Wy East day lodge complex. Notice of meeting dates and locations will be published in local newspapers and newsletter and posted in public buildings well in advance of the meetings.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by May 1991. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Timberline Lodge Area participate at that time.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental reviews of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S.C. 519, 553 (1978). Also enviromental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, *City of Angoon* v. *Hodel*, 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period on the draft EIS ends, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by July 1991. In the final EIS, the Forest Service is required to respond to the comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Michael S. Edrington, Forest Supervisor, is the responsible official. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under 36 CFR part 217.

Dated: September 25, 1990.

Judith E. Levin,

Deputy Forest Supervisor.

[FR Doc. 90-23150 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-11-M

Shasta Costa Timber Sale and Integrated Resource Projects Siskiyou National Forest, Curry County, OR; Draft Environmental Impact Statement, Extension of Comment Period

AGENCY: Pacific Northwest Region, Forest Service USDA.

ACTION: Notice of extension of comment period.

SUMMARY: The Notice of Availability of the Draft Environmental Impact Statement for the Siskiyou National Forest Shasta Costa Timber Sales and

Integrated Resource Projects was published in the **Federal Register** on July 27, 1990.

The closing date for receiving comments on the Draft Environmental Impact Statement is hereby extended from September 25, 1990 to October 11, 1990. This extension is at the request of the US Environmental Protection Agency.

FOR ADDITIONAL INFORMATION CONTACT: Kurt Wiedenmann, Project Leader, Shasta Costa Project, Gold Beach Ranger District, 1225 S. Ellensburg Avenue, Gold Beach, Oregon 97444; telephone (503) 247-6651

Dated: September 20, 1990.

Abel M. Camarena,

Acting Forest Supervisor, Siskiyou National Forest.

[FR Doc. 90-23073 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-11-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 90-2-88CD]

1988 Cable Royalty Distribution Proceeding

AGENCY: Copying Royalty Tribunal.

ACTION: Notice concluding 1988 cable distribution proceeding.

SUMMARY: The Tribunal annouces that no more controversies exist concerning the distribution of the 1988 cable copyright royalties. Accordingly, the proceeding is concluded.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., suite 450, Washington, DC 20036 (202-653-5175).

SUPPLEMENTARY INFORMATION: On March 7, 1990, the Tribunal commenced the 1988 cable copyright royalty distribution proceeding, noting that although there were no Phase I controversies, there existed four Phase II controversies concerning the distribution of cable fees to copyright owners. 55 FR 8166.

The parties in all four Phase II categories have subsequently informed the Tribunal that these controversies no longer exist. Accordingly, the 1988 cable copyright royalty distribution proceeding is hereby concluded.

Dated: September 25, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90-23105 Filed 9-28-90; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement, part 203, Improper Business Practices and Personal Conflicts of Interest; No Form; Control Number 0704-0277.

Type of Request: Extension to an existing collection.

Average Burden Hours Minutes per Response: 100 hours.

Responses per Respondent: One.

Number of Respondents: 1,000.

Annual Burden Hours: 100,000.

Annual Responses: 1,000.

Needs and Uses: DoD FAR Supplement, part 203.170, requires contractors to annually report if they have provided compensation to former DoD employees. This requirement is necessary to comply with Public Law 99-500, section 931.

Affected Public: Businesses or other for-profit; small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-23098 Filed 9-28-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Renewal of the Defense Intelligence Agency Advisory Board

AGENCY: Office of the Secretary, DoD.

ACTION: Notice; correction.

SUMMARY: The Department of Defense published a notice on September 17, 1990, 55 FR 38126. They inadvertently identified the "Strategic Defense Initiative Advisory Committee." This organization should have read "Defense Intelligence Agency Advisory Board." This document is published to correct the error. All other information remain unchanged.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 90-23081 Filed 9-28-90; 8:45 am]

BILLING CODE 3810-01-M

Women in the Services Advisory Committee Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of conference.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a forthcoming conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of DACOWITS is to assist the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

DATES: October 21-24, 1990 (Summarized agenda follows).

ADDRESSES: Sheraton Colorado Springs Hotel, 2886 South Circle Drive, Colorado Springs, Colorado, unless otherwise noted in agenda.

AGENDA: Sessions will be conducted daily and will be open to the public. The agenda will include the following:

Sunday, October 21, 1990, 8 a.m.-7:30 p.m.

No-host Breakfast (current DACOWITS members only); Conference registration; DoD Sex Roles in the Active Duty Military Survey briefing; Get Acquainted Luncheon (current DACOWITS members, military representatives, legal advisors, and liaison officers only); Force Restructuring briefing; Training and Deployment of Women in the Reserve Forces briefing; Subcommittee Sessions; and Social.

Monday, October 22, 1990, 8 a.m.-10 p.m.

Official Opening Ceremony; Subcommittee Sessions; OSD Luncheon (by invitation only); and OSD Reception and Dinner (by invitation only).

Tuesday, October 23, 1990, 6:15 a.m.–8 p.m.

Field trip to the U.S. Air Force Academy and Cheyenne Mountain Air Force Base, hosted by the U.S. Air Force; and Executive Committee Mark-up.

Wednesday, October 24, 1990, 8 a.m.–2:30 p.m.

No-host Breakfast (current DACOWITS members only); Individual Review of Resolutions; Members of the Public Presentations; Air Force Gender Neutral Accession Program briefing; New DACOWITS Chair Luncheon; and General Business Session.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Mary C. Pruitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, room 3D769, Washington, DC 20301–4000; telephone (202) 697–2122 or, after October 1, 1990, (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules and regulations will govern the participation by members of the public at the conference.

(1) Members of the public will not be permitted to attend official OSD luncheon or reception and dinner.

(2) All business sessions, to include the Executive Committee meetings, will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the conference.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than October 5.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentation from members of the public will be permitted only on Wednesday, October 24 before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office 1 copy of the presentation by October 5 and make available 100 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one copy either before or by the close of the conference.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Director, DACOWITS and Military Women Matters, to consider.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked and/or made comments.

(12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee meetings, or the Business Session on Wednesday, October 24.

Dated: September 18, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–23080 Filed 9–28–90; 8:45 am]

BILLING CODE 3810–01–M

Chlorofluorocarbons (CFCS) Advisory Committee Meeting

ENVIRONMENTAL: Chlorofluorocarbons (CFCs) Advisory Committee.

ACTION: Notice of Subcommittee II meeting.

SUMMARY: This is the second CFC Advisory Subcommittee II meeting to discuss the research approach and data needs.

DATES: Tuesday, October 23, 1990.

ADDRESSES: Litton Industries 490 L'Enfant Plaza East, SW., Suite 8206 Washington, DC 20024–2179.

FOR INFORMATION: Mr. Mark V. Stanga (202) 863–4201 Due to limited space and security considerations please contact Aloyd Karmali (703) 934–3187 for attendance information and admission number.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 90–23082 Filed 9–28–90; 8:45 am]

BILLING CODE 3810–01–M

Chlorofluorocarbons (CFCS) Advisory Committee Meeting

ENVIRONMENTAL: Chlorofluorocarbons (CFCS) Advisory Committee.

ACTION: Notice of Subcommittee III Meeting.

SUMMARY: This is the first CFC Advisory Subcommittee III meeting to discuss the data needs and proposed methodology for responding to the Advisory Committee questions regarding replacing ozone-depleting chemicals whose production is restricted by the Montreal Protocol.

DATES: Tuesday, October 16, 1990.

ADDRESSES: Harris Corporation, 1201 E. Abingdon Drive, Suite 500, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sands, (407) 724–3711. Due to limited space and security considerations please contact Gina Godfrey (703) 934–3798 for attendance information and admission number.

Dated: Septemer 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–23083 Filed 9–28–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Friday, November 9, 1990 (9 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting will be devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Threat Modeling and Simulation.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–23084 Filed 9–28–90; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 6, 1990; Tuesday, November 13, 1990; Tuesday, November 20, 1990; Tuesday, November 27, 1990 at 10 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and priviledged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–23085 Filed 9–28–90; 8:45 am]

BILLING CODE 3810-01-M

Determination

AGENCY: Office of the Secretary, DoD.

ACTION: Notice; correction.

SUMMARY: The Department of Defense published a determination on June 26, 1990, 55 FR 25993. In the table for Aluminum Oxide, Requirements column, first line, change 347,000 to 374,000. This document is published to correct the transposition of numbers. All other information remain unchanged.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–23099 Filed 9–28–90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development will meet on 16 October 1990, from 8 a.m. to 5 p.m. at ASD Detachment 24 and AFATL, Eglin AFB, Florida, and on 17 October 1990, from 8 a.m. to 5 p.m. at the Air Force Engineering & Services Center, Tyndall AFB, Florida

The purpose of this meeting is to gather information in support of the SAB study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–23101 Filed 9–28–90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

September 24, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Post Deployment Software Support (PDSS) will meet on October 22, 1990 from 9:00 AM to 11:00 AM at Headquarters Air Force Logistics Command (AFLC), Wright-Patterson AFB, OH.

The purpose of this meeting will be to present the results of the PDSS study to the Commander, AFLC. This meeting will involve discussions of classified defense and contractor proprietary matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–23102 Filed 9–28–90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management

AGENCY: Military Traffic Management Command (MTMC)

ACTION: Carrier disqualification resulting in removal from Department of Defense Personal Property Program.

SUMMARY: The Military Traffic Management Command (MTMC) will begin to automatically terminate Department of Defense (DOD) carrier approval and return Letters of Intent for carriers who are disqualified, worldwide, for one year or more. Because physical, organizational, and/or financial changes may occur during a disqualification period of one-year or more, the carrier must apply for reapproval for participation in the DOD Personal Property Program. Therefore, MTMC requests public comment on the proposed insertion of the following sentences into the Personal Property Traffic Management Regulation, DOD 4500.34R, and the Tender of Service, Appendix A:

ITEM (Separate numbers will be affixed for each regulation, as appropriate):

Carriers that are disqualified worldwide, from participating in the DOD Personal Property Program for one year or more, will automatically have their DOD carrier approval terminated, and Letters of Intent (LOIs) returned. If, after the disqualification period has ended, the carrier desires to do business with DOD, it must apply for DOD approval as a new carrier.

Note: This same policy will apply to carriers that are debarred or suspended as listed in Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs, published by U.S. General Services Administration, Office of Acquisition Policy.

DATES: Comments must be received by October 31, 1990.

ADDRESSES: Comments may be addressed to: Headquarters, Military Traffic Management Command, ATTN:

MTPP-C, (Mrs. Guzzardo), room 408, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mrs. Rosemarie F. Guzzardo at (703) 756-1190, or Mrs. Mary Sullivan at (703) 756-1784.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 90-23087 Filed 9-28-90; 8:45 am]

BILLING CODE 3710-08-M

Defense Contract Audit Agency

Privacy Act of 1974; Delete a Record System

AGENCY: Defense Contract Audit Agency, DoD.

ACTION: Deletion of a record system.

SUMMARY: The Defense Contract Audit Agency proposes to delete one record system to its inventory of record systems subject to the Privacy Act of 1974, as amended 5 U.S.C. 552a).

DATES: Effective without further notice on October 1, 1990.

ADDRESSES: Send any comments to Mr. Dave Henshall, ATTN: CMR, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178. Telephone (202) 274-4400.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency record systems, as prescribed by the Privacy Act of 1974 (5 U.S.C. 552a), have been published in the Federal Register as follows:.

50 FR 22943, May 29, 1985 (DoD Compilation, changes follow); 50 FR 50339, Dec. 10, 1985; 51 FR 18017, May 16, 1986; 54 FR 37360, Sept. 8, 1989; 54 FR 43316, Oct. 24, 1989; 54 FR 46756, Nov. 7, 1989; 55 FR 6818, Feb. 27, 1990; 55 FR 21917, May 30, 1990 (DCAA Address Directory); 55 FR 36847, Sept. 7, 1990.

Dated: September 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

RDCAA 240.2

SYSTEM NAME:

Statements of Employment and Financial Interest (50 FR 22889, May 29, 1985).

REASON:

This system is satisfactorily addressed by Office of Government Ethics record system notice OGE/COVT-2, Confidential Statements of Employment and Financial Interests (55 FR 6330, February 22, 1990).

[FR Doc. 90-23086 Filed 9-28-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Chapter 1 Migrant Education Coordination Program for State Educational Agencies

ACTION: Notice of proposed funding priorities for fiscal years 1991 and 1992.

SUMMARY: The Secretary of Education proposes to establish absolute priorities for fiscal years 1991 and 1992 grant competitions under the Chapter 1—Migrant Education Coordination Program for State Educational Agencies. Under the priorities and as mandated by statute, funds would be reserved for a project that addresses a national system for credit exchange and accrual. Remaining funds would be reserved for projects that address one of the 7 additional priorities developed in consultation with the States, that are designed to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students.

DATES: Comments must be received on or before October 31, 1990.

ADDRESSES: Comments should be addressed to Dr. Francis V. Corrigan, Office of Elementary and Secondary Education, U.S. Department of Education, room 2145, 400 Maryland Avenue, SW., Washington, DC 20202-6135. Telephone: (202) 401-0740.

SUPPLEMENTARY INFORMATION: Authority for the Chapter 1—Migrant Education Coordination Program for State Educational Agencies is contained in section 1203 of the Elementary and Secondary Education Act of 1965. Under this program, awards are made to State educational agencies (SEAs) to improve the inter- and intrastate coordination of the educational programs available for migratory students. The statute directs the Secretary to make awards to SEAs in consultation with, and with the approval of, the States. The statute also directs the Secretary to fund at least one project that addresses a national system for credit exchange and accrual.

To foster the desired State review and consultation, the Director of the Office of Migrant Education summarized fiscal year 1990 priorities and those proposed for fiscal years 1991 and 1992 in a survey distributed to all SEA directors of migrant education requesting them to rank the priorities and recommend additional ones. Twenty-one State directors responded to the survey. Respondents represented the variety of State programs, including States receiving large and small allocations, homebase and upstream States, and States from all three migrant streams. The Secretary has considered the results of the survey, as well as the input of State directors at professional meetings and conferences of migrant educators.

The proposed priority to establish a national project for a system of credit exchange and accrual is required by statute and is ranked first. The Secretary believes that the second proposed priority, the establishment of a stop-over migrant service center, warrants a higher ranking than the remaining proposals because of the significant recruitment and coordination services that can be provided annually to a large number of migrant children and their families who pass through a particular State en route to locations elsewhere. As noted in the discussion of public comment on the October 23, 1989 final regulations for the Chapter 1 Migrant Education Program (54 FR 43238), the Secretary believes that Section 1203 funds are a particularly good source of support for this type of project since the children passing through a stopover site will likely remain in the State for too short a period to generate adequate funding for the project out of the State's section 1201 allocation.

The Secretary believes that the ordering of the remaining proposed priorities best meets the coordination needs of the Migrant Education Program and is consistent with the expressed needs and concerns of the States.

If these proposed priorities are selected as final priorities, one or more of them may be addressed by continuing to fund existing projects for additional years, or by funding wholly new projects.

Final priorities will be established on the basis of public comment and other relevant Departmental considerations, and will be announced in a notice in the Federal Register. A notice inviting applications for this competition will be published at that time, after which application packages will be available. This notice of proposed priorities does not solicit applications, and Department of Education (ED) staff will not review concept papers or preapplications.

Proposed Absolute Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c)(3), the Secretary proposes to establish the following absolute

priorities under the Migrant Education Coordination Program for State Educational Agencies. For the 1991 and 1992 grant competitions, the Secretary will announce, through a notice published in the Federal Register the absolute priorities for this program selected from the types of projects proposed in this notice. The publication of these proposed priorities does not bind the Department of Education to fund projects in these areas, except as otherwise directed by statute. Moreover, the publication of these priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Priority 1 is required by statute and may be funded by grant or contract. The publication of the other proposed priorities in this notice neither binds the Department of Education to fund projects in any or all of these areas nor prevents it from funding these projects by contract.

A directory of proposed priorities is listed first for convenience of review, with discussion of each priority further in this notice.

Priority 1. Establishing a National Project for a System of Credit Exchange and Accrual.

Priority 2. Establishing a Migrant Stop-Over Site Service Center.

Priority 3. Improving the Coordination and Delivery of Preschool Services to Migratory Children.

Priority 4. Improving Coordination of Educational Opportunities for Migratory Children through Parental Involvement.

Priority 5. National Association of State Directors of Migrant Education (NASDME) Analysis and Support.

Priority 6. Improving Coordination of Interstate and Intrastate Identification and Recruitment of Currently Migratory Children.

Priority 7. Dropout Prevention for Migrant Students.

Priority 8. Improving Coordination of Educational Programs and Oportunities for Migratory Children in Summer Programs.

Priority 1. Establishing a National Project for a System of Credit Exchange and Accrual

Under this priority, as required by statute, the Secretary would fund a project to develop and establish a national program of credit exchange and accrual to help currently migratory students meet high school graduation requirements and receive their high school diplomas.

The project would build upon the existing Migrant Student Record Transfer System (MSRTS). MSRTS tracks credits earned by students towards their curernt school district's graduation requirements, but is not a vehicle for ensuring that credits earned in one jurisdiction will count towards graduation requirements in another State or locality. The grantee would work with SEAs to develop a system whereby credits earned by migrant students could be uniformly acknowledged, transferred, and counted towards graduation requirements among the various States and school districts. The project would take into account the varying SEA and local educational agency regulations and policies concerning credit accrual, credit transfer, and graduation requirements.

The project would also utilize findings from recent studies on secondary education for migratory students, such as the Secondary Dropout Prevention Program and ED's *Handbook of Effective Migrant Education Practices.*

Priority 2. Establishing a Migrant Stop-Over Site Service Center

Under this priority, the Secretary would fund a project that would provide educational, health, recreation, and other services at a stopover site used by migrant children and their families who are migrating to work at locations in other States. Through recruitment efforts at the site, the project would identify migratory children and inform their parents or guardians of educational services available in the locations to which they are planning to travel, and inform officials in these destinations of the expected arrival of the children. The project would also be responsible for establishing linkages to Department of Labor, Head Start, health care and other services that benefit migrant children. The project's location must enable it to serve large numbers of migrant children and their families annually through cooperative efforts of various Federal, State and local agencies, and its staff must possess adequate expertise and experience to identify and recruit migrant children, and to set up quick education linkages in many States.

Priority 3. Improving the Coordination and Delivery of Preschool Services to Migratory Children

Under this priority, the Secretary would award a grant to one or more SEAs to establish one or more local demonstration projects that implement innovation methods to improve the coordination and operation of preschool services across school district or State boundaries or both. The innovative practices for coordinating and serving migrant preschool children, especially currently migratory preschool children, would be designed by the grantee and operationalized at the local demonstration projects based on a review of current research on preschool education, including current ED studies of preschool education and ED's *Handbook of Effective Migrant Education Practices.*

After implementing innovative practices through the local demonstrations, the grantee would identify the particular innovative techniques employed at the demonstration sites, as well as the effectiveness, costs, and cost-effectiveness of these techniques. In addition, as a subsidiary focus, the grantee would develop and disseminate appropriate training materials and conduct, in cooperation with ED, a limited number of training workshops to assist other SEA and LEA personnel in coordinating and operating preschool services for migrant children.

Priority 4. Improving Coordination of Educational Opportunities for Migratory Children Through Parental Involvement

Under this priority, the Secretary would award a grant to one or more SEAs to establish one or more local demonstration projects that implement innovative methods to coordinate and conduct—across State or school district boundaries—parental involvement activities for migrant children. The innovative practices for coordinated parent involvement activities would be designed by the grantee and operationalized at the local demonstration projects. The design would be based on a review of current research and practices related to parent involvement, including ED's *Handbook of Effective Migrant Education Practices.*

After implementing innovative practices through local demonstrations, the grantee would identify the particular innovative techniques that were employed at the demonstration sites, as well as the effectiveness, costs, and cost-effectiveness of these techniques. As a subsidiary focus, the grantee would develop and disseminate appropriate training materials. The grantee would conduct, in cooperation with ED, a limited number of training workshops to assist other SEA and LEA personnel in coordinating and conducting activities for the parents of migrant children.

Priority 5. National Association of State Directors of Migrant Education (NASDME) Analysis and Support

Under this priority, the Secretary would support a project for State Directors of Migrant Education that would (1) Improve their ability to coordinate programs and projects among the States and (2) improve the

quality of those programs and projects. The project would enhance the State directors' collective efforts to provide analysis, program implementation, management and improvement activities; conduct special committee meetings on program requirements or initiatives common to all SEAs such as evaluation, MSRTS, credit accrual, or quality control; engage in special coordination endeavors within the migrant education program and with other Federally funded programs; and ensure dissemination and specific collaborative efforts among Federal, State and local staff pertaining to migratory students and their families. Additional activities to enhance interstate coordination would include attention to technological applications, comprehensive data reporting requirements, policy development, and technical assistance. To support this operation, the funded SEA would receive financial support to maintain a small NASDME support staff to assist State directors in performing the above-mentioned coordination activities. The NASDME staff would also assemble, maintain and disseminate information on exemplary program practices, and work in conjunction with MSRTS to provide a data bank on exemplary programs. Funds would also be made available to help State directors defray the costs of attending NASDME national and subcommittee meetings and other related professional activities.

Priority 6. Improving Coordination of Interstate and Intrastate Identification and Recruitment of Currently Migratory Children

Under this priority, the Secretary would fund a project that would build upon previous identification and recruitment (I&R) studies, MSRTS data, and ongoing practices in I&R. The project would be designed for the purpose of more rapidly identifying migrant families as they move from school district to school district. Presently, States and their operating agencies use different types of notification systems to inform potential receiving school districts that new migrant families will either be arriving or that they may have already arrived in the receiving school districts. Identifying and assessing the different notification systems used would be the major task of this project. Following assessment of the systems, recommendations would be made to the SEAs and the Secretary concerning which systems work best and which are the ones most easily replicated. Criteria to assess the efficacy of the notification systems would include: (a) Frequency and accuracy of identification and recruitment of previously unidentified currently interstate migratory children in the receiving State; and (b) The number of curently migratory children that each notification system identifies for enrollment in two or more school districts during a 12-month period.

Priority 7. Dropout Prevention for Migrant Students

Under this priority, the Secretary would fund a local demonstration project to help two or more States adopt and institutionalize model programs for jointly assisting high-risk currently migratory students who are potential or actual dropouts from secondary school and who would benefit from special services in those States. The project would utilize a variety of reserach and operational projects such as Migrant Education Secondary Assistance project (MESA), the Interstate Migrant Secondary Team Project, Migrant Dropout Model, ED's *Handbook of Effective Migrant Education Practices*, and the Migrant Attrition Project (MAP) to develop a strategy for improving retention rates and recruiting the dropouts back into the classroom.

The project would provide information and practical approaches to State directors and specialists on identifying potential dropouts, preventing dropout, reducing attrition rates, and expanding migrant education services to dropouts (including alternative schooling programs such as work-study projects). As a subsidiary focus, the project would develop and disseminate appropriate training materials and conduct a limited number of training workshops for SEA personnel to assist them in addressing the dropout problem within and among States.

Priority 8. Improving Coordination of Educational Programs and Opportunities for Migratory Children in Summer Programs

Under this priority, the Secretary would fund a project to identify issues related to coordinating migrant education summer programs with regular school programs and improve communications between sending and receiving States in which migratory children enroll in summer programs. The project would: (1) Examine the varieties of summer migrant programs in terms of their duration, costs, intensity, and methods of instruction; (2) Analyze the short- and long-term effects selected summer migrant education programs have upon continued schooling and graduation from high school; (3) Organize workshops to develop training materials to facilitate improved coordination among SEAs and LEAs serving the same children in receiving and sending schools; and (4) Analyze the additional costs of serving migratory children in various types of summer programs compared to costs of serving those children in regular school programs.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

The Secretary invites public comment on the merits of the proposed priorities, including suggested modifications.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in room 2145, FOB-6, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Authority: 20 U.S.C. 2783.

(Catalog of Federal Domestic Assistance Number 84.144, Chapter 1—Migrant Education Coordination Program for State Educational Agencies)

Dated: September 24, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-23095 Filed 9-28-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM91-2-20-000]

Algonquin Gas Transmission Co. Proposed Changes in FERC Gas Tariff

September 24, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on September 20, 1990, tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Proposed to be effective October 1, 1990

27 Rev Sheet No. 211
23 Rev Sheet No. 214
4 Rev Sheet No. 220

Algonquin states that it is filing 4 Rev Sheet No. 220 pursuant to section 4 of Rate Schedule ATAP of Algonquin's FERC Gas Tariff permitting the tracking of changes in the rates for the service underlying Rate Schedule ATAP as set forth in Texas Eastern Transmission Corporation's filing of August 31, 1990 in Docket Nos. RP90-181-000 and TM91-1-17-000. Furthermore, Algonquin states that pursuant to sections 10 and 9 of Rate Schedules STB and SS-III it is filing 27 Rev Sheet No. 211 under Rate Schedule STB and 23 Rev Sheet No. 214 under Rate Schedule SS-III to track rate changes in the underlying services provided by Texas Eastern's Rate Schedules SS-2 and SS-3.

Algonquin also states that the effect of the instant changes on Rate Schedule ATAP is to increase the commodity rates by $0.0004 per MMBtu with a minimum rate of $0.0621 and a maximum rate of $0.2190 per MMBtu while the interim commodity rate increased to $0.5553 per MMBtu. The effect under Rate Schedule STB is to increase the Withdrawal rate by $0.0005 to $0.0917 per MMBtu. The effect under Rate Schedule SS-III is to increase the FDDQ Withdrawal rate by $0.0005 to $0.0919 per MMBtu and to increase the Non-FDDQ Withdrawal rate by $0.0005 to $0.2151 per MMBtu.

Pursuant to section 4.2(c) of Rate Schedule ATAP, section 10.3 of Rate Schedule STB and section 9.3 of Rate Schedule SS-III, Algonquin is proposing an effective date of October 1, 1990 to coincide with the effective date of Texas Eastern's underlying filing.

Algonquin notes that a copy of the instant filing was served upon each of the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 2, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-23103 Filed 9-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-16-000]

National Fuel Gas Supply Corp. Proposed Changes in FERC Gas Tariff

September 24, 1990.

Take notice that on September 20, 1990, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective November 1, 1990.

Fourth Revised Sheet No. 71.1
Third Revised Sheet Nos. 71-A.1 through 71-A.2
Fourth Revised Sheet No. 71-B.1
Sixth Revised Sheet No. 71-C
Original Revised Sheet No. 71-C.1
Fourth Revised Sheet Nos. 72.1 through 72.3
Third Revised Sheet No. 72.4
Third Revised Sheet Nos. 72-A-1 through 72-A-7
Fourth Revised Sheet Nos. 72-B.1 through 72-B.4
Third Revised Sheet Nos. 72-B.5 through 72-B.7
Original Revised Sheet No. 72-C.1

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, First Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill take-or-pay charges to National are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, and Tennessee Gas Pipeline Company.

National notes that copies of National's filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 2, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-23104 Filed 9-28-90; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Adjustment, Public Comment Forum, and Opportunities for Public Review and Comment; Jim Woodruff Project

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of extension of comment period and change in effective date of rate adjustment.

SUMMARY: Southeastern published a proposal to revise existing schedules of rates and charges applicable to the sale of power from the Jim Woodruff Project effective for the period, February 20, 1991, through September 19, 1995, in 55 FR 32966 (August 13, 1990). A Public Information and Comment Forum was held September 13, 1990, in Tallahassee, Florida.

Pursuant to the request of several customers, Southeastern decided to have an additional public comment forum. Southeastern published a notice of the public comment forum in the Federal Register of September 13, 1990, 55 FR 37754 to be held at 10 a.m. on October 30, 1990, in Tallahassee, Florida. At the forum on September 13, 1990, Southeastern and the customers agreed to extend the end of the comment period to 60 days after the Forum on October 30, 1990. This extension necessitates a change in the effective date for the rate period.

DATES: The end of the comment period will be extended from November 16, 1990, until December 31, 1990. The revised rate schedules for the Jim Woodruff Project are now proposed to be effective for the period April 20, 1991, through September 19, 1995.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Director, Power Marketing Division, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-9911.

Issued in Elberton, Georgia, September 20, 1990.

John A. McAllister, Jr.,

Administrator.

[FR Doc. 90-23160 Filed 9-28-90; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

Merlin E. Zitzner; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** Notice (FR Doc. 90-17846) published at page 31231 of the issue for Wednesday, August 1, 1990.

Under the Federal Reserve Bank of Chicago, the entry for Merlin E. Zitzner is amended to read as follows:

1. *Merlin E. Zitzner,* to acquire an additional 2.23 percent and thereby acquire control of The Baraboo Bancorporation, Inc., Baraboo, Wisconsin, and thereby indirectly acquire The Baraboo National Bank, Baraboo, Wisconsin; Green Lake State Bank, Green Lake, Wisconsin; and The State Bank of Viroqua, Viroqua, Wisconsin.

Comments on this application must be received by October 16, 1990.

Board of Governors of the Federal Reserve System, September 25, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-23114 Filed 9-28-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment

Pursuant to section 501(j) of the Public Health Service Act, 42 U.S.C. 290aa(j) (1990), and the Federal Advisory Committee Act, 5 U.S.C. appendix 2 (1990), the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, announces the establishment, effective August 31, 1990, of the following committee:

Drug Testing Advisory Board, NIDA

Unless renewed by appropriate action prior to expiration, the Drug Testing Advisory Board, NIDA, shall terminate 2 years from the date this charter is approved.

Dated: September 21, 1990.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-23177 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-20-M

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986). A similar notice listing all currently certified laboratories will be published monthly, and updated to include laboratories which subsequently apply and complete the certification process. If any listed laboratory fails to maintain its certification, it will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Drug Testing Section, Division ofApplied Research, National Institute on Drug Abuse, Room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies, sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Alpha Medical Laboratory, Inc., 405 Alderson Street, Schofield, WI 54476, 800-627-8200.

American BioTest Laboratories, Inc., Building 15, 3350 Scott Boulevard, Santa Clara, CA 95054, 408-727-5525.

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, Suite 250, Las Vegas, NV 89119-5412, 702-733-7866.

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801-583-2787.

Bio-Analytical Technologies, 2356 North Lincoln Avenue, Chicago, IL 60614, 312-880-6900.

CBC Clinilab, 140 East Ryan Road, Oak Creek, WI 53154, 800-365-3840, (name changed: formerly Chem-Bio Corporation).

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305-325-5810.

Center for Human Toxicology, 417 Wakara Way-Room 290, University Research Park, Salt Lake City, UT 84108, 801-581-5117.

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412-488-7500.

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800-445-6917.

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919-549-8263.

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904-787-9006.

DrugScan, Inc., P. O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215-674-9310

ElSohly Laboratories, Inc., 1215-1/2 Jackson Ave., Oxford, MS 38655, 601-236-2609

Environmental Health Research & Testing, Inc., 1075 South 13th St., Birmingham, AL 35205-9998, 205-934-0985

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608-267-6267

Harris Medical Laboratory, P. O. Box 2981, 1401 Pennsylvania Avenue, Fort Worth, TX 76104, 817-878-5600

HealthCare/Preferred Laboratory, 3011 W. Grand Boulevard, Detroit, MI 48202, 313-875-2112

Laboratory of Pathology of Seattle, Inc., 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-386-2672

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504-392-7961

Laboratory Specialists, Inc., P. O. Box 4350, Woodland Hills, CA 91365, 800-331-8670, (name changed: formerly Abused Drug Laboratories).

Massey Analytical Laboratories, Inc., 2214 Main Street, Bridgeport, CT 06606, 203-334-6187

Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 800-533-1710/507-284-3631

Med Arts Lab, 5419 South Western, Oklahoma City, OK 73109, 800-251-0089

Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412-931-7200

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901-795-1515
MedTox Laboratories, Inc., 402 W. County Road D, St Paul, MN 55112, 612-636-7466
Mental Health Complex Laboratories, 9455 Watertown Plank Road, Milwaukee, WI 53226, 414-257-7439
Methodist Medical Center, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 309-672-4928,
MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 312-595-3888 ext.671
MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201-393-5000
MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800-492-0800/818-343-8191
National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 301-247-9100 (name changed: formerly Maryland Medical Laboratory, Inc.).
National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800-251-9492
National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805-322-4250
Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800-446-4728/619-694-5050; (name changed: formerly Nichols Institute)
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800-322-3361
PDLA, Inc., 100 Corporate Court, So. Plainfield, NJ 07080, 201-769-8500.
PharmChem Laboratories, Inc., 1505-A O'Brien Drive, Menlo Park, CA 94025, 415-328-6200/800-446-5177.
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619-279-2600.
Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206-882-3400.
Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017, 614-889-1061.
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205-581-3537.
Roche Biomedical Laboratories, Inc., 1912 Alexander Drive, P.O. Box 13973, Research Triangle, NC 27709, 919-361-7770.
Roche Biomedical Laboratories, Inc., 101 Inverness Drive East, Englewood, CO 80112, 303-799-2822.
Roche Biomedical Laboratories, Inc., 1 Roche Drive, Raritan, NJ 08869, 800-631-5250.
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601-342-1286.
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708-885-2010; (name changed: formerly International Toxicology Laboratories).
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800-523-5447; (name changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404-934-9205; (name changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301; (name changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818-376-2520.
South Bend Medical Foundation, Inc., 530 North Lafayette Boulevard, South Bend, IN 46601, 219-234-4176.
Southgate Medical Laboratory, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137, 800-338-0166.
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 North Lee Street, Oklahoma City, OK 73102, 405-272-7052.
St. Louis University Forensic Toxicology Laboratory, 3610 Rutgers Avenue, St. Louis, MO 63104, 314-577-8626.

Richard A. Millstein,

Deputy Director, National Institute on Drug Abuse.

[FR Doc. 90-23257; Filed 9-28-90; 8:45am]

BILLING CODE 4160-20-D

Centers for Disease Control

National Committee On Vital and Health Statistics (NCHS); Subcommittee on Long-Term Care Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following committee meeting (working session).

Name: NCVHS Subcommittee on Long-Term Care Statistics.

Time and date: 9 a.m.–5 p.m., October 18, 1990.

Place: Room 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this working session is for the Subcommittee to discuss its report to the NCVHS concerning the nursing home resident assessment system. No public testimony will be taken.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number (301) 436–7050.

Dated: September 21, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–23048 Filed 9–28–90; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 90M–0273]

Grain Processing Corp.; Premarket Approval of Pure-Dent® B851 Absorbable Dusting Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Grain Processing Corp., Muscatine, IA, for premarket approval under the Medical Device Amendments of 1976, of Pure-Dent® B851 Absorbable Dusting Powder, intended for use as a lubricating powder for surgical gloves. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 10, 1990, of the approval of the application.

DATES: Petitions for administrative review by October 31, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Palmer, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1090.

SUPPLEMENTARY INFORMATION: On December 20, 1989, CDRH received from Grain Processing Corp., Muscatinge, IA 52761, an application for premarket approval of Pure-Dent® B851 Absorbable Dusting Powder. The device is indicated for use as a lubricating powder for surgical gloves.

On April 12, 1990, the General Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended conditional approval of the application. Grain Processing Corp. has fulfilled the recommended conditions. On August 10, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Kenneth A. Palmer (HFZ–410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 31, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petititions may be seen in the office above between 9 a.m, and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53)

Dated: September 19, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-23118 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0244]

Sorin Biomedica, S.p.A.; Premarket Approval of EBK

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Sorin Biomedica, S.p.A. Saluggia (VC) Italy, c/o Incstar Corp. Stillwater, NM, for premaket approval, under the Medical Device Amendments of 1976, of the EBK. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 13, 1990, of the approval of the application.

DATES: Petitions for administrative review by October 31, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On June 19, 1989, Sorin Biomedica, S.p.A., Saluggia (VC) Italy, c/o Incstar Corp., Stillwater, NM 55082, submitted to CDRH an application for premarket approval of EBK. EBK is an in vitro radioimmunoassay indicated for the qualitative determination of hepatitis B e antigen (HBeAg) and the antibody to HBeAg (anti-HBe) in human serum or plasma. This device is for use as an aid in diagnosis and monitoring of patients infected with hepatitis B virus (HBV).

On December 8, 1898, the Microbiology Devices Panel, an FDA advisory committee, reviewed and recommended aproval of the application. On July 13, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 31, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petititions may be seen in the office above between 9 a.m, and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53)

Dated: September 19, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-23119 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0245]

Sorin Biomedica, S.p.A.; Premarket Approval of AB-HAVK

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Sorin Biomedica, S.p.A., Saluggia (VC) Italy, c/o Incstar Corp., Stillwater, MN 55082, for premarket approval, under the Medical Device Amendments of 1976, of the AB-HAVK. After reviewing the recommendation of the Microbiology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 13, 1990, of the approval of the application.

DATES: Petitions for administrative review by October 31, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On August 10, 1989, Sorin Biomedica, S.p.A., Saluggia (VC) Italy, c/o Incstar Corp., Stillwater, MN 55082, submitted to CDRH an application for premarket approval of AB-HAVK. The AB-HAVK is an in vitro radioimmunoassay intended for the qualitative determination of total antibodies to hepatitis A virus (anti-HAV) in human serum or plasma.

On February 8, 1990, the Microbiology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 13, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administration Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 21 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 31, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 19, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-23120 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0278]

Vista Optics, Ltd.; Premarket Approval of Vista Optics, Optacryl 18 (Kolfocon A) and Vista Optics, Optacryl 32 (Kolfocon B) Rigid Gas Permeable Contact Lenses (Clear and Tinted)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Vista Optics, Ltd., Staplehurst, England, for premarket approval, under the Medical Device Amendments of 1976, of the Vista Optics, Optacryl 18 (kolfocon A) and Vista Optics, Optacryl 32 (kolfocon B) Rigid Gas Permeable Contact Lenses. The devices are to be manufactured under an agreement with Pilkington Visioncare, Menlo Park, CA, which has authorized Vista Optics, Ltd., to incorporate information contained in its approved premarket approval application for the Optacryl (polyacrylate-silicone) Rigid Gas Permeable Contact Lens. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 14, 1990, of the approval of the application.

DATES: Petitions for administrative review by October 31, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On May 24, 1988, Vista Optics, Ltd., Staplehurst, England, submitted to CDRH an application for premarket approval of the Vista Optics, Optacryl 18 (kolfocon A) and Vista Optics, Optacryl 32 (kolfocon B) Rigid Gas Permeable Contact Lenses. Both the spherical Vista Optics, Optacryl 18 lenses and the spherical Vista Optics, Optacryl 32 lenses are available as clear lenses or tinted blue, green, violet, or gray. The lenses are indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 4.00 diopters or less that does not interfere with visual acuity. The lenses are to be disinfected using a chemical (not heat) disinfection system. The tinted lenses contain the color additives [phthalocyaninato(2-)] copper (21 CFR 74.3045) of D&C Green No. 6 (21 CFR 74.3206) for the blue lenses; phthalocynanine green (21 CFR 73.3124) for the green lenses; D&C Violet No. 2 (21 CFR 74.3602) for the violet

lenses; and D&C Violet No. 2 (21 CFR 74.3602), D&C Green No. 6 (21 CFR 74.3206), and 4-[(2,4-dimethylphenyl)azo]-2,4-dihydro-5-methyl-2-phenyl-3H-pyrazol-3-one (21 CFR 73.3122) for the gray lenses in accordance with the color additive provisions as cited. The application includes authorization from Pilkington Visioncare, Menlo Park, CA 94025, to incorporate information contained in its approved premarket approval application for the Optacryl (polyacrylate-silicone) Rigid Gas Permeable Contact Lens (clear and tinted).

On August 14, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved final labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of Vista Optics, Optacryl 18 (kolfocon A) and Vista Optics, Optacryl 32 (kolfocon B) Rigid Gas Permeable Contact Lenses (clear and tinted) states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 31, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 19, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-23121 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* New; *Title of Information Collection:* Information Collection Requirements in BPD-684, Medicare Geographical Classification Review Board (MGCRB) Procedures and Criteria; *Form Numbers:* HCFA-R-138; *Use:* These procedures and criteria govern the MGCRB and provides guidelines to use when considering hospitals' requests for reclassification for either their wage index and/or standardized amount; *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 182; *Average Hours per Response:* 14.75; *Total Estimated Burden Hours:* 2,685.

The HCFA published notice in the **Federal Register** dated September 11, 1990, of submission of this request but has now requested expedited review by the OMB. Regulation BPD-684 which contains the MGCRB procedures and criteria was published in the Federal Register on September 7, 1990. The public has seven (7) days from date of this notice to comment on this information collection.

2. *Type of Request:* Extension; *Title of Information Collection:* Medicare Qualification Statement for Federal Employees; *Form Number:* HCFA-565; *Use:* This information is required on individuals filing for hospital insurance benefits to determine if they are qualified for Medicare entitlement based on their Federal employment. *Frequency:* One-time; *Respondents:* individuals/households; *Estimated Number of Responses:* 4,300; *Average Hours per Response:* .17; *Total Estimated Burden Hours:* 731.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Emergency and Foreign Hospital Services—Beneficiary Statement in Canadian Travel Claims; *Form Number:* HCFA-R-96; *Use:* This data, collected from Medicare beneficiaries traveling in Canada, is used by intermediaries to determine if the beneficiary was traveling between Alaska and another State through Canada by the most direct route without unreasonable delay to acquire medical care and, therefore, entitled to benefits. *Frequency:* On Occasion; *Respondents:* Individuals/households; *Estimated Number of Responses:* 1,500; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 375.

4. *Type of Request:* Extension; *Title of Information Collection:* Hospital and Hospital Health Care Complex Cost Report; *Form Number:* HCFA-2552-Demo; *Use:* These reports are required of Medicare providers of services in the States of California and Colorado that participate in the demonstration specified in section 4007(c)(1) of the Omnibus Budget Reconciliation Act of 1987; *Fequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 700; *Average Hours per Response:* 1 (reporting) and 142 (recordkeeping); *Total Estimated Burden*

Hours: 5,600 (reporting) and 99,400 (recordkeeping) for a total of 105,000.

5. *Type of Request:* Revision; *Title of Information Collection:* Quarterly Periodic Interim Payment (PIP) Report; *Form Number:* HCFA-3058; *Use:* This form provides HCFA with a current assessment of providers receiving advanced funding through the PIP program in order to monitor intermediary performance and to direct significant trends; *Frequency:* Quarterly; *Respondents:* Businesses/other for profit and non-profit institutions; *Estimated Number of Respondents:* 220; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 220.

6. *Type of Request:* Reinstatement; *Title of Information Collection:* Departmental Clinical Laboratory Survey Report Form; *Form Number:* HCFA-1557; *Use:* This form is used by the State agency surveyor to record data collected in order to determine compliance with individual conditions of participation and report it to the Federal Government; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 5,060; *Average Hours per Response:* 2; *Total Estimated Burden Hours:* 10,120.

Additional Information or Comments: Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: September 24, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-23116 Filed 9-28-90; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Establishment; Board of Scientific Counselors, Clinical Center

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92-463, 86 Stat. 770-776] and section 402(b)(6), of the Public Health Service Act, as amended (42 U.S. Code 282(b)(6)), the Acting Director, National Institutes of Health (NIH), announces the establishment of the Board of Scientific Counselors, Clinical Center.

This Board will advise the Director, NIH; Deputy Director for Intramural Research, NIH; and the Director, Clinical Center, concerning the Clinical Center's intramural clinical research programs.

Duration of this Board is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: September 18, 1990.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 90-23079 Filed 9-28-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Iodinated Glycerol

The HHS' National Toxicology program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of iodinated glycerol, used as a mucolytic expectorant to clear bronchiolar secretions.

Two-year toxicology and carcinogenesis studies were conducted by administering 0, 125, or 250 mg/kg iodinated glycerol in water by gavage to groups of 50 male rats and 50 male mice 5 days per week for 103 weeks. Groups of 50 female rats and 50 female mice were administered doses of 0, 62, or 125 mg/kg on the same schedule.

Under the conditions of these 2-year gavage studies, there was some evidence of carcinogenic activity [1] for male F344/N rats administered iodinated glycerol, as indicated by increased incidences of mononuclear cell leukemia and follicular cell carcinomas of the thyroid gland. Adenomas of the nasal cavity in two high dose male rats may have been related to the administration of iodinated gylcerol. There was no evidence of carcinogenic activity for female F344/N rats administered 62 or 125 mg/kg iodinated glycerol by gavage for 103 weeks. There was no evidence of carcinogenic activity for male B6C3F1 mice administered 125 or 250 mg/kg iodinated glycerol by gavage for 103 weeks. There was some evidence of carcinogenic activity for female B6C3F1 mice administered iodinated glycerol, as indicated by increased incidences of adenomas of the anterior pituitary gland and neoplasms of the harderian gland. Squamous cell papillomas of the forestomach may have been related to the administration of iodinated glycerol.

Significant nonneoplastic lesions considered related to exposure of iodinated glycerol were squamous metaplasia and focal atrophy of the salivary gland in male and female rats. Dilatation of the thyroid gland follicle and follicular cell hyperplasia were observed in male and female mice.

Copies of Toxicology and Carcinogenesis Studies of Iodinated Glycerol (Organidin® (CAS No. 5634-39-9)) in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 340) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 24, 1990.

David P. Rall,

Director.

[FR Doc. 90-23075 Filed 9-28-90; 8:45 am]

BILLING CODE 4140-01-M

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: Two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Nalidixic Acid

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of nalidixic acid, an oral antimicrobial agent used to treat bacterial infections of the urinary tract.

Two-year toxicology and carcinogenesis studies were conducted by feeding diets containing 0, 2,000, or 4,000 ppm nalidixic acid to groups of 50 male and 50 female F344/N rats and 50 male and 50 female B6C3F1 mice for 103 weeks.

Under the conditions of these 2-year feed studies, there was clear evidence of carcinogenic activity [1] of nalidixic acid for F344/N rats, as indicated by increased incidences of preputial gland neoplasms in males and clitoral gland neoplasms in females. There was equivocal evidence of carcinogenic activity for male B6C3F1 mice fed diets containing nalidixic acid, as indicated by marginally increased incidences of subcutaneous tissue neoplasms. There

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: Two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

was no evidence of carcinogenic activity for female B6C3F1 mice fed diets containing 2,000 or 4,000 ppm nalidixic acid for 2 years.

Questions or comments about this Technical Report should be directed to Dr. F.W. Kari at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–2926.

Copies of Toxicology and Carcinogenesis Studies of Nalidixic Acid in F344/N Rats and B6C3F1 Mice (Feed Studies) (TR 368) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 24, 1990.

David P. Rall,

Director.

[FR Doc. 90–23076 Filed 9–28–90; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program, Availability of Technical Report on Toxicology and Carcinogenesis Studies of 2,6-Xylidine

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of 2,6-xylidine, a chemical intermediate used principally in the production of dyes. It is also a component of tobacco smoke, a degradation product of aniline-based pesticides, and a metabolite of certain drugs, particulary the xylidine group of local anesthetics.

Toxicology and carcinogenesis studies were conducted by feeding diets containing 2,6-xylidine at concentrations of 0, 300, 1,000, or 3,000 ppm to groups of 56 rats of each sex for 102 weeks.

Under the conditions of these 2-year feed studies, 2,6-xylidine was clearly carcinogenic for male and female Charles River CD rats, causing significant increases in the incidences of adenomas and carcinomas of the nasal cavity. Rhabdomyosarcomas, a rare tumor of the nasal cavity, were observed in dosed rats of each sex. In addition, the increased incidences of subcutaneous fibromas and fibrosarcomas in male and female rats and the increased incidence of neoplastic nodules of the liver in female rats may have been related to the administration of 2,6-xylidine.

Questions or comments about this Technical Report should be directed to Dr. James Huff at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–3780.

Copies of Toxicology and Carcinogenesis Studies of 2,6-Xylidine (2,6-Dimethylaniline) in Charles River CD Rats (Feed Studies) (TR 278) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 24, 1990.

David P. Rall,

Director.

[FR Doc. 90–23077 Filed 9–28–90; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Toluene

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of toluene, used to back-blend gasoline, as an intermediate in the synthesis of benzoic acid, benzyl and benzoyl derivatives, saccharin, medicines, dyes, perfumes, toluene diisocyanates, TNT, and toluene sulfonate detergents; and as a solvent in paints, lacquers, gums, thinners, adhesives, inks, plant resins, and pharmaceutical and cosmetic products.

Toxicology and carcinogenesis studies were conducted by whole-body inhalation exposure of 50 F344/N rats of each sex and 50 B6C3F1 mice of each sex to 0, 120 (mice only), 600, or 1,200 ppm toluene 6.5 hours per day, 5 days per week, for 103 weeks.

Under the conditions of these 2-year inhalation studies, there was no evidence of carcinogenic activity [1] for male or female F344/N rats exposed to toluene at concentrations of 600 or 1,200 ppm. There was no evidence of carcinogenic activity for male or female B6C3F1 mice exposed by inhalation to toluene at concentrations of 120, 600, or 1,200 ppm for 2 years.

The study scientist for these studies is Dr. J.E. Huff. Questions or comments about this Technical Report should be directed to Dr. Huff at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–3780.

Copies of Toxicology and Carcinogenesis Studies of Toluene in F344/N Rats and B6C3F1 Mice (Inhalation Studies) (TR 371) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 28, 1990.

David P. Rall,

Director.

[FR Doc. 90–23078 Filed 9–28–90; 8:45 am]

BILLING CODE 4140–01–M

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: Two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidences") one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–90–3154; FR–2909–N–01]

FHA Debenture Recall

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, Room 9138, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1591. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures with coupon rates of 9 percent or higher, outstanding as of September 30, 1990. The date of the call is January 1, 1991. To insure timely payment, debentures should be presented to the Federal Reserve Bank of Philadelphia by December 1, 1990.

The debentures will be redeemed at par plus accured interest. Interest will cease to accure on the debentures as of the call date. Final interest on any called debenture will be paid with the principal at redemption. During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by a mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer or denominational exchanges of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1990. This does

not affect the right of the holder of a debenture to sell or assign the debenture on or after October 1, 1990. Payment of final principal and interest due on January 1, 1991, will be made to the registered holder or assignee.

Instructions for the presentation and surrender of debentures for redemption will be provided to holders by the Department.

Dated: September 24, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 90-23144 Filed 9-28-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-030-00-4332-09; FES 90-28]

Availability of Final Wilderness Environmental Impact Statement (EIS) for the Encampment River Canyon, Prospect Mountain and Bennett Mountains Wilderness Study Areas of the Great Divide Resource Area, Rawlins District, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of The Great Divide Final Wilderness Environmental Impact Statement, Wyoming.

SUMMARY: The Great Divide Wilderness Environmental Statement assesses the environmental consequences of managing three wilderness study areas as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative" for each wilderness study area and (2) an "All Wilderness Alternative" for each wilderness study area.

The names of the wilderness study areas, their total acreage and the acreage recommended suitable and nonsuitable under the Proposed Action are:

Encampment River Canyon—4,547 acres—4,547 acres suitable for wilderness; Prospect Mountain—1,145 acres—1,145 acres suitable for wilderness; and Bennett Mountains—6,003 acres—6,003 acres nonsuitable for wilderness.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and by the President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no action on these proposals can be taken by the Secretary of the Interior during the 30 days following the filing of this EIS. This complies with the Council of Environmental Quality Regulations, 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Bureau of Land Management, Rawlins District, P.O. Box 670, Rawlins, Wyoming 82301.

Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, Office of Public Affairs, 1849 C Street, NW., Washington, DC 20240.

Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301.

Bureau of Land Management, Great Divide Resource Area Office, 1300 North Third Street, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Bob Tigner, EIS Team Leader, Bueau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301 (307) 324-7171.

Dated: September 24, 1990.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 90-23146 Filed 9-28-90; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Reclamation

Friant Division, Central Valley Project, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent, notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), the Department of the Interior, Bureau of Reclamation (Reclamation), will prepare an EIS evaluating the impacts associated with the execution and renewal of long-term water service contracts in the Friant Division of the Central Valley Project.

DATES AND LOCATIONS: Public Scoping Meetings are scheduled as follows:

December 4, 1990, 7 p.m., Red Lion Inn—Kern River room, 3100 Camino Del Rio Court, Bakersfield, California.

December 5, 1990, 1 p.m., Sheraton Smugglers Inn—Ballroom, 3737 North Blackstone, Fresno, California.

December 5, 1990, 7 p.m., Sheraton Smugglers Inn—Ballroom, 3737 North Blackstone, Fresno, California.

FOR FURTHER INFORMATION CONTACT: Mr. Jim McNamara, Project Manager (MP-440), (916) 978-5034 or Mr. John Brooks, Environmental Specialist (MP-405), (916) 978-5049, 2800 Cottage Way, Sacramento, California 95825-1898.

SUPPLEMENTARY INFORMATION: Reclamation delivers water for irrigation and municipal and industrial use under 28 long-term water service contracts in the Friant Division of the Central Valley Project in California. Those contracts, most of which are originally executed in the 1940's and 1950's, are now being renewed. Under Reclamation law (Act of July 2, 1956, ch. 492, 70 Stat. 483), Reclamation must renew the contracts for a long term if requested to do so. Reclamation law defines a long-term contract as exceeding 10 years. The law also provides that, in the renewals, the contractors have a first right to the same quantity of water that has been beneficially used. Therefore, the proposed Federal action is the renewal of long-term water service contracts in the Friant Division for the same quantity of water as has ben beneficially used in the past. The proposed EIS will evaluate the environmental impacts associated with the execution of those renewal contracts, the impacts associated with the continued diversion and delivery of water under the contracts, and alternative means of minimizing environmental impacts associated with the continued water deliveries.

In accordance with the June 29, 1989, opinion released by the Chairman of the Council on Environmental Quality, the no action alternative considered in the EIS will be contract renewal with the same terms except those required to be changed by Reclamation law. The full scope of the EIS will be determined through the NEPA scoping process, but possible alternatives to the proposed action to be evaluated will include such things as shorter term contracts, modification of the timing of water deliveries, methods to decrease water losses in the delivery system, changes in price, improved conservation, and improved use of ground water. Additional alternatives proposed during the scoping process will also be considered.

The contracts will continue to be renewed as they expire in order for Reclamation to meet its statutory obligations. The contracts, however, will contain a provision making them subject to modification by the United States in order to implement the results of the final EIS. Furthermore, Reclamation retains the right to make operational changes in the Friant Division, but such

changes would also undergo analysis under NEPA and the Endangered Species Act.

Scoping and formulation of general background information for the EIS will begin in November 1990, with public scoping meetings to be held in December. An information document for the EIS is scheduled to be completed by November 17, 1990. A draft EIS is scheduled to be released in early 1992, with a final EIS expected to be available in the last quarter of 1992.

Dated: September 24, 1990.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 90-2304 Filed 9-28-90; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Intent to Prepare an Environmental Impact Statement for the Establishment of a National Wildlife Refuge and Protection of Wetlands in South Sacramento County, CA

AGENCY: U.S. Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of intent and scoping period.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary for the preparation of an environmental impact statement (EIS) to explore the feasibility of establishing a National Wildlife Refuge and protection of wetlands on or near Stone Lakes in south Sacramento County, California. Comments received from all parties during an earlier environmental assessment scoping process will be incorporated into the scope and content of this EIS. Additional opportunities for public involvement will further define the scope of this EIS. This notice is being furnished pursuant to the National Environmental Policy Act (NEPA) regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS.

SCOPING INFORMATION: Persons wishing to participate in the scoping process are encouraged to contact the U.S. Fish and Wildlife Service, Sacramento Realty Field Offices as soon as possible. Interested agencies, organizations, and individuals are encouraged to participate in the public program for this project in order to identify and discuss major issues, concerns, and opportunities that should be addressed in the EIS. Written comments will also be accepted.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Jerome, Refuge Manager, U.S. Fish and Wildlife Service, 2233 Watt Avenue, suite 375, Sacramento, California 95825-0509, Telephone: 916-978-4420.

SUPPLEMENTARY INFORMATION: The preparation of an environmental assessment document to explore the feasibility of establishing a national wildlife refuge in south Sacramento County was initiated in March 1990. As a result of the scoping process, the Service has determined that the preparation of an Environmental Impact Statement is appropriate. Consistent with Department guidelines, the Service determined that the proposed project may result in potentially significant environmental effects related to the conversion of agricultural lands to wetlands.

Public workshops and meetings with local, state, and federal agencies have been conducted. The scope and content of these meetings, including existing issues and concerns documents, will be incorporated into the subsequent EIS scoping process. In addition, a range of preliminary alternatives that describe various acquisition objectives will provide the basis for environmental impact assessment.

Background

The Central Valley of California encompasses an area of over 13 million acres which included an estimated four million acres of wetlands in the 1850's. Today, estimates of remaining wetlands in California's Central Valley have ranged from slightly less than 400,000 acres to 280,000 acres. The loss of wetlands coupled with declining waterfowl populations and other wetlands dependent species nationwide has resulted in management concerns at the local, state, and federal levels.

Since 1988, there has been heightened public interest in the protection of riparian areas in the Stone Lakes area. Separate Congressional and State Legislative appropriations resulted in widespread public support for the establishment of a National Wildlife Refuge. Other public and non-profit land managers have initiated wetland protection programs with the establishment of the Consumnes Preserve to the south of Stone Lakes.

The Stone Lakes area represents remnants of a variety of native plant communities such as willow, cottonwood, and oak riparian forests. Seasonally flooded wetlands and vernal pools occur throughout the study area. The area provides an important component of the Pacific Flyway and provides wintering, nesting, and feeding habitat for 23 species of waterfowl. In addition, the area provides habitat for several species of flora and fauna that are candidates for the endangered species list.

The purpose and need for the establishment of Stones Lakes National Wildlife Refuge is supported by the wildlife and habitat values that characterize the area. The location of Stone Lakes to urban populations and development create opportunities for environmental education and interpretation but threaten the future availability of the habitat.

Dated: September 24, 1990.

Marvin L. Plenert,

Regional Director.

[FR Doc. 90-23154 Filed 9-28-90; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Martin Van Buren National Historic Site, Kinderhook, NY; Public Review Period for Amendment to the 1986 Development Concept Plan

In accordance with the National Park Service Planning Guidelines in the preparation of Development Concept Plans and Environmental Assessments, notice is hereby given that the National Park Service is amending the 1986 Development Concept Plan/ Environmental Assessment for Martin Van Buren National Historic Site Park Operations and Visitor Facilities. A final document, which contains a proposal for a new park operations and visitor service building, is available for review from the Superintendent beginning October 1, 1990. Comments on the draft document should be submitted in writing by November 1, 1990, to the Superintendent, Martin Van Buren National Historic Site, P.O. Box 545, Rt. 9H, Kinderhook, New York 12106. The National Park Service prepares Development Concept Plans to ensure adequate consideration of reasonable alternatives in advance of undertaking development proposals.

Dated: September 21, 1990.

Marie Rust,

Acting Regional Director.

[FR Doc. 90-23092 Filed 9-28-90; 8:45 am]

BILLING CODE 4310-70-M

Acadia National Park Advisory Commission, Bar Harbor, ME; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee

Act (Pub. L. 92-463. 86 Stat. 770, 5 U.S.C. App. 1, section 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, October 22, 1990.

The Commission was established pursuant to Public Law 99-420, section 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at the Acadia National Park Headquarters, McFarland Hill, Route 233, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held March 6, 1990;
2. Presentation of findings by the Land Acquisition Committee;
3. Presentation of findings by the Conservation Easement Committee; and
4. Proposed agenda and date of the next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning these meetings may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609 telephone: (207) 288-3338.

Dated: September 21, 1990.

Marie Rust,

Acting Regional Director.

[FR Doc. 90-23093 Filed 9-28-90; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31711]

Georgia Southern and Florida Railway Co.—Trackage Rights Exemption—CSX Transportation, Inc.

CSX Transportation, Inc. (CSXT), has agreed to grant overhead trackage rights to Georgia Southern and Florida Railway Company (GS&F) between the end of the CSXT/GS&F jointly-owned track at Track Station 2+69 and the ownership point between CSXT and South Carolina Central Railroad Company, Inc., at valuation station 5665+07, in Cordele, GA, a distance of approximately 952 feet. The trackage rights will become effective on September 30, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: R. Allan Wimbish, Three Commercial Place, Norfolk, VA 23510-2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: September 19, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-23156 Filed 9-28-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88-71]

David W. Warren, D.O.; Denial of Application

On July 13, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to David W. Warren, D.O. (Respondent), of 751 East 63d Street, suite 478, Kansas City, Missouri 64110, proposing to deny his application, executed on August 2, 1987, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing proceedings, the hearing was held in Kansas City, Missouri on July 12 and 13, 1989. On March 30, 1990, the administrative law judge issued her opinion and recommended ruling, findings of fact, conclusions of law and decision. No exceptions were filed, and on May 17, 1990, the administrative law judge transmitted the record in this proceeding to the Acting Administrator. The Administrator has considered that record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Respondent received his degree as a doctor of osteopathic medicine in 1960 and, after serving an internship, entered private practice as a sole practitioner. In 1960 or 1961, Respondent became acquainted with a nurse's aide at the hospital where he was serving his internship. The woman subsequently became Respondent's patient and in about 1971 or 1972, Respondent helped her obtain treatment for drug addiction at a methadone clinic.

According to Respondent, on June 2 or 3, 1974, the woman came to his office and "demanded" that he write her a prescription for some controlled substance, perhaps Quaaludes (at the time a Schedule II controlled substance, but now a Schedule I controlled substance). Respondent stated that the woman threatened his family and reminded Respondent that her husband was considered a "hit man". Consequently, according to Respondent, when the woman gave him a list of drugs for which she wanted prescriptions, he acceded to her wishes, and issued prescriptions.

The administrative law judge noted that in an earlier DEA proceeding (discussed more fully below), Respondent testified that the woman did not threaten him with physical harm. Respondent conceded on cross-examination in the instant hearing, that in the earlier proceeding he testified that the only threat the woman made to him was that if did not issue the prescriptions she sought she would turn him over to the authorities. Respondent also testified that the woman returned to his office about twice more and that he wrote controlled substance prescriptions for her on those occasions. In addition, several times other people came to his office with lists of prescriptions they wanted and said that the woman had sent them.

In 1974, DEA began an investigation of Respondent after receiving information from the woman that Respondent sold prescriptions for Schedule II controlled substances for $10 per prescription. As part of that investigation, on June 14, 1974, investigators gave the woman $70 to purchase ten prescriptions and gave her a list of names in which the prescriptions were to be issued. The woman then visited Respondent, who gave her five prescriptions for Quaalude and two for biphetamine. Each prescription was in one of the names on

the list she had been provided by the investigators.

The woman returned to Respondent's office on June 20, 1974, again with $70 provided by DEA. On this occasion, Respondent wrote nine prescriptions for Schedule II substances, but since the woman only had enough money to pay for seven prescriptions, Respondent told her that he would give the other two to someone else. Of the seven prescriptions obtained by the woman, one was in the name of an investigator and the others were in names taken from Respondent's files by the woman, in the presence of Respondent's receptionist.

On June 21, 1974, the woman again went to Respondent's office, with $100 furnished by DEA. Respondent asked her how she felt, she said she had never felt better, and Respondent started writing prescriptions. The woman interrupted Respondent and said that she wanted Ritalin, a Schedule II controlled substance, and Respondent asked whether she wanted 10 or 20 mg. pills. She indicated a preference for 10 mg. dosage units and Respondent wrote ten prescriptions in ten different names (three of which were of DEA employees), each for 100 dosage units of Ritalin 10 mg. The woman told Respondent that she wanted ten prescriptions in order to obtain a bottle of 1,000 Ritalin from the pharmacy, and thus avoid carrying around different containers. Also during this visit, Respondent told the woman that she had enough information on him to "send him away for 20 years," and the woman responded that they had been "partners in crime for 20 years," and that "they couldn't send [Respondent] away without sending [her]" as well.

The woman returned to Respondent's office on July 1, 1974, with $100 supplied by the DEA. During this visit, Respondent advised the woman that he had learned that "the heat was on," and indicated that he was reluctant to write the prescriptions. Nevertheless, he did give the woman ten prescriptions, each for 100 Ritalin 10 mg.

Also as part of the investigation, on May 1, 1975, DEA investigators checked names and addresses of purported patients on controlled substance prescriptions issued by Respondent (other than those issued to the woman) and seized from a local pharmacy. The investigators ascertained that most of the names and addresses on those prescriptions were false—either the address did not exist or the persons who lived at the address were not acquainted with Respondent. On August 20, 1975, investigators checked another 43 prescriptions issued by Respondent and found that only one of the names and addresses on those prescriptions was that of a bona fide patient of Respondent.

On February 9, 1985, Respondent was indicted in the United States District Court for the Western District of Missouri, Western Division on one count of distributing d1-amphetamine and methaqualone, and one count of distributing methylphenidate, all Schedule II controlled substances. On February 9, 1976, Respondent pled *nolo contendere* to distributing methylphenidate, and the other count was dismissed. Respondent received a suspended sentence, was fined $5,000, and was placed on probation for five years. The probation was terminated early, on September 17, 1979.

On June 16, 1981, Respondent was indicted on charges of mail fraud, and was later convicted, following a jury trial, on three felony counts of six-count indictment. The conviction resulted from an undercover investigation by postal inspectors, who had pretended to have been in an automobile accident. Respondent submitted claims to insurance companies for office visits which did not occur and for treatments which were not provided. Respondent's conviction was affirmed by the United States Court of Appeals for the Tenth Circuit, and he was sentenced to three years incarceration on each count. Respondent served nine months at a minimum security prison and then spent four months in a halfway house.

Respondent testified that he was dropped from participation in Missouri's Medicaid program approximately 10 or 12 years prior to the hearing in this matter, and that he was accused of committing Medicaid fraud. Respondent denied ever engaging in such fraud.

On February 19, 1975, the Missouri Department of Health, Bureau of Narcotics and Dangerous Drugs (BNDD) initiated proceedings against Respondent's State-controlled substance registration. On April 14, 1976, Respondent's application for State registration was denied under a provision of Missouri law specifying that no such registration could be granted to anyone who had been convicted within the previous five years of any felony relating to controlled substances. Respondent appealed the denial to a State circuit court, which found that Respondent's plea of *nolo contendere* did not constitute a "conviction" under Missouri law and rendered a decision in Respondent's favor. That decision was upheld on appeal in *Warren* v. *Director, Missouri Division of Health*, 565 S.W.2d 740 (Mo. Ct. of App., Kansas City District, 1978). However, the appellate court also noted that under the current interpretation of Federal law, a *nolo* plea was considered a conviction, despite a suspension of sentencing. As a result of these court proceedings, BNDD issued respondent a one-year State-controlled substance registration.

Respondent's DEA registration expired in or about May 1975. Respondent applied for a new registration in April 1976 and again in January 1977, but on both occasions, withdrew the applications after Orders to Show Cause were issued. In November 1979, Respondent applied again for a DEA registration, an Order to Show Cause was issued, and Respondent requested a hearing. The hearing was held on July 15 and 16, 1980, in Kansas City, Missouri. The administrative law judge presiding at that proceeding recommended that Respondent's application be denied. On January 19, 1981, the then-Administrator issued a final order adopting the administrative law judge's opinion in its entirety and denying Respondent's application for registration. Thereafter, in March 1981, Respondent received an exemption to allow him to order controlled substances for administration at Lakeside Hospital.

On March 12, 1985, following his mail fraud conviction, Respondent surrendered his professional license to the Missouri State Board of Registration for the Healing Arts, but was reinstated to the practice of medicine in December 1985 pursuant to an agreement by which Respondent was to be on probation for either three years or the length of his parole, whichever was longer.

Respondent again applied for a DEA Certificate of Registration in October 1986, but withdrew the application after being advised by DEA personnel that he was ineligible for registration, because he was not then registered with the Missouri Bureau of Narcotics and Dangerous Drugs to handle controlled substances. Respondent then filed for a Missouri controlled substance registration. On July 31, 1987, following a hearing, Respondent entered into a Memorandum of Understanding with BNDD. The Memorandum provided, among other things, that Respondent would be permitted to prescribe only certain Schedule III, IV and V controlled substances, and that he would not be permitted to dispense any controlled substances. It also provided that Respondent would be allowed to administer controlled substances at hospitals where he maintained privileges, but that the administrator and chief of staff of any such hospitals

were to be notified of Respondent's agreement with the BNDD.

On August 2, 1987, Respondent again applied for DEA registration in Schedules III, IV and V. It is that application which is the subject of the instant proceeding.

At the hearing in this matter, several osteopathic doctors testified on Respondent's behalf. None of these individuals appeared to be fully aware of Respondent's past history regarding the handling of controlled substances. As a result, their testimony was not given significant weight.

Respondent testified at the hearing that he needed a DEA registration in order to have hospital privileges and because many of his patients require controlled substances. In addition, according to Respondent, his inability to prescribe controlled substances "has really limited my scope or ability to practice medicine fully and to actually feel like I am a physician * * *." In 1987, Respondent successfully completed a course in prescribing controlled subsances. The administrative law judge concluded, however, that Respondent's testimony at the hearing indicated a substantial lack of familiarity with various aspects of handling these medications. Respondent conceded that he is not familiar with the recordkeeping requirements for DEA registrants or with any of the responsibilities under Federal law with respect to controlled substances.

The Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "(i)n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive. i.e., the Administrator may properly rely on any one or a combination of those factors, and give each factor the weight he deems appropriate. See, *Henry J. Schwarz Jr., M.D.*, Docket No. 88–42, 54 FR 16422 (1989); *Neveille H. Williams, D.D.S.*, Docket No. 87–47, 53 FR 23465 (1988); *David E. Trawick, D.D.S.*, Docket No. 86–69, 53 FR 5326 (1988).

In the instant case, all of the factors should be considered. State authorities have taken various actions regarding Respondent and he has been convicted of criminal offenses involving controlled substances. His prescribing practices and compliance with Federal and state laws are certainly at issue, and his mail fraud conviction and termination of Medicaid privileges may be considered "other conduct" referenced by the fifth factor.

Respondent pled *nolo contendere* to one count of distributing methylphenidate, a felony offense. A conviction which follows a plea of *nolo contendere* constitutes a conviction in the context of these administrative proceedings. See, *Pearce* v. *U.S. Department of Justice, Drug Enforcement Administration*, Docket No. 87–4117 (6th Cir., December 5, 1988, not published), affirming the Administrator's final order in *Charles E. Pearce, M.D.*, Docket No. 86–71, 52 FR 45877 (1987); *Sokoloff* v. *Saxbe*, 501 F.2d 571 (2nd Cir. 1974). Accordingly, the administrative law judge found that Respondent has been convicted of a controlled substance-related felony offense.

There is no dispute that Respondent was convicted of mail fraud and the administrative law judge concluded that that conviction should be considered as "other conduct which may threaten the public health and safety." The administrative law judge further concluded that Respondent's attempts to minimize the significance of his conviction were not persuasive.

The administrative law judge concluded that Respondent's application should be denied. Judge Bittner stated that although Respondent asserted that the events leading to his convictions are remote in time, it is noteworthy that only about five years after the termination of his probation following his drug distribution conviction, Respondent engaged in the conduct leading to his mail fraud conviction.

Additionally, the administrative law judge concluded that the record established that Respondent issued prescriptions for no medical purpose not only to the one woman, but to other persons as well. Respondent contended that he acted under duress in issuing these prescriptions. However, Respondent did not impress the administrative law judge as a particularly credible witness, for he appeared more concerned with insuring that his testimony fit his asserted defenses than with telling the truth. Accordingly, Judge Bittner found that the record did not establish that Respondent issued any prescriptions under duress.

The administrative law judge also noted that while Respondent stated that he recognized that his actions were wrong, he continues to assert various excuses for his conduct, and showed more concern for the consequences of his wrongdoing than remorse for his behavior. Further, the character witnesses who testified on Respondent's behalf did not impress the administrative law judge as being in a position to fully evaluate either his rehabilitation or the likelihood that he would be able to appropriately discharge the responsibilities of a DEA registrant in the future.

Finally, and not insignificantly, the administrative law judge concluded that Respondent does not appear even now to have the requisite knowledge of how controlled substances should be handled. Judge Bittner recognized that Respondent has not had authority to handle conrolled substances for some years. However, it is not an undue burden to expect someone seeking registration to handle controlled substances to become knowledgeable about the regulations and appropriate use of those substances.

Although a DEA registration would be of some benefit to Respondent's practice, the administrative law judge concluded that that factor does not outweigh the other concerns discussed above. Consequently, the administrative law judge found that Respondent's registration would be inconsistent with the public interest and recommended that his application for registration be denied. The Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in its entirety.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration, executed on August 2, 1987, by David W. Warren, D.O., be, and it hereby is, denied.

Dated: August 30, 1990.

Robert C. Bonner,

Administrator.

[FR Doc. 90–23062 Filed 9–28–90; 8:45 am]

BILLING CODE 4410–09–M

Justice Management Division

[AAG/A Order No. 44-90]

Privacy Act of 1974; Addition of a New Routine Use to a System of Records

AGENCY: Department of Justice, Justice Mangement Division (JMD).

ACTION: Notification of the addition of a new routine use.

SUMMARY: JMD proposes to add a new routine use to its system of records entitled, "Employee Assistance Program (EAP) Treatment and Referral Records, JUSTICE/JMD-016."

DATES: JMD invites interested parties to submit comments on the proposed routine use on or before October 31, 1990. JMD will adopt the new routine use without further notice on November 30, 1990, unless JMD receives comments which result in a contrary determination.

ADDRESSES: Please submit comments to Roberta Gross, Director, Employee Assistance Program, Justice Management Division, Department of Justice, 10th St. and Pennsylvania Ave., NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Roberta Gross, Director, Employee Assistance Program, Justice Management Division, Department of Justice, 10th St. and Pennsylvania Ave., NW., Washington, DC 20530. Telephone: (202) 514-1846.

SUPPLEMENTARY INFORMATION: JMD proposes to add a new routine use to its EAP Treatment and Referral system of records, JUSTICE/JMD-016. The new routine use would allow a permissive disclosure to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

The Privacy Act permits disclosure upon a showing of compelling circumstances affecting the health or safety of an individual. 5 U.S.C. 552a(b)(8). The new routine use makes clear that the Department may make disclosure to third parties of imminent and potential criminal activity which physically threatens an EAP client or a third party.

The Routine Use

The new routine use will be added as a routine use (b) to JUSTICE/JMD-016 and reads as follows:

(b) To the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

Dated: September 20, 1990.

Harry H. Flickinger,

Assistant Attorney General for Administration.

[FR Doc. 90-23072 Filed 9-28-90; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 43-90]

Privacy Act of 1974; Report of New System of Records

AGENCY: Department of Justice, Justice Management Division.

ACTION: Notice of New System.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, Justice Management Division (JMD), hereby establishes a new system of records entitled "Employee Assistance Program (EAP) Treatment and Referral Records, JUSTICE/JMD-016." This system is established to enable JMD to provide assessment, counseling, and referral services to outside treatment facilities for those employees who are experiencing one or more of a variety of personal or work-related problems.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Roberta Gross, Director, Employee Assistance Program, Justice Management Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530. Telephone: (202) 514-1846.

SUPPLEMENTARY INFORMATION: On April 2, 1990, the Justice Management Division (JMD) published a notice of intent to establish a new system of records entitled "Employee Assistance Program (EAP) Treatment and Referral Records, JUSTICE/JMD-016." *See* 55 FR 12296. JMD invited public comment. In addition, the notice advised the public that JMD had provided a report on the proposed system to the Office of Management and Budget and to the Congress. JMD received no public comment. However, Congressman Bob Wise, Chairman of the Government Information, Justice and Agriculture Subcommittee of the Committee on Government Operations, United States House of Representatives, did provide comments concerning the notice. JMD has accepted Congressman Wise's comments and has amended the routine uses that it proposed for the system.

Specifically, we have eliminated routine uses that would have allowed disclosure "[t]o medical personnel to the extent necessary to meet a bona fide medical emergency" and "[t]o the extent necessary to prevent harm to another person." As explained by Chairman Wise, exemption (b)(8), 5 U.S.C. 552a(b)(8), to the Privacy Act already provides authority to make these disclosures. We have also eliminated another proposed routine use that would have allowed disclosure "[t]o qualified personnel, in sanitized form, for the purpose of conducting scientific research, management audits, financial audits, or program evaluations." Exemption (b)(5), 5 U.S.C. 552a(b)(5), provides sufficient authority and means to meet the purpose of this proposed routine use. Similarly, we have eliminated a proposed routine use permitting disclosure pursuant to court order, because exemption (b)(11), 5 U.S.C. 552a(b)(11), provides authority for such disclosure.

We have retained a routine use "[t]o report, under State law, incidents of suspected child abuse or neglect to appropriate State or local authorities." In addition, we are today publishing for comment in a separate notice an additional proposed routine use.

Dated: September 20, 1990.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/JMD-016

SYSTEM NAME:

Employee Assistance Program Treatment and Referral Records, JUSTICE/JMD-016.

SYSTEM LOCATION:

Justice Management Division, Department of Justice, 10th St. & Constitution Avenue, NW, Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Offices, Boards and Divisions and, upon occasion, of the Bureaus of the Department (as listed at 28 CFR 0.1); United States Attorney organizations; and the Office of Justice Programs of the Department of Justice who have sought counseling or been referred to or for treatment through the EAP. To the limited degree that treatment and referral may be provided to family members of these employees, these individuals, too, may be covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records of employees (and in limited cases, employee family members) who have sought or been referred to the EAP for treatment or referral. Examples of data found in such records include: Notes and documentation of internal EAP

counseling, records of treatment and counseling referrals, records of employee attendance at treatment and counseling programs, prognosis or treatment information, documents received from supervisors or personnel on work place problems or performance, home addresses and/or phone numbers, insurance data, supervisors' phone number, addresses of treatment facilities or individuals providing treatment, leave records, written consent forms and abeyance agreements (see below), information on confirmed unjustified positive drug tests, results from EAP treatment drug tests and identification data, such as sex, job title and series, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd, *et seq.* and 290ee, *et seq.;* 42 CFR Sec. 2, *et seq.;* Executive Order 12564, 5 U.S.C. 3301 and 7901; 44 U.S.C. 3101 and Pub. L. No. 100–71, Sec. 503 (July 11, 1987).

PURPOSE:

These records are to be used by EAP personnel in the execution of the counseling and rehabilitation function. They document the nature and effects of employee problems and counseling by the EAP and referral to, and progress and participation in, outside treatment and counseling programs and the rehabilitation process. These records may also be used to track compliance with agreements made to mitigate discipline based upon treatment (abeyance agreements).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures permitted by the Privacy Act itself,[1] 5 U.S.C. 552a(b), permissive disclosures, without individual consent, are as follows:

To report, under State law, incidents of suspected child abuse or neglect to appropriate State or local authorities.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the system manager identified above. The request should follow the record access procedure, listed above, and should state clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Freedom of Information Act/ Privacy Act Request."

RECORD SOURCE CATEGORIES:

Records are generated by EAP personnel, referral counseling and treatment programs or individuals, the employee who is the subject of the record, personnel office and the employee's supervisor. In the case of drug abuse counseling, records may also be generated by the staff of the Drug-Free Workplace Program and the Medical Review Officer.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored in paper folders in locked file cabinets in accordance with 42 CFR 2.16.

RETRIEVABILITY:

Records are indexed and retrieved by identifying number or symbol, cross-indexed to employee names.

SAFEGUARDS:

Records are kept in a secure room in locked file cabinets. Only the EAP Administrator or a designated staff member will access or disclose the records.

RETENTION AND DISPOSAL:

Records are retained for three years after the individual ceases contact with the counselor unless a longer retention period is necessary because of pending administrative or judicial proceedings. In such cases, the records are retained for six months after the case is closed. Records are destroyed by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Director, Employee, Assistance Program, Justice Management Division, Department of Justice, 10th St. & Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address all inquiries to the system manager.

RECORD ACCESS PROCEDURES:

Make all requests for access in writing to the system manager identified above. Clearly mark the envelope and letter "Freedom of Information Act/Privacy Act Request." Provide the full name and notarized signature of the individual who is the subject of the record, the dates during which the individual was in counseling, any other information which may assist in identifying and locating the record, and a return address.

SYSTEM EXEMPTED FROM CERTAIN PROVISONS OF THE ACT:

None.

[FR Doc. 90–23071 Filed 9–28–90; 8:45 am]

BILLING CODE 4410-01-M

[1] To the extent that release of alcohol and drug abuse records is more restricted than other records subject to the Privacy Act, JMD will follow such restrictions. *See* 42 U.S.C. 290dd and 290ee.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 87–7D]

Cable Compulsory License; Specialty Station Determination

AGENCY: Copyright Office, Library of Congress.

ACTION: Final specialty station list.

SUMMARY: The Copyright Office of the Library of Congress issues this notice to publish a final list of specialty broadcast stations in connection with the administration of the cable compulsory license, section 111, title 17 of the United States Code. The Office employed a combination of television broadcaster affidavits and public comments to establish an updated specialty station list. The stations listed allege by affidavit that they qualify as specialty stations under former FCC rules (47 CFR 76.5(kk)) in effect on June 24, 1981.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, Telephone (202) 707–8380.

SUPPLEMENTARY INFORMATION: .

Background

In response to petitions from members of the public to make certain determinations concerning the administration of the cable compulsory license, 17 U.S.C. 111, the Copyright Office published a notice of inquiry with respect to possible changes in the list of specialty broadcast stations originally developed by the Federal Communications Commission ("FCC"). On September 18, 1989, a policy decision (54 FR 38461) and a request for information (54 FR 38466) were issued inviting all interested television broadcast stations claiming to qualify as specialty stations under the FCC's former distant signal carriage rules to submit to the Office sworn affidavits stating that in the preceding calendar year the programming of their stations satisfied the FCC's former requirements for specialty station status.

On April 4, 1990, the Office published a list of the stations that filed affidavits (55 FR 12575), and solicited from

interested parties comments as to whether any station on the preliminary list failed to qualify as a specialty station. Three sets of comments were received, each containing late requests from broadcast stations which failed to file affidavits within the time periods scheduled for submission of affidavits, comments, or reply comments, as publicly set forth in the Office's announcements in the Federal Register. No filings were received which commented on or objected to the stations contained on the updated specialty station list published April 4, 1990.

The Office hereby publishes a final list of specialty stations, effective January 1, 1991, for the accounting period 1991/1 and thereafter. The list includes only those stations as published for public comment on April 4, 1990. Copyright Office licensing examiners will refer to this list in examining cable systems' claims on their statements of account that particular stations are specialty stations. If a cable system claims specialty station status for a broadcast television station not on the list, the cable system is expected to make a convincing legal argument in writing as to the validity of its claim that the station deserves specialty station status even though it did not request to be included on the most recent list.

While the Copyright Office originally announced its intention to revisit the specialty station list at three year intervals, the Office has decided to deal with the three late filings now rather than wait three years. Accordingly, although the list published today is final and will be effective January 1, 1991, in a separate notice the Office will open a new public proceeding and invite broadcast stations to submit affidavits in accordance with the procedure published at 54 FR 38461 and 54 FR 38466 (September 18, 1989). Two of the late filings are in proper form and will be considered in the new proceeding. These are filings by KORO (Corpus Christi) and six stations owned by the Telemundo Group. The filing by the Canadian Broadcasting Corporation must be resubmitted in proper affidavit form.

FINAL ANNOTATED LIST OF SPECIALTY STATIONS: CALL LETTERS AND CITIES OF LICENSE

KLUZ..... Albuquerque, New Mexico.
KNAT..... Albuquerque, New Mexico.
K48AM.. Albuquerque, New Mexico.
WKBS.... Altoona, Pennsylvania.
K39AB... Bakersfield, California.

FINAL ANNOTATED LIST OF SPECIALTY STATIONS: CALL LETTERS AND CITIES OF LICENSE—Continued

KDOR.... Bartlesville, Oklahoma.
KITU..... Beaumont, Texas.
WCLJ..... Bloomington, Indiana.
WRDG... Burlington, North Carolina.
WDLI..... Canton, Ohio.
WCFC.... Chicago, Illinois.
WSNS... Chicago, Illinois.
WCLF.... Clearwater, Florida.
WTGL.... Cocoa, Florida.
KDTX..... Dallas, Texas.
WTJP..... Gadsden, Alabama.
KUVN.... Garland, Texas.
WLXI..... Greensboro, North Carolina.
WPCB.... Greensburg/Pittsburgh, Pennsylvania.
KFTV..... Hanford/Fresno, California.
KLUJ..... Harlingen, Texas.
W47AD.. Hartford, Connecticut.
KWHH... Hilo, Hawaii.
KHAI..... Honolulu, Hawaii.
KWHE... Honolulu, Hawaii.
KETH..... Houston, Texas.
WHMB... Indianapolis, Indiana.
WHKE... Kenosha, Wisconsin.
WWTO.. LaSalle, Illinois.
WACX.... Leesburg, Florida.
WEJC.... Lexington, North Carolina.
KMEX.... Los Angeles, California.
KWHY... Los Angeles, California
WTKK.... Manassas, Virginia.
WTCT.... Marion, Illinois.
WHFT.... Miami, Florida.
WLTV.... Miami, Florida.
WMPV... Mobile, Alabama.
KCSO.... Modesto, California.
WMCF... Montgomery, Alabama.
WHTN... Nashville, Tennessee.
WSFJ.... Newark, Ohio.
KMLM.... Odessa, Texas.
KSBI..... Oklahoma City, Oklahoma.
KTBO.... Oklahoma City, Oklahoma.
WSWS... Opelika, Alabama.
WXTV.... Patterson, New Jersey.
WHBR... Pensacola, Florida/Mobile, Alabama.
W35AB.. Philadelphia, Pennsylvania.
KPAZ..... Phoenix, Arizona.
KTVW.... Phoenix, Arizona.
KVTN..... Pine Bluff, Arkansas.
KTDZ..... Portland, Oregon.
KTBY..... Poughkeepsie, New York.
KREN.... Reno, Nevada.
WKOI..... Richmond, Indiana.
WAQP... Saginaw, Michigan.
KWEX.... San Antonio, Texas.
KSCI..... San Bernardino, California.
KDTV..... San Francisco, California.
KTSF..... San Francisco, California.
KTBN..... Santa Anna, California.
CKSH.... Sherbrooke, Quebec, Canada.
WHME... South Bend, Indiana.
KTAJ..... St. Joseph, Missouri.
KTBW.... Tacoma, Washington.
K52AO.. Tucson, Arizona.
KWHB... Tulsa, Oklahoma.

Dated: September 18, 1990.

Ralph Oman,

Register of Copyrights.

[FR Doc. 90-23107 Filed 9-28-90; 8:45 am]

BILLING CODE 1410-08-M

[Docket No. RM 90-3]

Cable Compulsory License; Specialty Station List: Request for Information

AGENCY: Library of Congress, Copyright Office.

ACTION: Request for information.

SUMMARY: The Copyright Office has established an annotated list of specialty stations for purposes of administration of the cable compulsory license, section 111 of title 17 of the United States Code. The Office hereby invites all interested television broadcast stations not on the Copyright Office Specialty Station List who claim specialty station status under the former distant signal carriage rules of the Federal Communications Commission at 47 CFR 76.5(kk) (June 24, 1981) to submit to the Copyright Office sworn affidavits stating that in the preceding calendar year the programming of their stations satisfied the FCC's former requirements for specialty station status.

DATES: Affidavits should be received in the Copyright Office on or before December 3, 1990.

ADDRESSES: The sworn affidavit should be addressed, if sent by mail to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Department 17, Washington, DC 20540. If delivered by hand, the comments should be brought to: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Department 17, Washington, DC 20540. Telephone: (202) 707-8380.

SUPPLEMENTARY INFORMATION: The Copyright Office has established a final, annotated list of specialty stations for the purpose of administation of the cable compulsory license of section 111 of the Copyright Act, title 17 of the United States Code. The procedure for establishing and updating the list was published on September 18, 1989 at 54 FR 38461.

As part of the public proceeding to establish the specialty station list, the Office received several late requests for addition to the list. The Office proposes to consider these requests in this new proceeding to update the established list. All television broadcast stations not on the established Copyright Office Specialty Station List who claim specialty station status pursuant to the Federal Communication Commission's former rules at 47 CFR 76.5(kk) (June 24, 1981) are invited to request that the station be added to the Copyright Office Specialty Station List. The request should be made in the form of an affidavit by an appropriate officer or

agent of the station. We specify no particular format for the affidavit.

Subsequently, the Office will publish a notice in the Federal Register and invite public comment as to whether particular stations qualify as specialty stations. At the conclusion of the proceeding, the Office will publish an updated Copyright Office Specialty Station List.

Dated: September 17, 1990.

Ralph Oman,

Register of Copyrights.

[FR Doc. 90-23106 Filed 9-28-90; 8:45 am]

BILLING CODE 1410-08-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

The Assistant Director for Education and Human Resources has determined that the establishment of the Special Emphasis Panels listed below are necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committees:

Special Emphasis Panel in Research Career Development

Special Emphasis Panel in Teacher Preparation and Enhancement

Purpose: Primarily, to advise on the merit of special emphasis proposals or applications submitted to the Division of Research Career Development and Division of Teacher Preparation and Enhancement for financial support.

Balanced Membership Plan: Membership will be selected on an "as needed" basis in response to specific proposals, applications, or sites to be reviewed. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

Responsible NSF Official: Dr. Terence Porter, Director, Division of Research Career Development and Dr. Charles Puglia, Acting Director, Division of Teacher Preparation and Enhancement National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dated: September 26, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-23175 Filed 9-28-90; 8:45 am]

BILLING CODE 7555-01-M

Animal Learning and Behavior Advisory Panel Meeting

The National Science Foundation announces the following meeting:

NAME: Advisory Panel for Animal Learning and Behavior.

DATE AND TIME: October 17-19, 1990, 8:30 a.m.-5 p.m. each day.

PLACE: National Science Foundation, 1800 G Street, NW., in room 536, Washington, DC 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Fred Stollnitz, Program Director, Animal Behavior, room 320, National Science Foundation, Washington, DC 20050, Telephone (202) 357-7949.

PURPOSE OF MEETING: To provide advice and recommendations concerning support for research in animal behavior.

AGENDA: Closed—To review and evaluate research 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 within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-23111 Filed 9-28-90; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Special Emphasis Panel in Cross-Disciplinary Activities

AGENCY: National Science Foundation.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because 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 proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

NAME: Special Emphasis Panel in Cross-Disciplinary Activities.

DATES: October 11 and 12, 1990.

TIMES: 8:30 to 5 each day.

PLACE: Riverside Hotel, 924 25th Street, NW., Washington, DC.

TYPE OF MEETING: Closed.

AGENDA: Review of Small Scale Final Panel for Institutional Infrastructure Program.

CONTACT: Dr. Harry Hedges, Head, Cross-Disciplinary Activities, National Science Foundation, Rm. 304, National Science Foundation, Washington, DC 20550.

REASON FOR LATE NOTICE: It was determined that the Small Scale Panel would need to hold a second meeting, in addition to the one being held on October 2.

Dated: September 26, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-23176 Filed 9-28-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiological Processes; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Public Law 92-463, the National Science Foundation announces the following meeting.

NAME: Advisory Panel for Physiological Processes.

DATE AND TIME: October 15-19, 1990, 8:30 a.m. to 5 p.m.

PLACE: National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Conference Room 1243.

TYPE OF MEETING: Part Open—October 16, 12 p.m.—1 p.m. (open) October 18, 12 p.m.—1 p.m. (open) All other times the meeting is closed.

CONTACT PERSON: Dr. Ronald Alvarado, Program Dicretor, Physiological Processes, room 321-B, National Science Foundation, Washington, DC 20550, 202/357-7975.

PURPOSE OF ADVISORY PANEL: To provide advice and recommendations concerning support for research in Physiological Processes.

AGENDA: Open—General discussion of the current status and future plans of the Physiological Processes Program.

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 within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 24, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-23112 Filed 9-28-90; 8:45 am]

BILLING CODE 7555-01-M

PEACE CORPS

Information Collection Request Under OMB Review

AGENCY: United States Peace Corps.

SUMMARY: In compliance with the Paperwork Reduction Act [44 U.S.C. 3502 et seq], this notice announces that the information collection request abstracted below has been forwarded to the Office of Management and Budget for review and is available for public review and comment. Peace Corps has requested an expedited review of the collection by October 19, 1990, so that we can obtain timely information from the respondents. A copy of the information collection form may be obtained from Dr. Tom Eng, Office of Medical Services, United States Peace Corps, 1990 K Street, NW., Washington, DC 20526. Dr. Eng may be reached at 202-606-3512.

Comments on this information collection should be addressed to Mr. Marshall Mills, Desk Officer, Office of Management and Budget, Washington, DC 20503.

INFORMATION COLLECTION ABSTRACT:

Title: Evacuation Survey.

Need for and use of the information: Peace Corps needs this information in order to improve services to Peace Corps Volunteers who have been evacuated from Peace Corps countries in emergency situations and better prepare for any future evacuations.

Respondents: Returned Peace Corps Volunteers.

Burden on the public:

a. *Annual reporting burden:* 177 hours.

b. *Annual recordkeeping burden:* 0 hours.

c. *Estimated average burden per response:* 20 minutes.

d. *Frequency of response:* One-time survey.

e. *Estimated number of likely respondents:* 530.

This notice is issued in Washington, DC on September 21, 1990.

Collins Reynolds,

Associate Director for Management.

[FR Doc. 90-23045 Filed 9-28-90; 8:45 am]

BILLING CODE 6051-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28460; File No. SR-BSE-90-16]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Fees for Fingerprint Processing

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 12, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE, pursuant to rule 19b-4 of the Act, submitted a proposed rule change to amend its plan for fingerprinting pursuant to rule 17f-2(c) under the Act. The Exchange proposes to increase its fingerprint processing fees from $23.00 to $26.00 per fingerprint card processed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Effective October 1, 1990, the Federal Bureau of Investigation will increase its processing charge for user-fee applicant fingerprint cards from $20.00 to $23.00 per fingerprint card submitted. The Exchange states that, in order to pass through this $3.00 increase to floor members, an equivalent increase is required in the BSE's charge for the fingerprint cards from $23.00 to $26.00. The BSE's current $3.00 charge per fingerprint card for Exchange processing will, however, remain constant.[1]

The statutory basis for the proposed rule change is Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among BSE members and issuers and other persons using its facilities. In addition, the proposed rule change is consistent with section 6(b)(5) of the Act in that it enables the Exchange to recover its costs with respect to the processing of fingerprint cards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition 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

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charges imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[1] Pursuant to Rule 17f-2(c) under the Act, the Exchange filed a plan with the Commission allowing the BSE to act as a processor of fingerprints for its members and others.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference section, 450 Fifth Street, NW., Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-90-16 and should be submitted by October 22, 1990.

Dated: September 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23066 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28464; File No. SR-BSE-90-17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Amendments to its Constitution Regarding the Distribution of Gratuity Fund Proceeds

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 18, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE, pursuant to Rule 19b-4 of the Act, submitted a proposed rule change to amend Article XVII, section 5 of its Constitution to make language regarding the distribution of Gratuity Funds proceeds to the surviving spouse and adopted children uniform throughout section 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Article XVII, section 5 of the BSE Constitution regarding the distribution of Gratuity Fund proceeds to make the language of the text uniform throughout. On July 10, 1990, the Commission approved proposed rule change SR-BSE-85-3, a portion thereof which dealt with the distribution of Gratuity Fund proceeds.[1] Part of the changes to the Gratuity Fund section were to delete references to the word "widow" and to use in its place the gender neutral phrase "surviving spouse," and in addition to provide for adopted children to be included among those who share in the distribution of proceeds. Due to an omission, these changes were not made throughout section 5 of Article XVII, and the Exchange now seeks to make the language of this section clear and consistent.

The statutory basis for the proposed rule change in section 6(b)(5) of the Act in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the exchange.

[1] *See* Securities Exchange Act Release No. 28191 (July 10, 1990), 55 FR 28969 (July 16, 1990) by which the Commission approved revisions to the BSE's Constitution.

B. Self-Regulatory Organization's Statement on the Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The BSE Board of Governors approved proposed amendments to the Constitution on December 20, 1984. The Exchange notified its membership of the proposal and received no comments on the proposed amendment.[2]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change is concerned solely with the administration of the Exchange and also is a stated policy, practice or interpretation concerned with the meaning, administration or enforcement of Article XVII, section 5 of the BSE Constitution, which governs the distribution of Gratuity Fund proceeds, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in

[2] Article XXIV, section 1 of the BSE Constitution provides that any amendment to the Constitition which is adopted by the Board of Governors shall be submitted to the Exchange members. If the amendment is not protested by fifteen Exchange members prior to the expiration of the seventh business day after the date of delivery or mailing of the proposed amendment, then the amendment is deemed approved.

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-90-17 and should be submitted by October 22, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 24, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23090 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28459; File No. SR-CSE-90-12]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Member Fees and Assessments

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 1990, the Cincinnati Stock Exchange ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to reduce its fees for processing electronic transmissions of Regulation T and Rule 15c3-3 extension requests, from $1.00 to $.50 per request.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce the Exchange's current fee for processing electronic transmissions of Regulation T and Rule 15c3-3 extension requests,[1] thereby reducing costs to users of the Exchange's automated processing facilities.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of dues, fees, and other charges among Exchange members and issuers and other persons using the Exchange's facilities.

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

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[1] Regulation T, issued by the Board of Governors of the Federal Reserve System pursuant to the Act, governs the extension of credit to customers by brokers-dealers for purchasing securities. 12 CFR part 220. Rule 15c3-3 under the Act governs the extension of credit for selling securities. 17 CFR 240.15c3-3. Under Regulation T (12 CFR 220.8(d) and .4(c)(3)(ii)) and Rule 15c3-3(n), a broker-dealer may request an extension of time for payment or delivery of securities from any registered national securities exchange or a registered national securities association.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE-90-12 and should be submitted by October 22, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 24, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23091 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issues and To Withdraw Unlisted Trading Privileges in Over-the-Counter Issues

September 24, 1990.

On September 12, 1990, the Midwest Stock Exchange, Inc. submitted an application for unlisted trading privileges (UTP) pursuant to section 12(f)(1)(c) of the Securities Exchange Act of 1934 ("Act") inthe follwoing over-the-counter (OTC) securities, *i.e.*, securities not registered under section 12(b) of the Act:

File No.	Symbol	Issuer
7-6233	COST	Costco Whilesale Corp. $.01 par value
7-6234	RTRSY	Reuters Holdings PLC ADR No par value

The MSE also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act on the following issues:

File No.	Symbol	Issuer
7-6235	MENT	Mentor Graphics Corp. No Par value
7-6236	MCRN	Micron Technologies Inc. $.10 par value

Comments

Interested persons are invited to submit, on or before October 15, 1990, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension of UTP in OTC securities, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commision, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23094 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28455; File No. SR-NSCC-90-17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corporation Relating to a Modification to Its Automated Customer Account Transfer Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-NSCC-90-17) as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would replace specific references in NSCC's Automated Customer Account Transfer ("ACAT") rules regarding NSCC's obligation to report transfer details to Designated Examining Authorities ("DEAs"), with a general provision of the same effect.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC 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

The purpose of the proposed rule change is to replace specific references in NSCC's ACAT rules regarding NSCC's obligation to report transfer details to DEAs, with a general provision of the same effect.

NSCC's Shareholders Agreement with the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. ("NASD") obligations NSCC to provide, upon request, information relating to transactions of their respective Members. In accordance with the terms of this Agreement and pursuant to the request of the NYSE and NASD, NSCC reports various information regarding customer account transfers to these DEAs. The information is used by the NYSE and NASD to enforce compliance with their rules on customer account transfers.

NSCC's ACAT rule contains specific references regarding information which may be reported to a Members' DEA, *e.g.*, a Delivering Member's failure to submit customer account asset data within the time frame established by the DEA.

NYSE and NASD determine, from time to time, what information they would like to have reported. To cover the breadth that such requests could take, and since NSCC is obligated to provide this information, NSCC believes it is appropriate to delete the specific references and adopt a general reference to NSCC's obligation to report such data.

Since the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions and will be implemented consistently with the safeguarding of securities in its custody or control for which it is responsible, it is consistent with section 17A of the Act and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act because the proposal restates NSCC's obligation to provide ACAT data to DEAs, does not adversely affect the safeguarding of securities and funds in its custody or control or for which it is responsible and does not significantly affect the rights or obligations of NSCC or persons using ACAT. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-90-17 and should be submitted by October 22, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 20, 1990.

Margaret McFarland,

Deputy Secretary.

[FR Doc. 90-23089 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28456; File No. SR-NSCC-90-14]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation Regarding a Modification to Its Fund/SERV Rules

September 20, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. Subsequently, NSCC amended the filing to provide for Commission review pursuant to section 19(b)(2), rather than section 19(b)(3)(A), of the Act.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change, as described below, is to provide for the automated processing of mutal fund underwritings and tender offers through NSCC's Fund/SERV service.

[1] *See* letter from Alison Hoffman, Associate Counsel, NSCC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission, dated September 12, 1990.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC 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

The purpose of the proposed rule change is to provide for the automated processing of mutual fund underwritings and tender offers through NSCC's Fund/SERV service.

Mutual funds occasionally offer, (1) a new fund through an underwriting, and (2) to buy back mutual fund shares from shareholders through a tender offer. In underwritings there is often an extended time period (known as the "offering period") during which an individual may place an order to purchase the shares. In tender offers, there is an extended period during which a shareholder can place an order for redemption at a certain price. Therefore, in both underwritings and tender offers, unlike other mutual fund purchases and redemptions, settlement does not necessarily occur five days after trade date.

In underwritings, shares can be offered on a preliminary basis prior to rgistration. Orders placed during this time are considered "expressions of interest." The orders do not become firm commitments until "ticketing date." Prior to ticketing date, expressions of interest can be withdrawn.

Issuers may place certain restrictions on participation in an underwriting or tender offer. For example, certain broker-dealers may be ineligible to purchase shares during the offering period or for a time after the offering period (called the "colling off period" for underwritings), purchases of additional shares during the cooling off period may be prohibited, and exchanges following the tender period may not be allowed.

NSCC currently processes orders for underwritings and tender offers. However, due to the extended settlement timeframe and ability to withdraw orders this requires manual intervention. NSCC has recognized that it can modify the Fund/SERV system to accommodate underwritings and tenders on an automated basis.

Under the proposal, a mutual fund will be required to submit to NSCC the details of the underwriting and tender. Certain of these details, such as ticketing date, settlement date, and restrictions on participation and types of transactions, will be used as part of NSCC's purchase order edit process. Purchases and tenders which are submitted but do not meet the mutual fund's pre-established parameters will be rejected by NSCC. The mutual fund will nevertheless continue to be responsible for rejecting orders that are not acceptable.

The change will enable members to submit orders and expressions of interest over an extended time frame. During this period, data will be forwarded to the mutual funds. Confirmation, correction and rejection capabilities will continue to be available. Confirmed items will pend in the system and will settle on the date provided by the Mutual Fund.

The proposal will allow members to delete any expression of interest until ticketing date. Deletions submitted after ticketing date will be rejected. Once expressions of interest become orders (in the case of underwritings) and the tender period ends, normal Fund/SERV processing time frames and procedures will apply.

NSCC will cause underwriting orders and orders pursuant to tenders to settle on the date provided by the Mutual Fund. If NSCC does not receive notice of changes in the settlement date or cancellation of the underwriting or tender within sufficient time to delete the items from processing or settlement, the affected member and Mutual Fund will be required to adjust the item directly between themselves.

The rule filing also makes a technical correction to the current Fund/SERV rules to clarify that NSCC will not process redemption transactions in mutual fund shares where book share mutual funds are held in customer name or mutual fund shares are held in physical form unless the mutal fund issues a "release" to NSCC.

Since the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible, it is consistent with the

requirements of section 17A of the Act, and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of NSCC. All submissions should refer to File Number SR-NSCC-90-14 and should be submitted by October 22, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23067 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28454; Filed No. SR-NYSE-90-41]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Rule 80A (Limitations on Trading During Significant Market Declines)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 19, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 80A to clarify the applicability of the Rule's provisions regarding stabilization procedures as they apply to index arbitrage stock liquidation orders entered on the last business day of a month prior to the expiration or settlement of options or futures contracts based on a stock index. The NYSE requests accelerated approval for the proposal so that its provisions will be in effect on a temporary basis on Friday, September 21, 1990, the next expiration Friday. The Exchange also requests permanent approval of the proposal beyond the September 1990 expiration.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify the stabilization requirements of Rule 80A as they apply to orders to liquidate stock positions established in relation to index options or futures contracts entered on the last business day prior to the expiration of such index options or futures contracts (so-called "expiration Fridays"). Under paragraphs (c) and (d) of Exchange Rule 80A, when the Dow Jones Industrial Average ("DJIA") advances or declines by 50 points or more from its previous trading day's closing value, all index arbitrage orders (as defined in Rule 80A) to buy or sell any of the component stocks of the Standard & Poor's 500 Stock Price Index ("S&P 500 Index") must be entered with the instruction "buy minus" (in the event of a 50 point advance in the DJIA) or "sell plus" (in the event of a 50 point decline in the DJIA). The requirements remain in effect for the remainder of the trading day, unless the DJIA moves to within 25 points of its previous day's close, when the restrictions are removed. They are reinstated if the DJIA again moves 50 points or more away from the previous day's close. The purpose of the "buy minus"—"sell plus" requirements for index arbitrage orders is to promote market stabilization by minimizing excess volatility during periods of significant market movement.

The Exchange proposes to add paragraph (g) to Exchange Rule 80A to provide that the provisions of paragraphs (c) and (d) of Exchange Rule 80A will not apply on expiration Fridays to index arbitrage market-at-the-close ("MOC") orders to liquidate previously established stock positions.[1] The Exchange does not believe that this provision will adversely affect market stability because market stabilization in what are usually the most active of these stocks is fostered by the order entry and imbalance publication procedures utilized by the Exchange on expiration Fridays. Under those procedures, MOC orders relating to

[1] The Commission approved the provisions of paragraphs (c) and (d) of Exchange Rule 80A as a pilot program to run until July 31, 1991. *See* Securities Exchange Act Release No. 28282, 55 FR 31468 (July 30, 1990) (order approving File Nos. SR-NYSE-90-5 and SR-NYSE-90-11).

index derivative products in the 50 highest capitalized stocks in the S&P 500 Index, and any component stocks of the Major Market Index not included in this group of 50, must be entered by 3 p.m. Eastern Time. This allows for publication of order imbalances in these stocks to be made at times subsequent to 3 p.m. to attract orders on the opposite side of an imbalance. The only MOC orders in such stocks which may be entered after 3 p.m. are orders which offset a published imbalance. However, the liquidation of positions relating to a strategy involving stock index futures, stock index options, or options on stock index futures, using MOC orders entered after 3 p.m., is not permitted, even if such orders might offset reported imbalances. These procedures have generally proven effective in maintaining market equilibrium on expiration Fridays.

The Exchange believes that its opening procedures have been very effective in minimizing any excess volatility that may be associated with the expiration of these derivative index products whose settlement value is based on the NYSE opening price. The Exchange is continuing to urge that the settlement value of all derivative index products be based on the NYSE opening price.

2. Statutory Basis

The NYSE believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides in pertinent part that the rules of the Exchange are to be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

In addition to seeking permanent approval for the proposed rule change, the NYSE has requested accelerated approval for the proposal so that its provisions will be in effect on a temporary basis on Friday, September 21, 1990, the next expiration Friday.

The Commission believes that the proposed exemption from paragraphs (c) and (d) of Exchange Rule 80A for index arbitrage MOC orders entered on expiration Fridays should be approved for the September 21, 1990 expiration to enable persons to unwind previously established arbitrage positions. Moreover, the market stabilizing effects of the NYSE's closing procedures on expiration Fridays should help to counteract the impact of the unwinding of such positions.

Accordingly, the Commission finds that the proposed rule change to provide an exemption from Exchange Rule 80A for index arbitrage MOC orders on Friday, September 21, 1990, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, section 6.[2] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act because it will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission finds good cause for approving the proposal on a temporary basis for Friday, September 21, 1990, prior to the thirtieth day of publication of notice of filing thereof in the Federal Register in order to permit investors to unwind previously established index arbitrage positions without the risk of market exposure should Exchange Rule 80A be triggered on September 21, 1990. With respect to permanent approval of the proposal, 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 self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 22, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[3] that the portion of the proposed rule change (SR-NYSE-90-41) allowing the proposal to be in effect on a temporary basis on Friday, September 21, 1990, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: September 20, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23068 Filed 9-28-90; 8:45 am]

BILLING CODE 8010-01-M

[2] 15 U.S.C. 78f (1984).

[3] 15 U.S.C. 78s(b)(2) (1984).

[4] 17 CFR 200.30-3(a)(12) (1989).

DEPARTMENT OF STATE

[Public Notice 1272]

The U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group D; Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 29, 1990 at 10 a.m. in room 3524 Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting is to review and approve delayed contributions for the meeting of Study Group VII, to review the results of September meeting of Study Group VIII,

and the October meeting of Study Group XVII, as well as to review comments and action on proposals for the Organization, work plan, and terms of reference for the subcommittee on Message Handling Systems-Management Domain. Any other business within the scope of Study Group may be raised and considered.

Members of the geneal public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building passes are required for each attendee. Entry will be facilitated if arrangements are made in advance for the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Gary Fereno, State Department, Washington, DC, telephone (202)647-5220. All attendees must use the C Street entrance to the building.

Dated: September 18, 1990.

Earl S. Barbely,

Director, Office of Telecomunications and Information Standards; Chairman, U.S. CCITT National Committee.

[FR Doc. 90-23070 Filed 9-28-90; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 90-27]

Commercial Space Transportation Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. 1), notice is hereby given of a meeting of the Commerical Space Transportation Advisory Committee. The meeting will take place on Thursday, October 18, 1990 from 8:30 a.m. to 4:30 p.m. in room 2230 of the Department of Transportation's headquarters building at 400 Seventh Street, SW. in Washington, DC. This will be the twelfth meeting of the Committee. The meeting will address issues as outlined in the attached agenda.

This meeting is open to the interested public, but may be limitd to the space available. Additional information may be obtained by contacting Linda H. Strine at (202) 366-5770.

Dated: September 25, 1990.

Stephanie Lee-Miller,

Director, Office of Commercial Space Transportation.

Draft Comstac Agenda, Thursday, October 18, Rm. 2230

8:30-8:45 a.m.
Welcome Remarks—Secretary Skinner.
8:45-9 a.m.
Opening of COMSTAC Meeting—Dr. Lovelace.
9-9:10 a.m.
Introduction of the Honorable Bob Walker, (R-Pa.)—Ms. Lee-Miller (Invited).
9:10-9:50 a.m.
Congressman Walker—Legislative Update.
9:50-10:20 a.m.
OCST Director's report—Ms. Lee-Miller.
10:20-10:30 a.m.
Break.
10:30-11:30 a.m.
OCST Staff Reports—Licensing Issues—Norman Bowles.
Trade and Other Policy Issues—Gerald Musarra.
11:45-12:45 p.m.
Lunch—Mess.
1-1:20 p.m.
Trade issues—Report on ESA Negotiations; Update on PRC Agreement—Gerald Musarra.
1:20-1:30 p.m.
Q&A.
1:30-1:45 p.m.
New Policy Issues: International Working Group Report—Al Kehlet.
2-2:15 p.m.
Procurement Working Group Report—Jerry Simonoff.
2:30-2:45 p.m.
Infrastructure Working Group Report—Steve Dorfman.
3-3:30 p.m.
New COMSTAC Issues and business—Dr. Lovelace.
3:30-4 p.m.
Announcement of new COMSTAC Chairman—Dr. Lovelace.
4-4:40 p.m.
Closing Remarks and Adjourn—Lovelace & Lee-Miller.

[FR Doc. 90-23069 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[OGD 90-058]

Chemical Transportation Advisory Committee; Request for Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). This Committee advises the Chief, Office of Marine Safety, Security and Environmental Protection on regulatory requirements for promoting safety in the transportation of hazardous materials on vessels and the transfer of these materials between vessels and waterfront facilities.

Applications will be considered for eight expiring terms and any other existing vacancies. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in application from minorities and women.

The Committee usually meets at least once a year in Washington, DC, with Subcommittee meetings for specific problems on an as-required basis.

DATES: Requests for applications should be received no later than January 1, 1991.

ADDRESSES: Persons interested in applying should write to Commandant (G-MTH-1), U.S. Coast Guard, 2100 Second St. SW., Washington, DC, 20593-1000.

FOR FURTHER INFORMATION CONTACT: CDR Gordon Marsh or LCDR Bob Fitch, at the above mailing address or telephone (202) 267-1217.

Dated: September 25, 1990.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-23173 Filed 9-28-90; 8:45 am]

BILLING CODE 4910-14-M

[CGD 90-057]

Meeting of the Subcommittee on Inert Gas Systems, Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Subcommittee on Inert Gas Systems of the Chemical Transportation Advisory Committee (CTAC) will hold a meeting on Wednesday, October 24, 1990, in Room 1103, Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The Subcommittee was formed to develop guidelines for the safe operation and maintenance of inert gas systems. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. This meeting will be devoted to reviewing problems associated with the maintenance of existing inert gas systems in which the manufacturer of the system is either no longer in business or the specific system design is no longer produced and major components are not readily available.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements

should notify the persons indicated under "**FOR FURTHER INFORMATION CONTACT**" no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert Fitch or Commander Gordon Marsh, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–1217.

Dated: September 25, 1990.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90–23174 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–14–M

Aviation Security Advisory Committee Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of Aviation Security Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held October 18, 1990, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–3133.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held October 18, 1990, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for the meeting is to continue the review of several recommendations from the Report of the President's Commission on Aviation Security and Terrorism. Subcommittee chairs will provide updates on their subcommittee actions since the September 17, 1990, committee meeting. Attendance at the October 18 meeting is open to the public, but limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at anytime.

Persons wishing to present statements or obtain information should contact the Office of the Assistant Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–3133.

Issued in Washington, DC on September 21, 1990.

Monte R. Belger,

Acting Assistant Administrator for Civil Aviation Security.

[FR Doc. 90–23058 Filed 9–28–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 26–90]

Treasury Notes of September 30, 1992, Series AE–1992

Washington, September 20, 1990.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $11,500,000,000 of United States securities, designated Treasury Notes of September 30, 1992, Series AE–1992 (CUSIP No. 912827 ZH 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Maturing notes held by Federal Reserve Banks as agents for foreign and international monetary authorities may be rolled over on a noncompetitive basis within the public offering amount.

2. Description of Securities

2.1. The Notes will be dated October 1, 1990, and will accrue interest from that date, payable on a semiannual basis on March 31, 1991, and each subsequent 6 months on September 30 and March 31 through the date that the principal becomes payable. They will mature September 30, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1 p.m., Eastern Daylight Saving time, Tuesday, September 25, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, September 24, 1990, and received no later than Monday, October 1, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, *e.g.*, 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall

not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis or price per hundred, *e.g.*, 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investers and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, October 1, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, September 27, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John A. Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-23187 Filed 9-28-90; 3:28 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 27-90]

Treasury Notes of September 30, 1994, Series P-1994

Washington, September 20, 1990.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,250,000,000 of United States securities, designated Treasury Notes of September 30, 1994, Series P-1994 (CUSIP No. 912827 ZJ 4),

hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Maturing notes held by Federal Reserve Banks as agents for foreign and international monetary authorities may be rolled over on a noncompetitive basis within the public offering amount.

2. Description of Securities

2.1. The Notes will be dated October 1, 1990, and will accure interest from that date, payable on a semiannual basis on March 31, 1991, and each subsequent 6 months on September and March 31 through the date that the principal becomes payable. They will mature September 30, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, *i.e.*, Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1 p.m., Eastern Daylight Saving time, Wednesday, September 26, 1990. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 25, 1990, and received no later than Monday, October 1, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals *e.g.*, 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, *e.g.*, 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was

submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, October 1, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bill, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, September 27, 1990. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John A. Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-23188 Filed 9-26-90; 3:28 pm]

BILLING CODE 4810-40-M

Customs Service

Reduction of Service at Ports of Entry in the Event of Sequestration

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Customs may be required to initiate a number of emergency measures, including the reduction of hours of service at all ports of entry and the closing of certain small ports of entry, if its appropriations are sequestered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. This document gives notice to the public that Customs may be required to reduce services unless Congress passes a deficit-reduction program.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of the Comptroller, (202) 566-5187.

SUPPLEMENTARY INFORMATION:

Background

The Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177) subjects all Federal agencies to sequestration of their appropriations in the event that Congress does not pass a deficit-reduction program.

Officers and employees of Federal agencies are legally prohibited from obligating funds in excess of the post-sequester amount. The Antideficiency Act provides criminal sanctions for exceeding an apportionment or over-obligating funds. Section 1517(a) of title 31 prohibits officers and employees of the United States Government from making an obligation or expenditure exceeding an apportionment. An officer or employee of the U.S. government could be subject to criminal sanctions for making obligations or expenditures exceeding the amounts available in an appropriation fund. Section 1342 of title 31 prohibits officers or employees from volunteering to work.

In accordance with the above, in the event of a sequestration of funds, Customs, depending on the size and duration of the sequester, may need to either reduce or curtail hours of service. Among the emergency measures Customs anticipates that it may undertake are the reduction of hours of services at ports of entry and the possible closing of certain ports of entry. Customs will notify the public of specific port closures or reductions by press releases both nationally and locally. As soon as Customs is aware that such measures are required, the Commissioner will inform members of major trade organiations of the reduced hours or closing of particular ports of entry through written notices and will hold meetings, if possible. Further notification will be made on the local level by district directors and port directors who will hold meetings with trade organiztions and major users of their facilities to inform them of any reductions or closures.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 27, 1990.

Nancy L. Worthington,

Acting Assistant Secretary of the Treasury.

[FR Doc. 90-23323 Filed 9-27-90; 4:28 pm]

BILLING CODE 4820-02-M

Fiscal Service

[Department of the Treasury Circulars, Public Debt Series No. 4-67, Second Revision, and No. 750, Fourth Revision]

Bonds and Notes, U.S. Savings; Banks and Other Financial Institutions

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

ACTION: Notice on fee payments for issuing and paying agents.

SUMMARY: This notice is being published to announce that fees payable to qualified issuing and paying agents of United States Savings Bonds will be discontinued, reduced, or delayed effective October 1, 1990, for all bonds issued, and all bonds and savings notes paid, on or after that date. This action is being taken in response to the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, or the legislative resolution resulting therefrom. A final rule, appearing simultaneously in the Federal Register today, amends the governing regulations to authorize discontinuance of, or reduction or delay in the payment of fees.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Washington, DC 20239-0001 (202) 376-4320.

SUPPLEMENTARY INFORMATION: 31 CFR part 317, also issued as Department of the Treasury Circular, Public Debt Series No. 4–67, Second Revision, at § 317.6 (b), and 31 CFR part 321, also issued as Department of the Treasury Circular No. 750, Fourth Revision, at § 321.23 (a), provide, respectively, for the payment of fees to issuing agents of United States Savings Bonds, and to paying agents of such bonds and Savings Notes, collectively referred to herein as United States Savings Bonds. These sections further provide that a schedule of fees, and the basis on which the fees are computed and paid, will be separately published in the **Federal Register**. Further, both Parts provide that the Secretary of the Treasury has the authority to amend the provisions thereof, as needed. By final rule, also published in today's **Federal Register**, the above sections were amended to authorize discontinuance, reduction, or delay of the payment of fees to issuing and paying agents should timely action to avoid sequestration, as described below, not occur, or should budgetary cuts otherwise necessitate such action.

The sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901, *et seq.*), also known as the Gramm-Rudman-Hollings Act, provide for circumstances under which mandatory cuts in appropriations to Federal departments and agencies will be required by the beginning of the new fiscal year, October 1, 1990. This notice is being issued to notify the issuing and paying agents of United States Savings Bonds that, if the sequestration provisions become effective, or if budgetary reductions otherwise necessitate such action, the fees paid to issuing and paying agents for servicing savings bonds will be discontinued, reduced, or delayed until further notice. Payment of fees so affected may be hereafter made to the extent funds therefor become available, and provided such action is permitted by law.

The fee schedules are incorporated by reference in all issuing and paying agent agreements and the appropriate Treasury regulations, as well as the Issuing Agent Fee Statement (PDF 4982) distributed to issuing agents.

Dated: September 26, 1990.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

Schedule of Fees

To meet the mandatory cuts in appropriations required by the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901, *et seq.*), or in resulting legislation, the fees for the issue and payment of United States Savings Bonds are hereby discontinued, reduced, or delayed. This discontinuance, reduction, or delay shall remain effective until further notice. Once Congress has enacted appropriations legislation under which payments can be resumed, to the extent consistent with law, and depending upon the availability of funds therefor, payment will be made for servicing provided during the period the fees were discontinued, reduced, or delayed. Such payments will be made in accordance with the previous, or a revised, schedule of fees. In view of the exigency, in the event reductions in fees are made, public announcement of the reduced fees will be made as soon as possible after the appropriations legislation has become law, followed by appropriate notice in the **Federal Register**.

[FR Doc. 90–23234 Filed 9–27–90; 8:45 am]

BILLING CODE 4810–40–M

Office of Thrift Supervision

Hidalgo Federal Savings and Loan Assoc.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Hidalgo Federal Savings and Loan Association, Edinburg, Texas on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–23139 Filed 9–28–90; 8:45 am]

BILLING CODE 6720–01–M

Mercer Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by Section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Mercer Federal Savings Bank, Trenton, New Jersey, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–23140 Filed 9–28–90; 8:45 am]

BILLING CODE 6720–01–M

Sentry Savings Bank, F.S.B.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Sentry Savings Bank, F.S.B., Hyannis, Massachusetts, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–23141 Filed 9–28–90; 8:45 am]

BILLING CODE 6720–01–M

Texas Commercial Federal Savings Assoc.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Texas Commercial Federal Savings Association, Sulphur Springs, Texas on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–23142 Filed 9–28–90; 8:45 am]

BILLING CODE 6720–01–M

Yorkville Federal Savings Assoc.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Yorkville Federal Savings Association, Bronx, New York, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23143 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Caprock Federal Savings and Loan Assoc.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Caprock Federal Savings and Loan Association, Lubbock, Texas, with the Resolution Trust Corporation as sole Receiver for the Association on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23136 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Assoc. of Seminole; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Seminole, Seminole, Oklahoma, Docket No. 2954, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23127 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

First Savings Association, F.A.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Savings Association, F.A., Bismarck, North Dakota, Docket No. 8746, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23126 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Heritage Federal Savings and Loan Assoc.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Heritage Federal Savings and Loan Association, Monroe, North Carolina, OTC Docket No. 5634, with the Resolution Trust Corporation as sole Receiver for the Association on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervison.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23137 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Hidalgo Savings and Loan Assoc.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Hidalgo Savings and Loan Association, Edinburg, Texas on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervison.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23129 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Mercer Savings Bank, SLA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Mercer Savings Bank, SLA, Trenton, New Jersey, Docket No. 1900, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervison.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23130 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Mercury Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Mercury Federal Savings and Loan Association, Huntington Beach, California, Docket No. 8833, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervison.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23131 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Midwest Federal Savings Bank of Minot; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Midwest Federal Savings Bank of Minot, Minot, North Dakota, with the Resolution Trust Corporation as sole Receiver for the Association on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23138 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

North Carolina Savings and Loan Association, F.A.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for North Carolina Savings and Loan Association, F.A., Charlotte, North Carolina, Docket No. 8769, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23132 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Sentry Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as sole Receiver for the Sentry Federal Savings Bank, Hyannis, Massachusetts, Docket No. 1450, on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23133 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Texas Commercial Savings Assoc.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Texas Commercial Savings Association, Sulphur Springs, Texas on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23134 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

Yorkville Federal Savings and Loan Assoc.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Yorkville Federal Savings and Loan Association, Bronx, New York on September 21, 1990.

Dated: September 25, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-23135 Filed 9-28-90; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Courtly Splendor: Twelve Centuries of Treasures from Japan" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The Museum of Fine Arts, Boston beginning on or about October 17, 1990 to on or about November 25, 1990, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: September 26, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90-23199 Filed 9-28-90; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by October 31, 1990.

Dated: September 25, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Reinstatement

1. Veterans Benefits Administration.

2. Placement Certificate for Manufactured Home.

3. VA Form 26-8644.

4. The form transmits the veteran's and dealer's-seller's certification on placement of a manufactured home on the site previously approved by VA; and assures that the veteran has received

the manufacturer's warranty and all accessories included in the loan.

5. On occasion.

6. Individuals or house; businesses or other for-profit.

7. 500 responses.

8. ⅙ hour.

9. Not applicable.

[FR Doc. 90-23122 Filed 9-28-90; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by October 31, 1990.

Dated: September 25, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

1. Veterans Benefits Administration.

2. Statement in Support of Claim.

3. VA Form 21-4138.

4. The form is used by or on behalf of a claimant to provide self-certified statements in support of various types of claims processed by VA. The information is used to determine eligibility to VA benefits.

5. On occasion.

6. Individuals or households.

7. 752,000 responses.

8. ¼ hour.

9. Not applicable.

[FR Doc. 90-23123 Filed 9-28-90; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The Agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by October 31, 1990.

Dated: September 25, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration.

2. Water—Plumbing Systems Inspection Report (Manufactured Home).

3. VA Form 26-8731a.

4. The form is completed by inspectors and serves as an inspection report on the water and plumbing systems of used manufactured home units proposed as security for guaranteed loans. The information is used to determine acceptability of VA guaranteed financing.

5. On occasion.

6. Individuals or house; businesses or other for-profit.

7. 1,000 responses.

8. 2 hours.

9. Not applicable.

[FR Doc. 90-23124 Filed 9-28-90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 190
Monday, October 1, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection e(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 8:34 a.m. on Tuesday, September 27, 1990, the Corporation's Board of Directors determined, on motion of C.C. Hope, Jr., Director (Appointive), seconded by Robert L. Clarke, Director (Comptroller of the Currency), concurred in by Andrew C. Hove, Jr., Vice Chairman of the Board of Directors, T. Timothy Ryan, Jr., Director (Office of Thrift Supervision), and L. William Seidman, Chairman of the Board of Directors, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the Bank Insurance Fund's mid-year results.

The Board further determined, by the same majority vote, that no notice of the change in the subject matter of the meeting earlier than September 21, 1990, was practicable.

Dated: September 27, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-23259 Filed 9-27-90; 1:40 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:51 p.m. on Tuesday, September 25, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Recommendation concerning administrative enforcement proceedings.

Matters relating to the probable failure of certain insured banks.

Matters relating to assistance agreements with depository institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairperson Andrew C. Hove, Jr., concurred in by Director Robert L. Clarke (Comptroller of the Currency), Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Baord Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: September 26, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-23237 Filed 9-27-90; 10:49 am]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 55, No. 190
Monday, October 1, 1990

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.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44558; FRL 3800-9]

TSCA Chemical Testing; Receipt of Test Data

Correction

In notice document 90-21272 beginning on page 37356, in the issue of Tuesday, September 11, 1990, make the following correction:

On page 37357, in the first column, in the file line at the end of the document, "FR Doc. 90-21722" should read "FR Doc. 90-21272".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Carcinogenic Potential of Selected Dusts Assessment; NIOSH Meeting

Correction

In notice document 90-21065 beginning on page 36897 in the issue of Friday, September 7, 1990, make the following correction:

On page 36897, in the second column, in the fifth line, "FR Doc. 90-21605" should read "FR Doc. 90-21065".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Floyd A. Santner, M.D.; Denial of Applications

Correction

In notice document 90-21308 beginning on page 37581, in the issue of Wednesday, September 12, 1990, make the following correction:

On page 37583, in the second column, on the fourth line, "FR Doc. 90-21038" should read "FR Doc. 90-21308".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AAL-7]

Proposed Amendment to Anchorage, King Salmon, Point Barrow, Kotzebue, and Nome Transition Areas; AK

Correction

In proposed rule document 90-21368 beginning on page 37486, in the issue of Wednesday, September 12, 1990, make the following correction:

§ 71.181 [Corrected]

On page 37487, in the second column, under **Anchorage, AK [Revised]**, in the 18th line, "Cordova" was misspelled.

BILLING CODE 1505-01-D

federal register

Monday
October 1, 1990

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-90-3079; FR-2790-F-02]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) periodically, but not less frequently than annually, to be effective on October 1 of each year. The Department published proposed FY 1991 FMRs for the Section 8 Existing Housing Program on May 18, 1990 (55 FR 20682) and solicited public comments. Today's notice announces final FY 1991 FMR schedules for the Section 8 Existing Housing Certificate Program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the Section 8 Existing Housing Certificate Program (part 882, subpart F); the Section 8 Moderate Rehabilitation Program (part 882, subparts D and E); and Section 8 existing housing assisted under part 886, subparts A and C (Section 8 loan management and property disposition programs). FMRs are also used to determine payment standard schedules in the Housing Voucher Program.

EFFECTIVE DATE: The FMRs published in this notice are effective on October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Rental Assistance Division, Office of Elderly and Assisted Housing, telephone (202) 708-0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708-0577. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards based on FMRs in the Housing Voucher Program) established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to rent privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually, to be effective on October 1 of each year. The FMRs must reflect changes based on the most recent available data, so FMRs will be current for the year in which they apply. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment, analyzing the public comment, and publishing final FMRs. (See 24 CFR 888.115.) On May 18, 1990 (55 FR 20682), the Department proposed FMRs for Section 8 existing housing for FY 1991. Today's notice contains an analysis and response to public comments and makes appropriate revisions to the proposed FMRs.

The FMRs for 1991 announced in this notice govern the following Section 8 Housing Assistance Payments Programs: The Section 8 Existing Housing Certificate Program under part 882 (subparts A and B), including space rentals by owners of manufactured homes (subpart F), the Moderate Rehabilitation Program under part 882 (subparts D and E), the Section 8 Housing Assistance Program for Projects with HUD-insured or HUD-held Mortgages under part 886 (subpart A), as well as for existing housing under the Section 8 Housing Assistance Program for the Disposition of HUD-owned Projects under Part 886 (subpart C). In addition, FMRs are used to establish payment standards for the Housing Voucher Program.

Proposed Fair Market Rents

The proposed FY 1991 FMRs published on May 18, 1990 (55 FR 20682) reflected estimated rent levels projected forward to April 1, 1991. The criteria and methodology used by HUD in developing the proposed FMRs appear at 24 CFR part 888, subpart A, and have been in use since 1983.

The criteria used by HUD in developing FMRs are: (1) The 45th percentile rent (that is, the rent below which 45 percent of the standard quality rental housing units are distributed); (2) rents based on units occupied by recent movers (households who moved within two years before the date of the survey data used in these calculations); and (3) exclusion from the data base of public housing units and recently completed housing (units built within two years of the survey dates). (See 24 CFR 888.113.) The FMRs for manufactured home spaces are based on the 45th percentile rent for manufactured home spaces. (See 24 CFR 888.113(a).)

In establishing the proposed FMRs, HUD used the most accurate data available. Data used to compute the FY 1991 FMRs include the 1980 Census data, Post-1980 American Housing Survey (AHS) data, the reliable area specific data submitted by public commenters since FY 1986, the year the FMRs were revised with the 1980 Census.

The proposed FY 1991 FMRs were calculated by updating FY 1990 FMRs one additional year to April 1, 1991, based on the most recent CPI data available on average annual changes for rentals and utilities. The proposed FY 1991 FMRs for manufactured home spaces were calculated by updating FY 1990 FMRs to April 1, 1991, using the most current average annual change in the CPI residential rent index (with heating costs included in the rent factored out).

Administrative Fees

The FMRs published for effect will be used to calculate the PHA ongoing administrative fee. For a PHA administering a Section 8 program in an area where the two-bedroom FMR has increased, the PHA's administrative fee will be adjusted as of October 1, 1990. For a PHA administering a Section 8 program in an area where the two-bedroom FMR is decreased, the PHA's administrative fee will be adjusted as of the first day of the PHA's fiscal year that begins after October 1, 1990.

Public Comments

HUD received 99 comments covering 86 FMR areas in response to the publication of its proposed FY1991 FMRs. This total included comments from three metropolitan areas that supported the proposed FMRs, and a comment from a PHA in Arkansas covering nine nonmetropolitan counties that was subsequently withdrawn because the commenter misunderstood the purpose of the notice and did not have concerns about the FMRs.

Based on the Department's incorporating results of the 1987 and 1988 AHS data and decreases in two local CPI surveys, reductions in this

year's FMRs were proposed for the following six areas:

San Jose, CA PMSA; Boulder-Longmont, CO PMSA; Denver, CO PMSA; Buffalo, NY PMSA; Oklahoma City, OK MSA; Salt Lake City-Ogden, UT MSA.

Comments were received from all six of these areas. Only one, however, included sufficient rental market data to cause the Department to revise the proposed FMRs. The rental survey information submitted for Salt Lake City resulted in a final FMR that is less than the previous year's FMR, but higher than the proposed FMR.

The Department proposed no change in the FMRs for areas in Alaska based on a prior decision that the Anchorage CPI survey more accurately reflected local market rent changes than did the West Census Region CPI data. A comment received from the State Agency presented information showing that conditions had recently improved in some of the Alaska FMR areas. As a result of this comment, modifications have been approved for the following areas:

Fairbanks-North Star, Juneau, Kenai Peninsula, Ketchikan, Kodiak Island, Matanuska-Susitna, Sitka, Valdez, Wrangle-Petersburg.

The Department evaluated all of the comments carefully and has modified FMRs where the survey data were acceptable or where deficiencies were identifiable and could be corrected. Based on the results of this evaluation, the FMRs for 25 areas are being increased in response to information provided by the commenters. For 15 areas, no rental housing survey data were submitted, while for 34 other areas, the surveys submitted were found to be inadequate to provide a basis for revising the FMRs or were determined not to be representative of the rent level for the entire FMR area.

Solely because of the need to comply with the August 23, 1990 Order issued by the United States District Court in *Kyte v. Housing Authority of the City of Pittsburgh, et al.*, Civ. Action No. 83-1267 (W.D.Pa.), the FMRs for the Pittsburgh, Pennsylvania PMSA have been calculated other than in accordance with the applicable regulations in 24 CFR 888.113. However, publication of the Pittsburgh FMRs is done without waiving in any respect the Department's rights to appeal and seek a stay pending appeal of that Order, or to take any other lawful steps to have the Pittsburgh FMRs restored to the level required by the regulations.

Rental Housing Survey Instrument

In the May 18, 1990 publication of the proposed FMRs, the Department announced the availability of an FMR survey approach that is based on a Random Digit Dialing (RDD) telephone survey methodology. This survey provides a statistically reliable means for obtaining FMR estimates, and is recommended for use in areas that have a sufficient number of Section 8 units under contract to justify the approximately $15,000 to $20,000 individual survey cost. The RDD survey technique is based on a sampling procedure that uses computers to select a statistically random sample, dial and keep track of the telephone numbers, and process the responses. Because of the complexity of drawing the sample and sequencing the large number of calls required to complete one of these surveys successfully, the use of a survey contractor with specialized knowledge and equipment is required.

The "PHA Guide to Conducting a Fair Market Rent (FMR) Telephone Survey" is available from HUD USER by calling 1-800-245-2691. This guide is intended for local governments or PHAs that believe their FMRs are too high, or too low, and wish to obtain the data needed to revise them. The information contained in the guide provides a full explanation of how to decide whether to use the survey and step-by-step instructions on how to proceed. Because it takes a minimum of two to three months to contract for and conduct one of these surveys, interested PHAs concerned about the accuracy of their FMRs may wish to begin now to ensure that results are available in time for the next publication of FMRs.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321-4374) is unnecessary, since the Section 8 Existing Housing program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned 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.

This document does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the document indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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 21, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

Section 8 Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for Existing Housing (Schedule B) are established for all Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, District of Columbia, Puerto Rico, the Virgin Islands, and Guam. FMRs also are established for nonmetropolitan parts of counties in the New England states.

b. FMRs for Manufactured Home spaces in the Section 8 Certificate Program (Schedule D) are established for all MSAs, PMSAs, selected nonmetropolitan portion of each State.

c. The current 339 MSAs and PMSAs are those established by the Office of Management and Budget effective in June 1986.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by MSA-PMSA and nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each MSA and PMSA are listed immediately following the listings of the FMR dollar amounts. All of the

constituent parts of an MSA that are in more than one State can be identified by consulting listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FRM area name.

BILLING CODE 4210-27-M

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anniston, AL MSA	243	294	346	435	486	Calhoun
Birmingham, AL MSA	282	343	403	504	564	Blount, Jefferson, St Clair, Shelby, Walker
Columbus, GA-AL MSA	251	302	358	448	505	Russell
Decatur, AL MSA	248	301	356	445	499	Lawrence, Morgan
Dothan, AL MSA	284	343	404	506	566	Dale, Houston
Florence, AL MSA	256	313	370	459	514	Colbert, Lauderdale
Gadsden, AL MSA	222	271	321	401	449	Etowah
Huntsville, AL MSA	286	346	407	511	572	Madison
Mobile, AL MSA	295	358	421	527	592	Baldwin, Mobile
Montgomery, AL MSA	260	318	374	469	525	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	274	333	393	490	551	Tuscaloosa

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	205	249	294	368	412
Bullock	209	254	299	375	420
Chambers	203	247	291	365	407
Chilton	199	243	287	358	400
Clarke	222	271	321	401	449
Cleburne	203	247	291	365	407
Conecuh	222	271	321	401	449
Covington	205	249	294	368	412
Cullman	248	301	356	445	499
De Kalb	235	285	334	417	470
Fayette	199	243	287	358	400
Geneva	205	249	294	368	412
Hale	199	243	287	358	400
Jackson	235	285	334	417	470
Lee	254	309	365	457	512
Lowndes	209	254	299	375	420
Marengo	222	271	321	401	449
Marshall	218	265	312	388	434
Perry	222	271	321	401	449
Pike	222	270	320	399	447
Sumter	222	271	321	401	449
Tallapoosa	203	247	291	365	407
Wilcox	222	271	321	401	449

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bibb	199	243	287	358	400
Butler	213	258	305	382	428
Cherokee	203	247	291	365	407
Choctan	222	271	321	401	449
Clay	203	247	291	365	407
Coffee	278	336	396	496	555
Coosa	203	247	291	365	407
Crenshaw	209	254	299	375	420
Dallas	222	271	321	401	449
Escambia	188	231	269	338	378
Franklin	199	242	285	356	398
Greene	199	243	287	358	400
Henry	205	249	294	368	412
Lamar	199	243	287	358	400
Limestone	210	256	302	378	424
Macon	222	270	320	399	447
Marion	199	242	285	356	398
Monroe	222	271	321	401	449
Pickens	199	243	287	358	400
Randolph	203	247	291	365	407
Talladega	203	247	291	365	407
Washington	222	271	321	401	449
Winston	199	242	285	356	398

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.

092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anchorage, AK MSA	382	465	547	684	766	Anchorage

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aleutian I	454	551	649	812	909
Bristol Bay	454	551	649	812	909
Fairbanks No. Star	431	524	616	770	862
Juneau	543	659	775	969	1085
Ketchikan Gateway	550	668	786	983	1100
Kodiak Island	609	739	870	1088	1219
Nome	454	551	649	812	909
Pr Wales-Outer Ket	454	551	649	812	909
Skgwy-Ykutt-Angoon	454	551	649	812	909
Valdez-Cordova	573	695	818	1023	1145
Wrangellpetersburg	510	619	728	910	1019

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bethel	454	551	649	812	909
Dillingham	454	551	649	812	909
Haines	454	551	649	812	909
Kenai-Penin	419	509	599	749	839
Kobuk	454	551	649	812	909
Matanuska-Susitna	386	468	551	689	771
North Slope	454	551	649	812	909
Sitka	510	619	728	910	1019
Southeastfairbanks	373	454	534	668	749
Wade Hampton	454	551	649	812	909
Ykn-Koykk	454	551	649	812	909

A R I Z O N A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Phoenix, AZ MSA	403	490	575	720	806	Maricopa
Tucson, AZ MSA	393	479	564	706	791	Pima

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Apache	287	349	411	514	576
Coconino	365	443	522	654	732
Graham	293	357	418	525	589
Lapaz	370	450	531	663	744
Nauajo	287	349	411	514	576
Santa Cruz	293	357	418	525	589
Yuma	370	450	531	663	744

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Cochise	293	357	418	525	589
Gila	295	360	426	531	593
Greenlee	293	357	418	525	589
Mohaue	370	450	531	663	744
Pinal	295	360	426	531	593
Yavapai	365	443	522	654	732

A R K A N S A S

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Fayetteville-Springdale, AR MSA	267	323	381	476	534	Washington
Fort Smith, AR-OK MSA	257	314	370	464	519	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	308	373	439	551	617	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	298	361	425	529	592	Crittenden
Pine Bluff, AR MSA	254	311	367	460	514	Jefferson
Texarkana, TX-Texarkana, AR MSA	255	310	366	459	513	Miller

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Arkansas	216	261	310	387	434
Baxter	245	298	353	440	495
Boone	245	298	353	440	495
Calhoun	207	254	297	373	417
Chicot	206	249	294	369	414
Clay	231	281	329	413	463
Cleveland	213	258	306	382	428
Conway	212	257	305	381	426
Cross	217	267	314	388	434
Desha	206	249	294	369	414
Franklin	192	233	275	343	384
Garland	226	277	324	406	457
Greene	231	281	329	413	463
Hotspring	226	277	324	406	457
Independence	241	293	346	432	484
Jackson	241	293	346	432	484
Lafayette	211	254	301	378	424
Lee	217	267	314	388	434
Little River	211	254	301	378	424
Madison	245	298	353	440	495
Mississippi	249	305	358	447	503
Montgomery	226	277	324	406	457
Newton	245	298	353	440	495
Perry	212	257	305	381	426
Pike	226	277	324	406	457
Polk	230	279	327	409	460
Prairie	185	225	267	333	372
St Francis	217	267	314	388	434
Searcy	245	298	353	440	495
Sharp	241	293	346	432	484
Union	207	254	297	373	417
White	241	293	346	432	484
Yell	212	257	305	381	426

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashley	206	249	294	369	414
Benton	254	309	360	443	495
Bradley	206	249	294	369	414
Carroll	245	298	353	440	495
Clark	226	277	324	406	457
Cleburne	241	293	346	432	484
Columbia	207	254	297	373	417
Craighead	271	327	386	482	542
Dallas	207	254	297	373	417
Drew	206	249	294	369	414
Fulton	241	293	346	432	484
Grant	213	258	306	382	428
Hempstead	211	254	301	378	424
Howard	211	254	301	378	424
Izard	241	293	346	432	484
Johnson	212	257	305	381	426
Lawrence	231	281	329	413	463
Lincoln	206	249	294	369	414
Logan	192	233	275	343	384
Marion	245	298	353	440	495
Monroe	185	225	267	333	372
Nevada	211	254	301	378	424
Ouachita	207	251	295	371	417
Phillips	217	267	314	388	434
Poinsett	231	281	329	413	463
Pope	212	257	305	381	426
Randolph	231	281	329	413	463
Scott	192	233	275	343	384
Sevier	211	254	301	378	424
Stone	241	293	346	432	484
Van Buren	241	293	346	432	484
Woodruff	241	293	346	432	484

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anaheim-Santa Ana, CA PMSA	604	732	863	1078	1208	Orange
Bakersfield, CA MSA	403	489	576	720	807	Kern
Chico, CA MSA	353	430	506	632	708	Butte
Fresno, CA MSA	367	447	526	657	737	Fresno
Los Angeles-Long Beach, CA PMSA	536	642	747	957	1081	Los Angeles
Merced, CA MSA	346	420	495	637	723	Merced
Modesto, CA MSA	386	469	554	693	775	Stanislaus
Oakland, CA PMSA	533	648	763	954	1068	Alameda, Contra Costa
Oxnard-Ventura, CA PMSA	515	627	737	921	1033	Ventura
Redding, CA MSA	367	447	526	657	737	Shasta
Riverside-San Bernardino, CA PMSA	437	516	602	779	877	Riverside, San Bernardino
Sacramento, CA MSA	388	463	554	805	855	El Dorado, Placer, Sacramento, Yolo
Salinas-Seaside-Monterey, CA MSA	441	536	629	789	884	Monterey
San Diego, CA MSA	475	583	684	857	959	San Diego
San Francisco, CA PMSA	639	775	919	1144	1281	Marin, San Francisco, San Mateo
San Jose, CA PMSA	590	716	844	1054	1181	Santa Clara
Santa Barbara-Santa Maria-Lompoc, CA MSA	498	605	713	893	999	Santa Barbara
Santa Cruz, CA PMSA	572	694	819	1023	1146	Santa Cruz
Santa Rosa-Petaluma, CA PMSA	503	610	720	901	1009	Sonoma
Stockton, CA MSA	341	412	485	621	725	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	467	534	628	907	978	Napa, Solano
Visalia-Tulare-Porterville, CA MSA	342	417	491	712	779	Tulare
Yuba City, CA MSA	302	369	434	572	642	Sutter, Yuba

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alpine	403	489	576	720	807
Calaueras	403	489	576	720	807
Del Norte	367	447	526	657	737
Humboldt	379	460	542	678	761
Inyo	403	489	576	720	807
Lake	367	447	526	657	737
Madera	332	404	475	597	666
Mendocino	367	447	569	719	737
Mono	403	489	576	720	807
Plumas	337	409	481	601	676
San Luis Obispo	455	554	653	817	915
Siskiyou	337	409	481	601	676
Trinity	367	447	526	657	737

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Amador	403	489	576	720	807
Colusa	303	370	436	548	614
Glenn	303	370	436	548	614
Imperial	382	464	546	683	765
Kings	332	404	475	594	666
Lassen	337	409	481	601	676
Mariposa	403	489	576	720	807
Modoc	337	409	481	601	676
Nevada	451	550	646	808	904
San Benito	332	404	509	654	734
Sierra	451	550	646	808	904
Tehama	337	409	481	601	676
Tuolumne	403	489	576	720	807

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Boulder-Longmont, CO PMSA	359	437	514	643	721	Boulder
Colorado Springs, CO MSA	327	396	467	585	655	El Paso
Denver, CO PMSA	332	404	476	594	666	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	376	458	538	673	755	Larimer
Greeley, CO MSA	326	395	465	583	653	Weld
Pueblo, CO MSA	325	393	463	580	651	Pueblo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alamosa	325	393	463	580	651
Baca	283	341	396	496	557
Chaffee	360	436	513	643	721
Clear Creek	360	436	513	643	721
Costilla	325	393	463	580	651
Custer	360	436	513	643	721
Delores	325	393	463	580	651
Elbert	277	337	396	496	557
Garfield	408	495	584	731	818
Grand	429	519	611	765	858
Hinsdale	429	519	611	765	858
Jackson	429	519	611	765	858
Kit Carson	277	337	396	496	557
La Plata	361	433	511	638	716
Lincoln	283	341	396	496	557
Mesa	408	495	584	731	818
Moffat	408	495	584	731	818
Montrose	429	519	611	765	858
Otero	283	341	396	496	557
Park	360	436	513	643	721
Pitkin	429	519	611	765	858
Rio Blanco	408	495	584	731	818
Routt	429	519	611	765	858
San Juan	325	393	463	580	651
Sedgwick	277	337	396	496	557
Teller	360	436	513	643	721
Yuma	277	337	396	496	557

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Archuleta	325	393	463	580	651
Bent	283	341	396	496	557
Cheyenne	277	337	396	496	557
Conejos	325	393	463	580	651
Crowley	283	341	396	496	557
Delta	429	519	611	765	858
Eagle	429	519	611	765	858
Fremont	360	436	513	643	721
Gilpin	360	436	513	643	721
Gunnison	429	519	611	765	858
Huerfano	325	393	463	580	651
Kiowa	283	341	396	496	557
Lake	360	436	513	643	721
Las Animas	325	393	463	580	651
Logan	277	337	396	496	557
Mineral	325	393	463	580	651
Montezuma	325	393	463	580	651
Morgan	277	337	396	496	557
Ouray	429	519	611	765	858
Phillips	277	337	396	496	557
Prowers	283	341	396	496	557
Rio Grande	325	393	463	580	651
Saguache	325	393	463	580	651
San Miguel	429	519	611	765	858
Summit	429	519	611	765	858
Washington	277	337	396	496	557

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Bridgeport-Milford, CT PMSA	467	568	670	836	938	Fairfield county towns of Bridgeport, Easton, Fairfield Monroe, Shelton, Stratford, Trumbull New Haven county towns of Ansonia, Beacon Falls, Derby Milford, Oxford, Seymour
Bristol, CT PMSA	388	471	555	695	779	Hartford county towns of Bristol, Burlington Litchfield county towns of Plymouth
Danbury, CT PMSA	506	617	725	908	1018	Fairfield county towns of Bethel, Brookfield, Danbury New Fairfield, Newtown, Redding, Ridgefield, Sherman Litchfield county towns of Bridgewater, New Milford
Hartford, CT PMSA	467	569	665	839	935	Hartford county towns of Avon, Bloomfield, Canton East Granby, East Hartford, East Windsor, Enfield Farmington, Glastonbury, Granby, Hartford, Manchester Marlborough, Newington, Rocky Hill, Simsbury South Windsor, Suffield, West Hartford, Wethersfield Windsor, Windsor Locks Litchfield county towns of Barkhamsted, New Hartford Middlesex county towns of East Haddam New London county towns of Colchester Tolland county towns of Andover, Bolton, Columbia Coventry, Ellington, Hebron, Somers, Stafford, Tolland Vernon, Willington
Middletown, CT PMSA	393	478	564	706	791	Middlesex county towns of Cromwell, Durham, East Hampton Haddam, Middlefield, Middletown, Portland
New Britain, CT PMSA	416	505	595	744	835	Hartford county towns of Berlin, New Britain, Plainville Southington
New Haven-Meriden, CT MSA	503	612	721	903	1010	Middlesex county towns of Clinton, Killingworth New Haven county towns of Bethany, Branford, Cheshire East Haven, Guilford, Hamden, Madison, Meriden New Haven, North Branford, North Haven, Orange Wallingford, West Haven, Woodbridge
New London-Norwich, CT-RI MSA	447	544	639	799	896	New London county towns of Bozrah, East Lyme, Franklin Griswold, Groton, Ledyard, Lisbon, Montville, New London North Stonington, Norwich, Old Lyme, Preston, Salem Sprague, Stonington, Waterford Windham county towns of Canterbury
Norwalk, CT PMSA	539	655	771	964	1081	Fairfield county towns of Norwalk, Weston, Westport Wilton
Stamford, CT PMSA	650	790	930	1163	1302	Fairfield county towns of Darien, Greenwich, New Canaan Stamford
Waterbury, CT MSA	405	491	579	723	811	Litchfield county towns of Bethlehem, Thomaston Watertown, Woodbury New Haven county towns of Middlebury, Naugatuck, Prospect Southbury, Waterbury, Wolcott

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	388	471	555	695	779	Hartland
Litchfield	430	522	614	769	861	Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent Litchfield, Morris, Norfolk, North Canaan, Roxbury Salisbury, Sharon, Torrington, Warren, Washington Winchester
Middlesex	482	584	687	860	963	Chester, Deep River, Essex, Old Saybrook, Westbrook
New London	343	419	493	618	693	Lebanon, Lyme, Voluntown
Tolland	466	566	665	834	934	Mansfield, Union
Windham	411	500	589	737	826	Ashford, Brooklyn, Chaplin, Eastford, Hampton, Killingly Plainfield, Pomfret, Putnam, Scotland, Sterling Thompson, Windham, Woodstock

DELAWARE

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Wilmington, DE-NJ-MD PMSA	417	499	594	743	883	New Castle

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Kent	333	404	476	595	667
Sussex	333	404	476	595	667

DIST. OF COLUMBIA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Washington, DC-MD-VA MSA	511	621	731	914	1023	Washington

FLORIDA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Bradenton, FL MSA	358	436	514	642	719	Manatee
Daytona Beach, FL MSA	347	421	495	620	695	Volusia
Fort Lauderdale-Hollywood-Pompano Beach, FL PMSA	422	513	604	756	845	Broward
Fort Myers-Cape Coral, FL MSA	369	447	526	660	740	Lee
Fort Pierce, FL MSA	369	447	526	660	740	Martin, St Lucie
Fort Walton Beach, FL MSA	246	298	351	440	492	Okaloosa
Gainesville, FL MSA	312	379	446	559	625	Alachua, Bradford
Jacksonville, FL MSA	326	396	468	584	656	Clay, Duval, Nassau, St Johns
Lakeland-Winter Haven, FL MSA	293	358	422	527	591	Polk
Melbourne-Titusville-Palm Bay, FL MSA	337	404	477	597	669	Brevard
Miami-Hialeah, FL PMSA	403	491	578	722	809	Dade
Naples, FL MSA	378	459	541	677	758	Collier

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F L O R I D A continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Ocala, FL MSA	293	378	419	523	586	Marion
Orlando, FL MSA	360	439	516	628	702	Orange, Osceola, Seminole
Panama City, FL MSA	260	318	375	470	524	Bay
Pensacola, FL MSA	291	356	419	523	586	Escambia, Santa Rosa
Sarasota, FL MSA	388	472	556	694	779	Sarasota
Tallahassee, FL MSA	308	373	440	551	616	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	351	427	503	627	703	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton-Delray Beach, FL MSA	376	449	523	640	705	Palm Beach

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	238	287	338	424	476
Charlotte	356	434	511	637	715
Columbia	244	296	348	436	488
Dixie	217	267	314	392	440
Franklin	201	244	286	359	402
Glades	356	434	511	637	715
Hamilton	217	267	314	392	440
Hendry	356	434	511	637	715
Holmes	234	283	334	419	469
Jackson	209	253	298	374	420
Lafayette	217	267	314	392	440
Levy	272	331	389	486	545
Madison	217	267	314	392	440
Okeechobee	255	311	366	458	514
Sumter	272	329	389	486	545
Taylor	217	267	314	392	440
Wakulla	258	314	369	461	517
Washington	234	285	335	421	470

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Calhoun	201	244	286	359	402
Citrus	272	329	389	486	545
De Soto	255	311	366	458	514
Flagler	275	332	392	490	551
Gilchrist	217	267	314	392	440
Gulf	201	244	286	359	402
Hardee	255	311	366	458	514
Highlands	255	311	366	458	514
Indian River	369	447	526	660	740
Jefferson	201	244	286	359	402
Lake	286	348	408	513	575
Liberty	201	244	286	359	402
Monroe	419	508	672	804	873
Putnam	275	332	392	490	551
Suwannee	217	267	314	392	440
Union	217	267	314	392	440
Walton	274	331	391	489	549

G E O R G I A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albany, GA MSA	270	326	386	483	541	Dougherty, Lee
Athens, GA MSA	279	340	400	500	560	Clarke, Jackson, Madison, Oconee
Atlanta, GA MSA	394	479	564	705	790	Barrow, Butts, Cherokee, Clayton, Cobb, Coweta, De Kalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding, Walton
Augusta, GA-SC MSA	284	343	400	500	560	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	302	368	433	542	609	Catoosa, Dade, Walker
Columbus, GA-AL MSA	251	302	358	448	505	Chattahoochee, Columbus

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Macon-Warner Robins, GA MSA	280	343	404	505	562	Bibb, Houston, Jones, Peach
Savannah, GA MSA	284	346	407	509	571	Chatham, Effingham

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Appling	233	283	334	417	468
Bacon	218	265	312	391	439
Baldwin	221	270	317	397	445
Barton	236	287	339	424	476
Berrien	231	280	329	413	462
Brantley	218	265	312	391	439
Bryan	269	312	369	461	517
Burke	222	271	318	400	447
Camden	257	312	369	461	517
Carroll	269	324	382	478	534
Chattooga	236	287	339	424	476
Clinch	218	265	312	391	439
Colquitt	224	274	321	402	450
Crawford	188	230	270	338	377
Dawson	212	261	305	378	421
Dodge	226	277	321	403	445
Early	226	277	321	403	450
Elbert	214	260	307	385	431
Evans	233	283	334	417	468
Floyd	236	287	339	424	476
Gilmer	252	307	360	451	507
Glynn	257	312	369	461	517
Grady	226	277	321	403	450
Habersham	235	285	337	421	472
Hancock	226	277	321	403	445
Harris	230	280	324	404	450
Heard	249	303	357	447	501
Jasper	226	277	321	403	445
Jefferson	222	271	318	400	447
Johnson	226	277	321	403	445
Lanier	231	280	329	413	462
Liberty	257	312	369	461	517
Long	257	312	369	461	517
Lumpkin	212	261	305	378	421
Macon	226	277	321	403	450
Meriwether	249	303	357	447	501

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Atkinson	218	265	312	391	439
Baker	226	277	321	403	450
Banks	209	255	300	375	421
Ben Hill	231	280	329	413	462
Bleckley	226	277	321	403	445
Brooks	231	280	329	413	462
Bulloch	233	283	334	417	468
Calhoun	226	277	321	403	450
Candler	233	283	334	417	468
Charlton	226	276	321	396	439
Clay	226	277	321	403	450
Coffee	218	265	312	391	439
Cook	231	280	329	413	462
Crisp	224	274	321	402	450
Decatur	226	277	321	403	450
Dooly	226	277	321	403	450
Echols	231	280	329	413	462
Emanuel	222	271	318	400	447
Fannin	252	307	360	451	507
Franklin	209	255	300	375	421
Glascock	222	271	318	400	447
Gordon	236	287	339	424	476
Greene	212	257	303	379	425
Hall	302	363	432	539	607
Haralson	236	287	339	424	476
Hart	209	255	300	375	421
Irwin	231	280	329	413	462
Jeff Davis	233	283	334	417	468
Jenkins	222	271	318	400	447
Lamar	208	252	298	373	417
Laurens	221	270	317	397	445
Lincoln	222	271	318	400	447
Lowndes	231	280	329	413	462
Mcintosh	257	312	369	461	517
Marion	230	280	324	404	450
Miller	226	277	321	403	450

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G E O R G I A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Mitchell	226	277	321	403	450
Montgomery	230	281	329	406	450
Murray	252	307	360	451	507
Pickens	252	307	360	451	507
Pike	208	252	298	373	417
Pulaski	226	277	321	403	445
Quitman	224	274	321	402	450
Randolph	226	277	321	403	450
Screven	230	281	329	406	450
Stephens	246	302	353	443	493
Sumter	251	308	363	453	510
Taliaferro	222	271	318	400	447
Taylor	226	277	321	403	450
Terrell	226	277	321	403	450
Tift	231	280	329	413	462
Towns	212	261	305	378	421
Troup	255	308	361	450	503
Twiggs	188	230	270	338	377
Upson	208	252	298	373	417
Warren	222	271	318	400	447
Wayne	233	283	334	417	468
Wheeler	226	277	321	403	445
Whitfield	252	307	360	451	507
Wilkes	222	271	318	400	447
Worth	226	277	321	403	450

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Monroe	188	230	270	338	377
Morgan	212	257	303	379	425
Oglethorpe	212	257	303	379	425
Pierce	218	265	312	391	439
Polk	236	289	339	424	476
Putnam	226	277	321	403	445
Rabun	212	261	305	378	421
Schley	230	280	324	404	450
Seminole	226	277	321	403	450
Stewart	230	280	324	404	450
Talbot	224	274	321	402	450
Tattnall	233	283	334	417	468
Telfair	226	277	321	403	445
Thomas	262	318	375	472	527
Toombs	233	283	334	417	468
Treutlen	226	277	321	403	445
Turner	231	280	329	413	462
Union	212	261	305	378	421
Ware	218	265	312	391	439
Washington	226	277	321	403	445
Webster	230	280	324	404	450
White	212	261	305	378	421
Wilcox	226	277	321	403	445
Wilkinson	226	277	321	403	445

H A W A I I

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Honolulu, HI MSA	486	591	695	875	980	Honolulu

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hawaii	450	545	640	803	899
Maui	530	644	758	948	1061
Kauai	560	682	802	1002	1122

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I D A H O

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Boise City, ID MSA	379	461	543	679	761	Ada

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	295	360	423	528	593
Bear Lake	306	372	439	550	616
Bingham	308	376	439	550	616
Boise	295	360	423	528	593
Bonneville	331	401	474	592	664
Butte	331	401	474	592	664
Canyon	295	360	423	528	593
Cassia	314	381	449	561	630
Clearwater	306	372	439	550	616
Elmore	295	360	423	528	593
Fremont	331	401	474	592	664
Gooding	314	381	449	561	630
Jefferson	331	401	474	592	664
Kootenai	306	372	439	550	616
Lemhi	331	401	474	592	664
Lincoln	314	381	449	561	630
Minidoka	314	381	449	561	630
Oneida	306	372	439	550	616
Payette	295	360	423	528	593
Shoshone	306	372	439	550	616
Twin Falls	314	381	449	561	630
Washington	295	360	423	528	593

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bannock	308	376	439	550	616
Benewah	306	372	439	550	616
Blaine	314	381	449	561	630
Bonner	306	372	439	550	616
Boundary	306	372	439	550	616
Camas	314	381	449	561	630
Caribou	308	376	439	550	616
Clark	331	401	474	592	664
Custer	331	401	474	592	664
Franklin	306	372	439	550	616
Gem	295	360	423	528	593
Idaho	306	372	439	550	616
Jerome	314	381	449	561	630
Latah	306	372	439	550	616
Lewis	306	372	439	550	616
Madison	331	401	474	592	664
Nez Perce	306	372	439	550	616
Owyhee	295	360	423	528	593
Power	308	376	439	550	616
Teton	331	401	474	592	664
Valley	295	360	423	528	593

I L L I N O I S

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Aurora-Elgin, IL PMSA	451	550	649	810	909	Kane, Kendall
Bloomington-Normal, IL MSA	324	395	464	579	650	Mclean
Champaign-Urbana-Rantoul, IL MSA	314	381	450	565	631	Champaign
Chicago, IL PMSA	441	543	635	799	894	Cook, Du Page, Mchenry
Davenport-Rock Island-Moline, IA-IL MSA	345	420	494	617	691	Henry, Rock Island
Decatur, IL MSA	314	381	450	565	631	Macon
Joliet, IL PMSA	455	554	655	818	919	Grundy, Will
Kankakee, IL MSA	311	377	445	557	625	Kankakee
Lake County, IL PMSA	467	568	666	837	937	Lake
Peoria, IL MSA	365	443	521	653	730	Peoria, Tazewell, Woodford

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. 092090

I L L I N O I S continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Rockford, IL MSA	331	403	474	592	663	Boone, Winnebago
St. Louis, MO-IL MSA	340	413	487	608	681	Clinton, Jersey, Madison, Monroe, St Clair
Springfield, IL MSA	332	404	475	594	665	Menard, Sangamon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	246	299	352	441	494
Bond	270	331	388	486	544
Bureau	300	366	432	539	604
Carroll	278	338	400	500	559
Christian	285	345	407	510	572
Clay	254	308	365	455	511
Cranford	254	308	365	455	511
De Kalb	363	440	519	648	726
Douglas	270	331	388	486	544
Edwards	246	299	352	441	494
Fayette	254	308	365	455	511
Franklin	288	348	412	517	578
Gallatin	228	276	328	408	457
Hamilton	246	299	352	441	494
Hardin	228	276	328	408	457
Iroquois	283	342	404	507	568
Jasper	254	308	365	455	511
Jo Daviess	278	338	400	500	559
Knox	293	356	416	523	587
Lawrence	254	308	365	455	511
Livingston	283	342	404	507	568
Mcdonough	270	330	383	478	532
Marion	254	308	365	455	511
Mason	283	339	402	497	553
Mercer	264	321	377	474	532
Morgan	283	339	402	497	553
Ogle	278	338	400	500	559
Piatt	270	331	388	486	544
Pope	228	276	328	408	457
Putnam	300	366	432	539	604
Richland	254	308	365	455	511
Schuyler	246	299	352	441	494
Shelby	285	345	407	510	572
Stephenson	278	338	400	500	559
Vermilion	283	342	404	507	568

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alexander	228	276	328	408	457
Brown	246	299	352	441	494
Calhoun	275	335	396	493	553
Cass	283	339	402	497	553
Clark	270	331	388	486	544
Coles	270	331	388	486	544
Cumberland	270	331	388	486	544
De Witt	270	331	388	486	544
Edgar	270	331	388	486	544
Effingham	254	308	365	455	511
Ford	283	342	404	507	568
Fulton	300	366	432	539	604
Greene	275	335	396	493	553
Hancock	264	321	377	474	532
Henderson	264	321	377	474	532
Jackson	288	348	412	517	578
Jefferson	277	336	401	500	557
Johnson	228	276	328	408	457
La Salle	340	413	487	610	684
Lee	340	413	487	610	684
Logan	283	339	402	497	553
Macoupin	285	345	407	510	572
Marshall	300	366	432	539	604
Massac	228	276	328	408	457
Montgomery	285	345	407	510	572
Moultrie	285	345	407	510	572
Perry	270	331	388	486	544
Pike	246	299	352	441	494
Pulaski	228	276	328	408	457
Randolph	270	331	388	486	544
Saline	228	276	328	408	457
Scott	283	339	402	497	553
Stark	300	366	432	539	604
Union	228	276	328	408	457
Wabash	246	299	352	441	494

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Warren	270	330	383	478	532
Wayne	246	299	352	441	494
Whiteside	340	413	487	610	684
Washington	270	331	388	486	544
White	246	299	352	441	494
Williamson	288	348	412	517	578

I N D I A N A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anderson, IN MSA	269	327	384	482	541	Madison
Bloomington, IN MSA	290	353	416	521	583	Monroe
Cincinnati, OH-KY-IN PMSA	320	389	458	572	641	Dearborn
Elkhart-Goshen, IN MSA	284	344	406	508	570	Elkhart
Evansville, IN-KY MSA	298	355	417	523	585	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	298	360	420	527	585	Allen, De Kalb, Whitley
Gary-Hammond, IN PMSA	361	438	516	646	724	Lake, Porter
Indianapolis, IN MSA	336	408	480	600	672	Boone, Hamilton, Hancock, Hendricks, Johnson, Marion Morgan, Shelby
Kokomo, IN MSA	295	361	423	531	594	Howard, Tipton
Lafayette-West Lafayette, IN MSA	313	381	448	560	628	Tippecanoe
Louisville, KY-IN MSA	270	327	384	479	537	Clark, Floyd, Harrison
Muncie, IN MSA	257	311	366	454	508	Delaware
South Bend-Mishawaka, IN MSA	292	354	413	513	572	St Joseph
Terre Haute, IN MSA	265	323	377	469	521	Clay, Vigo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	263	320	373	467	523
Benton	252	308	363	454	508
Brown	297	363	427	536	600
Cass	261	319	375	469	526
Crawford	218	265	312	392	440
Decatur	297	363	427	536	600
Fayette	256	310	363	454	508
Franklin	256	310	363	454	508
Gibson	284	344	406	508	570
Greene	246	297	353	442	494
Huntington	260	318	373	467	523
Jasper	263	321	377	473	530
Jefferson	284	344	406	508	570
Knox	252	304	353	442	494
Lagrange	271	328	386	484	543
Lawrence	274	334	393	492	550
Bartholomew	297	363	427	536	600
Blackford	239	290	342	427	480
Carroll	252	308	363	454	508
Clinton	252	308	363	454	508
Daviess	246	297	353	442	494
Dubois	218	265	312	392	440
Fountain	252	308	363	454	508
Fulton	253	307	361	455	508
Grant	239	290	342	427	480
Henry	239	290	342	427	480
Jackson	297	363	427	536	600
Jay	239	290	342	427	480
Jennings	297	363	427	536	600
Kosciusko	275	333	391	482	539
La Porte	287	349	410	513	577
Marshall	263	321	377	473	530

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Martin	246	297	353	442	494
Montgomery	252	308	363	454	508
Noble	270	328	386	484	543
Orange	218	265	312	392	440
Parke	252	308	363	454	508
Pike	284	344	406	508	570
Putnam	285	347	408	510	571
Ripley	284	344	406	508	570
Scott	271	329	388	486	545
Starke	263	321	377	473	530
Sullivan	252	308	363	454	508
Union	256	310	363	454	508
Wabash	245	296	350	440	492
Washington	292	356	419	525	588
Wells	267	321	374	469	523

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Miami	261	319	375	469	526
Newton	263	321	377	473	530
Ohio	284	344	406	508	570
Owen	289	352	413	518	581
Perry	218	265	312	392	440
Pulaski	263	321	377	473	530
Randolph	239	290	342	427	480
Rush	252	308	363	454	508
Spencer	218	265	312	392	440
Steuben	270	328	386	484	543
Switzerland	284	344	406	508	570
Vermillion	261	318	371	461	511
Warren	252	308	363	454	508
Wayne	257	311	366	454	508
White	252	308	363	454	508

I O W A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Cedar Rapids, IA MSA	336	406	478	600	673	Linn
Davenport-Rock Island-Moline, IA-IL MSA	345	420	494	617	691	Scott
Des Moines, IA MSA	333	405	477	599	670	Dallas, Polk, Warren
Dubuque, IA MSA	310	375	442	554	620	Dubuque
Iowa City, IA MSA	351	428	503	630	705	Johnson
Omaha, NE-IA MSA	305	370	435	545	613	Pottawattamie
Sioux City, IA-NE MSA	302	367	432	540	606	Woodbury
Waterloo-Cedar Falls, IA MSA	337	407	480	602	675	Black Hawk, Bremer

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	253	309	363	456	509
Allamakee	268	325	384	480	538
Audubon	269	327	387	482	540
Boone	307	371	437	547	614
Buena Vista	264	319	377	471	530
Calhoun	269	327	387	482	540
Cass	276	336	394	494	554
Cerro Gordo	266	323	381	476	534
Chickasaw	268	325	384	480	538
Clay	264	319	377	471	530
Clinton	300	363	429	536	602

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	253	309	363	456	509
Appanoose	253	309	363	456	509
Benton	263	318	375	470	527
Buchanan	268	325	384	480	538
Butler	268	325	384	480	538
Carroll	269	327	387	482	540
Cedar	300	363	429	536	602
Cherokee	269	327	387	482	540
Clarke	253	309	363	456	509
Clayton	268	325	384	480	538
Crawford	269	327	387	482	540

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Davis	253	309	363	456	509
Delaware	300	363	429	536	602
Dickinson	264	319	377	471	530
Fayette	268	325	384	480	538
Franklin	266	323	381	476	534
Greene	269	327	387	482	540
Guthrie	269	327	387	482	540
Hancock	266	323	381	476	534
Harrison	276	336	394	494	554
Howard	268	325	384	480	538
Ida	269	327	387	482	540
Jackson	300	363	429	536	602
Jefferson	280	341	400	502	563
Keokuk	264	319	377	471	529
Lee	281	343	403	504	566
Lucas	253	309	363	456	509
Madison	283	346	406	508	570
Marion	283	346	406	508	570
Mills	276	336	394	494	554
Monona	269	327	387	482	540
Montgomery	276	336	394	494	554
O Brien	264	319	377	471	530
Page	276	336	394	494	554
Plymouth	269	327	387	482	540
Poweshiek	279	340	399	500	562
Sac	269	327	387	482	540
Sioux	264	319	377	471	530
Tama	279	340	399	500	562
Union	253	309	363	456	509
Wapello	300	362	428	535	600
Wayne	253	309	363	456	509
Winnebago	266	323	381	476	534
Worth	266	323	381	476	534

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Decatur	253	309	363	456	509
Des Moines	281	343	403	504	566
Emmet	264	319	377	471	530
Floyd	266	323	381	476	534
Fremont	276	336	394	494	554
Grundy	268	325	384	480	538
Hamilton	269	327	387	482	540
Hardin	279	340	399	500	562
Henry	281	343	403	504	566
Humboldt	269	327	387	482	540
Iowa	263	318	375	470	527
Jasper	283	346	406	508	570
Jones	263	318	375	470	527
Kossuth	266	323	381	476	534
Louisa	281	343	403	504	566
Lyon	264	319	377	471	530
Mahaska	253	309	363	456	509
Marshall	279	340	399	500	562
Mitchell	266	323	381	476	534
Monroe	253	309	363	456	509
Muscatine	281	343	403	504	566
Osceola	264	319	377	471	530
Palo Alto	264	319	377	471	530
Pocahontas	269	327	387	482	540
Ringgold	253	309	363	456	509
Shelby	276	336	394	494	554
Story	307	371	437	547	614
Taylor	253	309	363	456	509
Van Buren	253	309	363	456	509
Washington	263	318	375	470	527
Webster	269	327	387	482	540
Winneshiek	268	325	384	480	538
Wright	269	327	387	482	540

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K A N S A S

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Kansas City, MO-KS MSA	311	378	444	555	622	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	338	410	484	604	678	Douglas
Topeka, KS MSA	306	373	437	550	614	Shawnee
Wichita, KS MSA	326	396	471	587	654	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	213	259	305	381	429
Atchison	246	299	352	441	494
Barton	247	301	355	443	496
Brown	246	299	352	441	494
Chautauqua	213	259	305	381	429
Cheyenne	215	262	308	387	433
Clay	269	328	387	484	540
Coffey	269	328	387	484	540
Cowley	213	259	305	381	429
Decatur	215	262	308	387	433
Doniphan	246	299	352	441	494
Elk	213	259	305	381	429
Ellsworth	267	325	382	480	536
Ford	253	308	363	455	510
Geary	269	328	387	484	540
Graham	215	262	308	387	433
Gray	253	308	363	455	510
Greenwood	269	328	387	484	540
Harper	247	301	355	443	496
Hodgeman	253	308	363	455	510
Jefferson	234	284	335	417	469
Kearny	253	308	363	455	510
Kiowa	247	301	355	443	496
Lane	253	308	363	455	510
Linn	213	259	305	381	429
Lyon	269	328	387	484	540
Marion	269	328	387	484	540
Meade	253	308	363	455	510
Montgomery	226	275	324	406	455
Morton	253	308	363	455	510
Neosho	226	275	324	406	455
Norton	215	262	308	387	433
Osborne	215	262	308	387	433
Pawnee	247	301	355	443	496

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson	213	259	305	381	429
Barber	247	301	355	443	496
Bourbon	213	259	305	381	429
Chase	269	328	387	484	540
Cherokee	226	275	324	406	455
Clark	253	308	363	455	510
Cloud	267	325	382	480	536
Comanche	247	301	355	443	496
Crawford	226	275	324	406	455
Dickinson	269	328	387	484	540
Edwards	247	301	355	443	496
Ellis	215	262	308	387	433
Finney	253	308	363	455	510
Franklin	234	283	334	416	467
Gove	215	262	308	387	433
Grant	253	308	363	455	510
Greeley	253	308	363	455	510
Hamilton	253	308	363	455	510
Haskell	253	308	363	455	510
Jackson	246	299	352	441	494
Jewell	267	325	382	480	536
Kingman	247	301	355	443	496
Labette	226	275	324	406	455
Lincoln	267	325	382	480	536
Logan	215	262	308	387	433
Mcpherson	284	345	408	510	570
Marshall	269	328	387	484	540
Mitchell	267	325	382	480	536
Morris	269	328	387	484	540
Nemaha	246	299	352	441	494
Ness	253	308	363	455	510
Osage	234	284	335	417	469
Ottawa	267	325	382	480	536
Phillips	215	262	308	387	433

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. 092090

K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Pottawatomie	269	328	387	484	540
Rawlins	215	262	308	387	433
Republic	267	325	382	480	536
Riley	269	328	387	484	540
Rush	247	301	355	443	496
Saline	267	325	382	480	536
Seward	253	308	363	455	510
Sherman	215	262	308	387	433
Stafford	247	301	355	443	496
Stevens	253	308	363	455	510
Thomas	215	262	308	387	433
Wabaunsee	269	328	387	484	540
Washington	267	325	382	480	536
Wilson	213	259	305	381	429

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Pratt	247	301	355	443	496
Reno	284	345	408	510	570
Rice	284	345	408	510	570
Rooks	215	262	308	387	433
Russell	215	262	308	387	433
Scott	253	308	363	455	510
Sheridan	215	262	308	387	433
Smith	215	262	308	387	433
Stanton	253	308	363	455	510
Sumner	247	301	355	443	496
Trego	215	262	308	387	433
Wallace	215	262	308	387	433
Wichita	253	308	363	455	510
Woodson	213	259	305	381	429

K E N T U C K Y

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Cincinnati, OH-KY-IN PMSA	320	389	458	572	641	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	280	352	441	536	595	Christian
Evansville, IN-KY MSA	298	355	417	523	585	Henderson
Huntington-Ashland, WV-KY-OH MSA	299	363	429	537	603	Boyd, Carter, Greenup
Lexington-Fayette, KY MSA	313	381	447	561	628	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN MSA	270	327	384	479	537	Bullitt, Jefferson, Oldham, Shelby
Owensboro, KY MSA	245	297	351	438	491	Daviess

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	231	281	327	404	452
Anderson	287	351	412	515	577
Barren	245	297	352	438	493
Bell	249	305	358	447	503
Bracken	231	280	329	413	463
Breckinridge	226	277	324	406	454
Caldwell	246	299	355	443	497
Carlisle	236	286	336	422	473
Casey	225	275	323	404	452
Clinton	231	281	327	404	452
Cumberland	231	281	327	404	452
Elliott	212	257	305	381	427
Fleming	231	280	329	413	463

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	194	236	278	347	389
Ballard	236	286	336	422	473
Bath	231	280	329	413	463
Boyle	280	338	400	500	560
Breathitt	237	287	338	424	475
Butler	194	236	278	347	389
Calloway	236	286	336	422	473
Carroll	237	288	338	425	475
Clay	212	257	303	379	426
Crittendon	246	299	355	443	497
Edmonson	194	236	278	347	389
Estill	280	338	400	500	560
Floyd	250	306	359	449	505

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Franklin	287	351	412	515	577
Gallatin	237	288	338	425	475
Grant	237	288	338	425	475
Grayson	226	277	324	406	454
Hancock	239	290	343	429	479
Harlan	249	305	358	447	503
Hart	194	236	278	347	389
Hickman	236	286	336	422	473
Jackson	212	257	303	379	426
Knott	237	287	338	424	475
Larue	226	277	324	406	454
Lawrence	212	257	305	381	427
Leslie	237	287	338	424	475
Lewis	231	280	329	413	463
Livingston	213	258	306	382	428
Lyon	213	258	306	382	428
Mccreary	231	281	327	404	452
Madison	280	338	403	500	560
Marion	226	277	324	406	454
Martin	250	306	359	449	505
Meade	256	313	368	461	516
Mercer	287	351	412	515	577
Monroe	194	236	278	347	389
Morgan	231	281	329	413	463
Nelson	226	277	324	406	454
Ohio	239	290	343	429	479
Owsley	237	287	338	424	475
Perry	237	287	338	424	475
Powell	208	252	297	373	420
Robertson	231	280	329	413	463
Rowan	231	280	329	413	463
Simpson	247	301	356	445	499
Taylor	231	281	327	404	452
Trigg	213	258	306	382	428
Union	239	290	343	429	479
Washington	226	277	324	406	454
Webster	239	290	343	429	479
Wolfe	237	287	338	424	475

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Fulton	236	286	336	422	473
Garrard	280	338	400	500	560
Graves	236	286	336	422	473
Green	231	281	327	404	452
Hardin	256	313	368	461	516
Harrison	251	280	359	449	504
Henry	211	256	301	378	424
Hopkins	246	299	355	443	497
Johnson	250	306	359	449	505
Knox	246	297	349	436	487
Laurel	212	296	373	388	426
Lee	237	287	338	424	475
Letcher	237	287	338	424	475
Lincoln	280	338	400	500	560
Logan	247	301	356	445	499
Mccracken	246	289	341	422	473
Mclean	239	290	343	429	479
Magoffin	250	306	359	449	505
Marshall	246	289	341	422	473
Mason	231	280	329	413	463
Menifee	231	281	329	413	463
Metcalfe	194	236	278	347	389
Montgomery	231	280	329	413	463
Muhlenberg	246	299	355	443	497
Nicholas	208	252	297	373	420
Owen	237	288	338	425	475
Pendleton	237	288	338	425	475
Pike	250	306	359	449	505
Pulaski	231	281	327	404	452
Rockcastle	212	257	303	379	426
Russell	225	275	323	404	452
Spencer	211	256	301	378	424
Todd	213	258	306	382	428
Trimble	211	256	301	378	424
Warren	247	301	356	445	499
Wayne	231	281	327	404	452
Whitley	249	305	358	447	503

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 19

L O U I S I A N A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Alexandria, LA MSA	263	321	378	473	528	Rapides
Baton Rouge, LA MSA	332	402	474	592	664	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma-Thibodaux, LA MSA	293	356	420	524	588	Lafourche, Terrebonne
Lafayette, LA MSA	332	402	474	592	664	Lafayette, St Martin
Lake Charles, LA MSA	267	322	376	469	524	Calcasieu
Monroe, LA MSA	262	320	376	471	526	Ouachita
New Orleans, LA MSA	348	423	498	622	698	Jefferson, Orleans, St Bernard, St Charles, St John The St Tammany
Shreveport, LA MSA	298	362	429	536	600	Bossier, Caddo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Acadia	226	277	326	406	457
Assumption	197	239	280	351	394
Beauregard	180	220	260	327	365
Caldwell	206	249	294	362	405
Catahoula	223	272	322	402	450
Concordia	223	272	322	402	450
East Carroll	179	219	258	324	361
Evangeline	217	263	310	390	436
Grant	223	272	322	402	450
Iberville	188	229	269	337	378
Jefferson Davis	180	220	260	327	365
Lincoln	234	286	336	420	471
Morehouse	179	219	258	324	361
Plaquemines	330	399	471	589	659
Red River	234	286	336	420	471
Sabine	234	286	336	420	471
St James	197	239	280	351	394
St Mary	268	328	385	481	539
Tensas	179	219	258	324	361
Vermilion	226	277	326	406	457
Washington	212	258	303	381	427
West Carroll	179	219	258	324	361
Winn	223	272	322	402	450

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	180	220	260	327	365
Avoyelles	223	272	322	402	450
Bienville	234	286	336	420	471
Cameron	180	220	260	327	365
Claiborne	234	286	336	420	471
De Soto	234	286	336	420	471
E Feliciana	188	229	269	337	378
Franklin	179	219	258	324	361
Iberia	268	328	385	481	539
Jackson	179	219	258	324	361
La Salle	223	272	322	402	450
Madison	179	219	258	324	361
Natchitoches	234	286	336	420	471
Pointe Coupee	188	229	269	337	378
Richland	179	219	258	324	361
St Helena	188	229	269	337	378
St Landry	217	263	310	390	436
Tangipahoa	212	258	303	381	427
Union	179	219	258	324	361
Vernon	223	272	322	402	450
Webster	203	247	291	363	407
W Feliciana	188	229	269	337	378

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Bangor, ME MSA	344	419	493	618	693	Penobscot county towns of Bangor, Brewer, Eddington Glenburn, Hampden, Hermon, Holden, Kenduskeag, Old Town Orono, Orrington, Penobscot Indian I, Veazie Waldo county towns of Winterport
Lewiston-Auburn, ME MSA	362	432	488	546	621	Androscoggin county towns of Auburn, Greene, Lewiston Lisbon, Mechanic Falls, Poland, Sabattus
Portland, ME MSA	424	539	682	764	919	Cumberland county towns of Cape Elizabeth, Cumberland Falmouth, Freeport, Gorham, Gray, North Yarmouth Portland, Raymond, Scarborough, South Portland, Standish Westbrook, Windham, Yarmouth York county towns of Buxton, Hollis, Old Orchard Beach
Portsmouth-Dover-Rochester, NH-ME MSA	456	555	651	816	914	York county towns of Berwick, Eliot, Kittery North Berwick, South Berwick, Wells, York

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	315	372	439	539	596	Durham, Leeds, Livermore, Livermore Falls, Minot, Turner Wales
Aroostook	320	389	459	573	643	
Cumberland	355	431	507	630	701	Baldwin, Bridgton, Brunswick, Casco, Harpswell, Harrison Naples, New Gloucester, Pownal, Sebago
Franklin	334	378	450	532	604	
Hancock	336	400	468	585	653	
Kennebec	336	409	482	604	675	
Knox	324	395	465	583	653	
Lincoln	320	388	458	573	642	
Oxford	334	378	450	532	604	
Penobscot	331	400	465	583	653	Alton, Argyle, Bradford, Bradley, Burlington, Carmel Carroll, Charleston, Chester, Clifton, Corinna, Corinth Dexter, Dixmont, Drew, East Millinocket, Edinburg Enfield, Etna, Exeter, Garland, Grand Falls, Greenbush Greenfield, Howland, Hudson, Kingman, Lagrange Lakeville, Lee, Levant, Lincoln, Lowell, Mattawamkeag Maxfield, Medway, Milford, Millinocket, Mount Chase Newburgh, Newport, North Penobscot, Passadumkeag, Patten Plymouth, Prentiss, Seboeis, Springfield, Stacyville Stetson, Summit, Twombly, Webster, Whitney, Winn Woodville
Piscataquis	276	336	396	499	557	
Sagadahoc	367	494	532	621	729	
Somerset	320	388	458	573	642	
Waldo	324	395	465	583	653	Belfast, Belmont, Brooks, Burnham, Frankfort, Freedom Islesboro, Jackson, Knox, Liberty, Lincolnville, Monroe Montville, Morrill, Northport, Palermo, Prospect Searsmont, Searsport, Stockton Springs, Swanville Thorndike, Troy, Unity, Waldo

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Washington	324	395	465	583	653
York	406	478	604	621	754 Acton, Alfred, Arundel, Biddeford, Cornish, Dayton Kennebunk, Kennebunkport, Lebanon, Limerick, Limington Lyman, Newfield, Parsonsfield, Saco, Sanford, Shapleigh Waterboro

M A R Y L A N D

METROPOLITAN STATISTICAL AREAS	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Baltimore, MD MSA	382	465	547	684	767 Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Annes, Baltimore
Columbia, MD MSA	503	610	718	898	1005 Columbia
Cumberland, MD-WV MSA	275	327	383	473	528 Allegany
Hagerstown, MD MSA	307	373	440	551	616 Washington
Washington, DC-MD-VA MSA	511	621	731	914	1023 Calvert, Charles, Frederick, Montgomery, Prince George'S
Wilmington, DE-NJ-MD PMSA	417	499	594	743	883 Cecil

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Caroline	290	348	409	514	576
Garrett	276	335	395	492	553
St Marys	421	509	594	744	824
Talbot	332	403	475	595	665
Worcester	299	366	427	534	598

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Dorchester	297	361	427	534	598
Kent	302	369	434	544	609
Somerset	297	361	427	534	598
Wicomico	354	433	508	535	598

M A S S A C H U S E T T S

METROPOLITAN STATISTICAL AREAS	EFF 1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Boston, MA PMSA	608	739	869	1087	1217 Bristol county towns of Mansfield, Norton, Raynham Essex county towns of Lynn, Lynnfield, Nahant, Saugus Middlesex county towns of Acton, Arlington, Ashland, Ayer Bedford, Belmont, Boxborough, Burlington, Cambridge Carlisle, Concord, Everett, Framingham, Groton Holliston, Hopkinton, Hudson, Lexington, Lincoln Littleton, Malden, Marlborough, Maynard, Medford Melrose, Natick, Newton, North Reading, Reading Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury Townsend, Wakefield, Waltham, Watertown, Wayland, Weston Wilmington, Winchester, Woburn Norfolk county towns of Bellingham, Braintree, Brookline Canton, Cohasset, Dedham, Dover, Foxborough, Franklin Holbrook, Medfield, Medway, Millis, Milton, Needham Norfolk, Norwood, Quincy, Randolph, Sharon, Stoughton Walpole, Wellesley, Westwood, Weymouth, Wrentham Plymouth county towns of Carver, Duxbury, Hanover, Hanson

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
						Hingham, Hull, Kingston, Lakeville, Marshfield Middleborough, Norwell, Pembroke, Plymouth, Plympton Rockland, Scituate
						Suffolk county towns of Boston, Chelsea, Revere, Winthrop
						Worcester county towns of Berlin, Bolton, Harvard Hopedale, Lancaster, Mendon, Milford, Southborough Upton
Brockton, MA PMSA	472	570	715	867	973	Bristol county towns of Easton
						Norfolk county towns of Avon
						Plymouth county towns of Abington, Bridgewater, Brockton East Bridgewater, Halifax, West Bridgewater, Whitman
Fall River, MA-RI PMSA	404	482	579	670	740	Bristol county towns of Fall River, Somerset, Swansea Westport
Fitchburg-Leominster, MA MSA	443	535	633	791	887	Middlesex county towns of Ashby
						Worcester county towns of Ashburnham, Fitchburg Leominster, Lunenburg, Westminster
Lawrence-Haverhill, MA-NH PMSA	504	614	736	842	936	Essex county towns of Amesbury, Andover, Boxford Georgetown, Groveland, Haverhill, Lawrence, Merrimac Methuen, Newbury, Newburyport, North Andover, Salisbury West Newbury
Lowell, MA-NH PMSA	485	590	689	835	952	Middlesex county towns of Billerica, Chelmsford, Dracut Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough Westford
New Bedford, MA MSA	412	463	548	670	740	Bristol county towns of Acushnet, Dartmouth, Fairhaven Freetown, New Bedford
						Plymouth county towns of Marion, Mattapoisett, Rochester
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA	392	474	559	685	783	Bristol county towns of Attleboro, North Attleborough Rehoboth, Seekonk
						Norfolk county towns of Plainville
						Worcester county towns of Blackstone, Millville
Pittsfield, MA MSA	409	496	580	721	814	Berkshire county towns of Cheshire, Dalton, Hinsdale Lanesborough, Lee, Lenox, Pittsfield, Richmond Stockbridge
Salem-Gloucester, MA PMSA	535	650	765	956	1072	Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham
Springfield, MA MSA	445	541	636	795	890	Hampden county towns of Agawam, Chicopee, East Longmeadow Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery Palmer, Russell, Southwick, Springfield, Westfield West Springfield, Wilbraham
						Hampshire county towns of Belchertown, Easthampton Granby, Huntington, Northampton, Southampton South Hadley
Worcester, MA MSA	424	522	611	768	856	Worcester county towns of Auburn, Barre, Boylston Brookfield, Charlton, Clinton, Douglas, Dudley East Brookfield, Grafton, Holden, Leicester, Millbury

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
						Northborough, Northbridge, North Brookfield, Oxford Paxton, Princeton, Rutland, Shrewsbury, Spencer Sterling, Sutton, Uxbridge, Webster, Westborough West Boylston, Worcester

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	548	676	774	967	1085	
Berkshire	359	437	514	644	721	Adams, Alford, Becket, Clarksburg, Egremont, Florida Great Barrington, Hancock, Monterey, Mount Washington New Ashford, New Marlborough, North Adams, Otis, Peru Sandisfield, Savoy, Sheffield, Tyringham, Washington West Stockbridge, Williamstown, Windsor
Bristol	398	482	568	682	759	Berkley, Dighton, Taunton
Dukes	548	676	774	967	1085	
Franklin	418	496	579	729	811	
Hampden	376	457	538	674	755	Blandford, Brimfield, Chester, Granville, Holland Tolland, Wales
Hampshire	489	568	696	838	973	Amherst, Chesterfield, Cummington, Goshen, Hadley Hatfield, Middlefield, Pelham, Plainfield, Ware Westhampton, Williamsburg, Worthington
Nantucket	548	676	774	967	1085	
Plymouth	425	516	607	738	851	Wareham
Worcester	398	470	568	696	774	Athol, Gardner, Hardwick, Hubbardston, New Braintree Oakham, Petersham, Phillipston, Royalston, Southbridge Sturbridge, Templeton, Warren, West Brookfield Winchendon

M I C H I G A N

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Ann Arbor, MI PMSA	415	505	595	744	834	Washtenaw
Battle Creek, MI MSA	280	341	400	503	564	Calhoun
Benton Harbor, MI MSA	312	380	445	558	625	Berrien
Detroit, MI PMSA	349	425	499	625	699	Lapeer, Livingston, Macomb, Monroe, Oakland, St Clair Wayne
Flint, MI MSA	296	359	425	531	594	Genesee
Grand Rapids, MI MSA	332	407	477	596	673	Kent, Ottawa
Jackson, MI MSA	309	374	441	552	618	Jackson
Kalamazoo, MI MSA	321	388	456	561	625	Kalamazoo
Lansing-East Lansing, MI MSA	338	405	474	590	659	Clinton, Eaton, Ingham
Muskegon, MI MSA	274	333	393	492	551	Muskegon
Saginaw-Bay City-Midland, MI MSA	305	368	432	541	606	Bay, Midland, Saginaw

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M I C H I G A N continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcona	244	299	351	440	493
Allegan	283	346	406	508	570
Antrim	307	371	437	547	614
Baraga	250	304	358	448	503
Benzie	307	371	437	547	614
Cass	278	338	397	498	558
Cheboygan	244	299	351	440	493
Clare	269	327	387	482	540
Delta	241	294	347	433	486
Emmet	307	371	437	547	614
Gogebic	250	304	358	448	503
Gratiot	308	373	439	551	616
Houghton	281	342	403	503	606
Ionia	286	347	408	509	570
Iron	250	304	358	448	503
Kalkaska	307	371	437	547	614
Lake	281	343	403	504	566
Lenawee	305	369	435	545	611
Mackinac	241	294	347	433	486
Marquette	307	371	437	547	614
Mecosta	281	343	403	504	566
Missaukee	307	371	437	547	614
Montmorency	244	299	351	440	493
Oceana	273	331	391	490	547
Ontonagon	250	304	358	448	503
Oscoda	244	299	351	440	493
Presque Isle	244	299	351	440	493
St Joseph	285	348	410	513	574
Schoolcraft	241	294	347	433	486
Tuscola	276	336	394	494	554
Wexford	307	371	437	547	614

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alger	241	294	347	433	486
Alpena	244	299	351	440	493
Arenac	269	327	387	482	540
Barry	285	348	410	513	574
Branch	285	348	410	513	574
Charlevoix	307	371	437	547	614
Chippewa	241	294	347	433	486
Crawford	244	299	351	440	493
Dickinson	250	317	374	468	526
Gladwin	269	327	387	482	540
Grand Traverse	307	371	437	547	614
Hillsdale	305	369	435	545	611
Huron	276	336	394	494	554
Iosco	269	327	387	482	540
Isabella	308	373	439	551	616
Keweenaw	250	304	358	448	503
Leelanau	307	371	437	547	614
Luce	241	294	347	433	486
Manistee	307	371	437	547	614
Mason	281	343	403	504	566
Menominee	307	371	437	547	614
Montcalm	283	346	406	508	570
Newaygo	281	343	403	504	566
Ogemaw	269	327	387	482	540
Osceola	281	343	403	504	566
Otsewo	244	299	351	440	493
Roscommon	269	327	387	482	540
Sanilac	276	336	394	494	554
Shiawassee	304	368	434	542	609
Van Buren	278	338	397	498	558

M I N N E S O T A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Duluth, MN-WI MSA	313	373	440	552	619	St Louis
Fargo-Moorhead, ND-MN MSA	313	381	447	561	629	Clay
Minneapolis-St. Paul, MN-WI MSA	382	464	550	688	768	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Washington, Wright

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Rochester, MN MSA	332	403	475	594	665	Olmsted
St. Cloud, MN MSA	316	384	453	568	634	Benton, Sherburne, Stearns

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aitkin	284	346	407	510	572
Beltrami	273	332	391	488	549
Blue Earth	316	383	444	550	608
Carlton	286	348	407	510	572
Chippewa	252	308	363	455	508
Cook	284	346	407	510	572
Crow Wing	267	324	405	502	558
Douglas	283	345	405	508	570
Fillmore	262	318	376	470	525
Goodhue	273	332	388	482	540
Houston	262	318	376	470	525
Itasca	286	348	407	510	572
Kanabec	284	346	407	510	572
Kittson	273	332	391	488	549
Lac Qui Parle	252	308	363	455	508
Lake Of The Woods	273	332	391	488	549
Lincoln	261	314	368	458	509
Mcleod	298	363	427	535	597
Marshall	273	332	391	488	549
Meeker	298	363	427	535	597
Morrison	267	324	382	478	536
Murray	261	314	368	458	509
Nobles	261	314	368	458	509
Otter Tail	283	345	405	508	570
Pine	284	346	407	510	572
Polk	273	332	391	488	549
Red Lake	273	332	391	488	549
Renville	298	363	427	535	597
Rock	261	314	368	458	509
Sibley	296	361	423	529	593
Stevens	283	345	405	508	570
Todd	267	324	382	478	536
Wabasha	273	332	388	482	540
Waseca	269	328	385	482	540
Wilkin	283	345	405	508	570
Yellow Medicine	252	308	363	455	508

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Becker	283	345	405	508	570
Big Stone	252	308	363	455	508
Brown	269	328	385	482	540
Cass	267	324	382	478	536
Clearwater	273	332	391	488	549
Cottonwood	252	308	363	455	508
Dodge	256	311	366	458	513
Faribault	269	328	385	482	540
Freeborn	309	376	443	554	621
Grant	283	345	405	508	570
Hubbard	273	332	391	488	549
Jackson	261	314	368	458	509
Kandiyohi	298	363	427	535	597
Koochiching	284	346	407	510	572
Lake	284	346	407	510	572
Le Sueur	296	361	423	529	593
Lyon	261	314	368	458	509
Mahnomen	273	332	391	488	549
Martin	269	328	385	482	540
Mille Lacs	284	346	407	510	572
Mower	262	318	376	470	525
Nicollet	296	361	423	529	593
Norman	273	332	391	488	549
Pennington	273	332	391	488	549
Pipestone	261	314	368	458	509
Pope	283	345	405	508	570
Redwood	252	308	363	455	508
Rice	309	376	443	554	621
Roseau	273	332	391	488	549
Steele	309	376	443	554	621
Swift	252	308	363	455	508
Traverse	283	345	405	508	570
Wadena	267	324	382	478	536
Watonwan	269	328	385	482	540
Winona	264	318	376	470	525

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I S S I P P I

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Biloxi-Gulfport, MS MSA	260	318	375	470	525	Hancock, Harrison
Jackson, MS MSA	332	403	476	596	668	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	298	361	425	529	592	De Soto
Pascagoula, MS MSA	286	346	406	512	574	Jackson

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	230	265	313	415	449
Amite	191	232	272	340	383
Benton	213	259	307	385	431
Calhoun	250	305	359	448	508
Chickasaw	257	305	359	452	505
Claiborne	191	232	272	340	383
Clay	247	288	337	424	475
Copiah	201	245	289	361	404
Forrest	248	302	356	444	499
George	194	236	278	347	389
Grenada	253	308	362	453	508
Humphreys	220	268	316	395	442
Itawamba	236	286	336	422	472
Jefferson	191	232	272	340	383
Jones	250	291	328	373	415
Lafayette	250	305	359	448	505
Lauderdale	246	298	352	441	493
Leake	210	256	303	381	427
Leflore	250	278	327	427	460
Lowndes	272	337	388	519	541
Marshall	213	259	307	385	431
Montgomery	192	234	274	343	385
Newton	210	256	303	381	427
Oktibbeha	237	288	337	424	475
Pearl River	248	302	356	444	499
Pike	230	265	313	415	449
Prentiss	213	259	307	385	431
Scott	210	256	303	381	427
Simpson	201	245	289	361	404
Stone	248	302	356	444	499
Tallahatchie	232	280	329	411	464
Tippah	213	259	307	385	431
Tunica	232	280	329	411	464
Walthall	191	232	272	340	383

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcorn	229	277	326	406	458
Attala	192	234	274	343	385
Bolivar	220	268	316	395	442
Carroll	192	234	274	343	385
Choctaw	247	288	337	424	475
Clarke	248	301	352	441	493
Coahoma	232	280	329	411	464
Covington	194	236	278	347	389
Franklin	191	232	272	340	383
Greene	194	236	278	347	389
Holmes	192	234	274	343	385
Issaquena	220	268	316	395	442
Jasper	248	301	352	441	493
Jefferson Davis	194	236	278	347	389
Kemper	248	301	352	441	493
Lamar	248	302	356	444	499
Lawrence	191	232	272	340	383
Lee	267	323	379	477	534
Lincoln	191	232	272	340	383
Marion	248	302	356	444	499
Monroe	236	286	336	422	472
Neshoba	210	256	303	381	427
Noxubee	237	288	337	424	475
Panola	232	280	329	411	464
Perry	194	236	278	347	389
Pontotoc	257	305	359	452	505
Quitman	232	280	329	411	464
Sharkey	220	268	316	395	442
Smith	210	256	303	381	427
Sunflower	220	268	316	395	442
Tate	232	280	329	411	464
Tishomigo	213	259	307	385	431
Union	257	305	359	452	505
Warren	280	340	400	503	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Washington	220	268	316	395	442
Webster	247	288	337	424	475
Winston	247	288	337	424	475
Yazoo	280	340	400	503	562
Wayne	194	236	278	347	389
Wilkinson	191	232	272	340	383
Yalobusha	192	234	274	343	385

M I S S O U R I

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Columbia, MO MSA	273	331	390	488	547	Boone
Joplin, MO MSA	236	287	338	424	475	Jasper, Newton
Kansas City, MO-KS MSA	311	378	444	555	622	Cass, Clay, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	251	305	359	448	505	Buchanen
St. Louis, MO-IL MSA	340	413	487	608	681	Crawford, Franklin, Jefferson, St Charles, St Louis St. Louis
Springfield, MO MSA	261	320	376	472	526	Christian, Greene

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	239	289	342	429	480
Atchison	225	276	324	406	455
Barry	220	268	317	396	443
Bates	215	260	308	385	433
Bollinger	253	309	362	452	510
Caldwell	225	276	325	406	455
Camden	242	293	345	433	484
Carroll	233	283	334	416	469
Cedar	215	260	308	385	433
Clark	239	289	342	429	480
Cole	265	322	380	476	533
Crawford	231	282	330	414	467
Dallas	220	268	317	396	443
De Kalb	225	276	324	406	455
Douglas	209	254	298	373	419
Gasconade	231	282	330	414	467
Grundy	239	289	342	429	480
Henry	215	260	308	385	433
Holt	225	276	324	406	455
Howell	209	254	298	373	419
Johnson	242	294	363	467	485
Laclede	242	293	345	433	484
Lewis	237	286	338	422	470
Linn	239	289	342	429	480
Andrew	251	305	359	448	505
Audrain	265	322	380	476	533
Barton	215	260	308	385	433
Benton	215	260	308	385	433
Butler	209	254	303	377	422
Callaway	265	322	380	476	533
Cape Girardeau	253	309	362	452	510
Carter	209	254	303	377	422
Chariton	233	283	334	416	469
Clinton	225	276	324	406	455
Cooper	265	322	380	476	533
Dade	220	268	317	396	443
Daviess	225	276	325	406	455
Dent	231	282	330	414	467
Dunklin	209	254	298	373	419
Gentry	225	276	324	406	455
Harrison	225	276	325	406	455
Hickory	215	260	308	385	433
Howard	265	322	380	476	533
Iron	253	309	362	452	510
Knox	239	289	342	429	480
Lawrence	220	268	317	396	443
Lincoln	231	282	330	414	467
Livingston	239	289	342	429	480

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. 092090

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Mcdonald	220	268	317	396	443
Madison	253	309	362	452	510
Marion	237	286	338	422	470
Miller	242	293	345	433	484
Moniteau	265	322	380	476	533
Montgomery	231	282	330	414	467
New Madrid	209	254	298	373	419
Oregon	209	254	298	373	419
Ozark	209	254	298	373	419
Perry	253	309	362	452	510
Phelps	270	326	385	487	547
Polk	220	268	317	396	443
Putnam	239	289	342	429	480
Randolph	231	282	330	414	467
Ripley	209	254	303	377	422
Ste. Genevieve	253	309	362	452	510
Saline	233	283	334	416	469
Scotland	239	289	342	429	480
Shannon	209	254	298	373	419
Stoddard	209	254	298	373	419
Sullivan	239	289	342	429	480
Texas	209	254	298	373	419
Warren	231	282	330	414	467
Wayne	209	254	303	377	422
Worth	225	276	324	406	455

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Macon	231	282	330	414	467
Maries	231	282	330	414	467
Mercer	225	276	325	406	455
Mississippi	209	254	298	373	419
Monroe	231	282	330	414	467
Morgan	242	293	345	433	484
Nodaway	235	276	334	406	455
Osage	265	322	380	476	533
Pemiscot	209	254	298	373	419
Pettis	233	283	334	416	469
Pike	231	282	330	414	467
Pulaski	242	293	345	433	484
Ralls	237	286	338	422	470
Reynolds	209	254	303	377	422
St Clair	215	260	308	385	433
St Francois	253	309	362	452	510
Schuyler	239	289	342	429	480
Scott	253	309	362	452	510
Shelby	231	282	330	414	467
Stone	220	268	317	396	443
Taney	220	268	317	396	443
Vernon	215	260	308	385	433
Washington	231	282	330	414	467
Webster	220	268	317	396	443
Wright	209	254	298	373	419

M O N T A N A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Billings, MT MSA	356	433	510	637	714	Yellowstone
Great Falls, MT MSA	315	382	451	565	632	Cascade

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaverhead	314	381	449	561	630
Blaine	293	356	418	524	587
Carbon	295	359	423	529	593
Chouteau	293	356	418	524	587
Daniels	293	356	418	524	587
Deer Lodge	314	381	449	561	630
Fergus	295	359	423	529	593

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Big Horn	295	359	423	529	593
Broadwater	314	381	449	561	630
Carter	295	359	423	529	593
Custer	295	359	423	529	593
Dawson	295	359	423	529	593
Fallon	295	359	423	529	593
Flathead	320	390	458	574	643

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. 092090

MONTANA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Gallatin	346	425	503	623	701
Glacier	293	356	418	524	587
Granite	314	381	449	561	630
Jefferson	314	381	449	561	630
Lake	320	390	458	574	643
Liberty	293	356	418	524	587
Mccone	295	359	423	529	593
Meagher	314	381	449	561	630
Missoula	320	390	458	574	643
Park	314	381	449	561	630
Phillips	293	356	418	524	587
Powder River	295	359	423	529	593
Prairie	295	359	423	529	593
Richland	295	359	423	529	593
Rosebud	295	359	423	529	593
Sheridan	293	356	418	524	587
Stillwater	295	359	423	529	593
Teton	293	356	418	524	587
Treasure	295	359	423	529	593
Wheatland	295	359	423	529	593
Yl-St-Nt-Pk	314	381	449	561	630

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Garfield	295	359	423	529	593
Golden Valley	295	359	423	529	593
Hill	293	356	418	524	587
Judith Basin	295	359	423	529	593
Lewis And Clark	359	443	522	647	731
Lincoln	320	390	458	574	643
Madison	314	381	449	561	630
Mineral	320	390	458	574	643
Musselshell	295	359	423	529	593
Petroleum	295	359	423	529	593
Pondera	293	356	418	524	587
Powell	314	381	449	561	630
Ravalli	320	390	458	574	643
Roosevelt	293	356	418	524	587
Sanders	320	390	458	574	643
Silver Bow	314	381	449	561	630
Sweet Grass	295	359	423	529	593
Toole	293	356	418	524	587
Valley	293	356	418	524	587
Wibaux	295	359	423	529	593

NEBRASKA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Lincoln, NE MSA	310	377	444	556	623	Lancaster
Omaha, NE-IA MSA	305	370	435	545	613	Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	302	367	432	540	606	Dakota

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	277	338	397	498	557
Arthur	235	285	336	421	470
Blaine	228	276	325	407	458
Box Butte	259	315	371	464	520
Brown	228	276	325	407	458
Burt	248	303	356	446	500
Cass	245	299	351	439	494
Chase	235	285	336	421	470
Cheyenne	228	276	325	407	458
Colfax	248	303	356	446	500

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Antelope	269	327	387	481	541
Banner	228	276	325	407	458
Boone	248	303	356	446	500
Boyd	228	276	325	407	458
Buffalo	277	338	397	498	557
Butler	245	299	351	439	494
Cedar	269	327	387	481	541
Cherry	228	276	325	407	458
Clay	277	338	397	498	557
Cuming	248	303	356	446	500

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Custer	228	276	325	407	458
Dawson	235	285	336	421	470
Dixon	269	327	387	481	541
Dundy	235	285	336	421	470
Franklin	277	338	397	498	557
Furnas	235	285	336	421	470
Garden	228	276	325	407	458
Gosper	235	285	336	421	470
Greeley	228	276	325	407	458
Hamilton	277	338	397	498	557
Hayes	235	285	336	421	470
Holt	232	284	334	416	464
Howard	277	338	397	498	557
Johnson	245	299	351	439	494
Keith	235	285	336	421	470
Kimball	228	276	325	407	458
Lincoln	235	285	336	421	470
Loup	228	276	325	407	458
Madison	269	327	387	481	541
Morrill	228	276	325	407	458
Nemaha	245	299	351	439	494
Otoe	245	299	351	439	494
Perkins	235	285	336	421	470
Pierce	269	327	387	481	541
Polk	245	299	351	439	494
Richardson	245	299	351	439	494
Saline	245	299	351	439	494
Scotts Bluff	265	318	371	461	513
Sheridan	228	276	325	407	458
Sioux	228	276	325	407	458
Thayer	245	299	351	439	494
Thurston	248	303	356	446	500
Wayne	269	327	387	481	541
Wheeler	228	276	325	407	458

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Dawes	228	276	325	407	458
Deuel	228	276	325	407	458
Dodge	248	303	356	446	500
Fillmore	245	299	351	439	494
Frontier	235	285	336	421	470
Gage	272	330	389	487	544
Garfield	228	276	325	407	458
Grant	235	285	336	421	470
Hall	277	338	397	498	557
Harlan	277	338	397	498	557
Hitchcock	235	285	336	421	470
Hooker	235	285	336	421	470
Jefferson	245	299	351	439	494
Kearney	277	338	397	498	557
Keya Paha	232	284	334	416	464
Knox	269	327	387	481	541
Logan	235	285	336	421	470
Mcpherson	235	285	336	421	470
Merrick	277	338	397	498	557
Nance	248	303	356	446	500
Nuckolls	277	338	397	498	557
Pawnee	245	299	351	439	494
Phelps	277	338	397	498	557
Platte	248	303	356	446	500
Red Willow	235	285	336	421	470
Rock	232	284	334	416	464
Saunders	245	299	351	439	494
Seward	245	299	351	439	494
Sherman	228	276	325	407	458
Stanton	269	327	387	481	541
Thomas	235	285	336	421	470
Valley	228	276	325	407	458
Webster	277	338	397	498	557
York	245	299	351	439	494

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

NEVADA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Las Vegas, NV MSA	445	540	636	797	893	Clark
Reno, NV MSA	549	666	786	982	1102	Washoe

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Churchill	391	470	554	692	776
Elko	391	470	554	692	776
Eureka	387	470	554	692	776
Lander	391	470	554	692	776
Lyon	391	470	554	692	776
Nye	387	470	554	692	776
Storey	391	470	554	692	776
Carson City	391	470	554	692	776
Douglas	391	470	554	692	776
Esmeralda	387	470	554	692	776
Humboldt	391	470	554	692	776
Lincoln	387	470	554	692	776
Mineral	391	470	554	692	776
Pershing	391	470	554	692	776
White Pine	387	470	554	692	776

NEW HAMPSHIRE

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Lawrence-Haverhill, MA-NH PMSA	504	614	736	842	936	Rockingham county towns of Atkinson, Brentwood, Danville Derry, East Kingston, Hampstead, Kingston, Newton Plaistow, Salem, Sandown, Seabrook, Windham
Lowell, MA-NH PMSA	485	590	689	835	952	Hillsborough county towns of Pelham
Manchester, NH MSA	439	534	628	785	883	Hillsborough county towns of Bedford, Goffstown Manchester Merrimack county towns of Allenstown, Hooksett Rockingham county towns of Auburn, Candia
Nashua, NH PMSA	506	615	726	908	1017	Hillsborough county towns of Amherst, Brookline, Hollis Hudson, Litchfield, Merrimack, Milford, Mont Vernon Nashua, Wilton Rockingham county towns of Londonderry
Portsmouth-Dover-Rochester, NH-ME MSA	456	555	651	816	914	Rockingham county towns of Exeter, Greenland, Hampton New Castle, Newfields, Newington, Newmarket North Hampton, Portsmouth, Rye, Stratham Strafford county towns of Barrington, Dover, Durham Farmington, Lee, Madbury, Milton, Rochester, Rollinsford Somersworth

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	381	461	536	665	745	
Carroll	377	458	539	674	756	
Cheshire	461	559	658	822	921	
Coos	352	427	504	628	705	
Grafton	392	478	562	702	787	
Hillsborough	500	606	714	892	1000	Antrim, Bennington, Deering, Francestown, Greenfield

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.

092090

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
						Greenville, Hancock, Hillsborough, Lyndeborough, Mason New Boston, New Ipswich, Peterborough, Sharon, Temple Weare, Windsor
Merrimack	500	606	714	892	1000	Andover, Boscawen, Bow, Bradford, Canterbury, Chichester Concord, Danbury, Dunbarton, Epsom, Franklin, Henniker Hill, Hopkinton, Loudon, Newbury, New London, Northfield Pembroke, Pittsfield, Salisbury, Sutton, Warner, Webster Wilmot
Rockingham	483	587	689	862	954	Chester, Deerfield, Epping, Fremont, Hampton Falls Kensington, Northwood, Nottingham, Raymond South Hampton
Strafford	427	522	615	770	849	Middleton, New Durham, Strafford
Sullivan	381	461	538	670	753	

NEW JERSEY

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Allentown-Bethlehem, PA-NJ MSA	350	425	497	626	698	Warren
Atlantic City, NJ MSA	419	512	601	751	844	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	591	717	851	1064	1192	Bergen, Passaic
Jersey City, NJ PMSA	418	509	599	750	839	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	547	665	782	980	1097	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	492	597	703	878	986	Monmouth, Ocean
Newark, NJ PMSA	490	596	701	876	982	Essex, Morris, Sussex, Union
Philadelphia, PA-NJ PMSA	408	495	583	729	817	Burlington, Camden, Gloucester
Trenton, NJ PMSA	500	608	716	895	1002	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	401	488	573	718	804	Cumberland
Wilmington, DE-NJ-MD PMSA	417	499	594	743	883	Salem

NEW MEXICO

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albuquerque, NM MSA	367	446	524	656	736	Bernalillo
Las Cruces, NM MSA	292	353	416	521	584	Dona Ana
Santa Fe, NM MSA	427	519	612	764	857	Los Alamos, Sante Fe

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW MEXICO continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Catron	263	319	377	471	527
Cibola	263	319	377	471	527
Curry	271	330	389	487	544
Eddy	314	382	451	564	631
Guadalupe	271	330	389	487	544
Hidalgo	263	319	377	471	527
Lincoln	286	347	409	511	573
Mckinley	365	443	522	654	732
Otero	286	347	409	511	573
Rio Arriba	244	297	349	436	490
Sandoval	308	376	442	553	620
San Miguel	271	330	389	487	544
Socorro	286	347	409	511	573
Torrance	271	330	389	487	544
Valencia	263	319	377	471	527

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Chaves	286	347	409	511	573
Colfax	271	330	389	487	544
De Baca	271	330	389	487	544
Grant	263	319	377	471	527
Harding	271	330	389	487	544
Lea	314	382	451	564	631
Luna	263	319	377	471	527
Mora	271	330	389	487	544
Quay	271	330	389	487	544
Roosevelt	271	330	389	487	544
San Juan	365	443	522	654	732
Sierra	286	347	409	511	573
Taos	293	354	417	522	586
Union	271	330	389	487	544

NEW YORK

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albany-Schenectady-Troy, NY MSA	358	430	508	640	712	Albany, Greene, Montgomery, Rensselaer, Saratoga Schenectady
Binghamton, NY MSA	322	388	459	568	638	Broome, Tioga
Buffalo, NY PMSA	298	363	427	534	598	Erie
Elmira, NY MSA	327	397	468	585	657	Chemung
Glens Falls, NY MSA	337	410	483	603	678	Warren, Washington
Jamestown-Dunkirk, NY MSA	302	368	433	544	607	Chautauqua
Nassau-Suffolk, NY PMSA	582	707	832	1042	1164	Nassau, Suffolk
New York, NY PMSA	437	531	625	783	877	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester, NY	522	633	745	931	1042	Westchester
Niagara Falls, NY PMSA	301	366	432	539	604	Niagara
Orange County, NY PMSA	449	546	642	802	898	Orange
Poughkeepsie, NY MSA	490	596	702	877	984	Dutchess
Rochester, NY MSA	384	470	553	692	771	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	338	405	474	593	665	Madison, Onondaga, Oswego
Utica-Rome, NY MSA	310	376	443	553	620	Herkimer, Oneida

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allegany	289	344	405	507	569
Cayuga	337	410	483	603	678
Clinton	321	384	451	561	617
Cortland	344	420	495	620	694
Essex	308	373	437	548	615
Fulton	274	335	393	493	551
Hamilton	307	373	437	548	615
Lewis	330	400	471	589	661
St Lawrence	314	380	449	561	628
Schuyler	317	385	454	569	638
Steuben	317	385	454	569	638
Tompkins	344	420	495	620	694
Wyoming	315	380	449	561	628

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Cattaraugus	284	343	405	507	569
Chenango	334	405	476	597	667
Columbia	317	385	454	569	638
Delaware	310	378	445	554	622
Franklin	307	373	437	548	615
Genesee	314	380	449	561	628
Jefferson	343	419	493	616	691
Otsego	310	378	445	554	622
Schoharie	310	378	445	554	622
Seneca	337	410	483	603	678
Sullivan	359	436	513	642	720
Ulster	396	481	567	707	794
Yates	315	382	451	566	631

N O R T H C A R O L I N A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Asheville, NC MSA	270	329	388	483	542	Buncombe
Burlington, NC MSA	327	397	468	585	657	Alamance
Charlotte-Gastonia-Rock Hill, NC-SC MSA	301	363	427	533	596	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	277	390	407	526	644	Cumberland
Greensboro--Winston-Salem--High Point, NC MSA	282	344	403	507	568	Davidson, Davie, Forsyth, Guilford, Randolph, Stokes Yadkin
Hickory, NC MSA	247	299	353	442	497	Alexander, Burke, Catawba
Jacksonville, NC MSA	255	312	368	461	516	Onslow
Raleigh-Durham, NC MSA	324	394	465	581	651	Durham, Franklin, Orange, Wake
Wilmington, NC MSA	270	329	388	483	542	New Hanover

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	244	294	345	432	474
Ashe	244	294	345	432	474
Beaufort	270	329	388	483	542
Bladen	260	318	374	469	524
Caldwell	244	295	348	437	487
Carteret	253	309	363	457	512
Chatham	324	394	465	581	651
Chowan	260	313	366	454	507
Cleveland	283	343	403	505	565
Craven	279	339	399	503	563
Dare	260	313	366	454	507
Edgecombe	253	309	363	457	512

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anson	246	295	345	433	483
Avery	253	306	359	448	491
Bertie	270	329	388	483	542
Brunswick	245	298	351	440	492
Camden	260	313	366	454	507
Caswell	245	297	350	439	491
Cherokee	210	256	303	381	427
Clay	210	256	303	381	427
Columbus	255	311	367	459	514
Currituck	297	357	409	509	561
Duplin	230	278	327	407	459
Gates	260	313	366	454	507

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. 092090

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Graham	210	256	303	381	427
Greene	237	287	337	424	474
Harnett	237	287	337	424	474
Henderson	265	325	383	478	536
Hoke	230	278	327	407	459
Iredell	245	378	441	509	569
Johnston	250	305	359	448	505
Lee	286	353	408	511	573
Mcdowell	256	312	367	460	514
Madison	265	325	383	478	536
Mitchell	253	306	359	448	492
Moore	246	295	345	433	483
Northampton	253	309	363	457	512
Pasquotank	260	313	366	454	507
Perquimans	260	313	366	454	507
Pitt	270	329	388	483	542
Richmond	246	295	345	433	483
Rockingham	245	297	350	439	491
Sampson	237	287	337	424	474
Stanly	256	312	367	459	513
Swain	210	256	303	381	427
Tyrrell	260	313	366	454	507
Warren	235	285	334	420	470
Watauga	348	420	491	615	675
Wilkes	292	351	412	516	565
Yancey	272	328	386	481	529

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Granville	235	285	334	420	470
Halifax	253	309	363	457	512
Haywood	245	298	352	441	495
Hertford	270	329	388	483	542
Hyde	260	313	366	454	507
Jackson	269	326	384	480	538
Jones	253	309	363	457	512
Lenoir	253	309	363	457	512
Macon	265	324	383	478	537
Martin	270	329	388	483	542
Montgomery	246	295	345	433	483
Nash	259	317	373	468	523
Pamlico	253	309	363	457	512
Pender	223	272	370	462	518
Person	235	285	334	420	470
Polk	256	312	367	460	514
Robeson	241	297	344	426	482
Rutherford	256	312	367	460	514
Scotland	218	264	313	391	438
Surry	232	281	330	413	464
Transylvania	265	325	383	478	536
Vance	235	285	334	420	470
Washington	260	313	366	454	507
Wayne	237	287	337	424	474
Wilson	259	317	373	468	523

NORTH DAKOTA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Bismarck, ND MSA	313	381	448	560	629	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	313	381	447	561	629	Cass
Grand Forks, ND MSA	297	361	427	533	597	Grand Forks

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. 092090

NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	263	322	380	476	531
Benson	272	329	388	485	546
Bottineau	263	322	380	476	531
Burke	263	322	380	476	531
Dickey	272	329	388	485	546
Dunn	263	322	380	476	531
Emmons	239	289	342	429	479
Golden Valley	263	322	380	476	531
Griggs	272	329	388	485	546
Kidder	239	289	342	429	479
Logan	272	329	388	485	546
Mcintosh	272	329	388	485	546
Mclean	239	289	342	429	479
Mountrail	263	322	380	476	531
Oliver	239	289	342	429	479
Pierce	263	322	380	476	531
Ransom	246	298	353	441	493
Richland	246	298	353	441	493
Sargent	246	298	353	441	493
Sioux	239	289	342	429	479
Stark	263	322	380	476	531
Stutsman	272	329	388	485	546
Traill	246	298	353	441	493
Ward	263	322	380	476	531
Williams	263	322	380	476	531

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barnes	272	329	388	485	546
Billings	263	322	380	476	531
Bowman	263	322	380	476	531
Cavalier	272	329	388	485	546
Divide	263	322	380	476	531
Eddy	272	329	388	485	546
Foster	272	329	388	485	546
Grant	239	289	342	429	479
Hettinger	263	322	380	476	531
La Moore	272	329	388	485	546
Mchenry	263	322	380	476	531
Mckenzie	263	322	380	476	531
Mercer	239	289	342	429	479
Nelson	272	329	388	485	546
Pembina	272	329	388	485	546
Ramsey	272	329	388	485	546
Renville	263	322	380	476	531
Rolette	272	329	388	485	546
Sheridan	239	289	342	429	479
Slope	263	322	380	476	531
Steele	246	298	353	441	493
Towner	272	329	388	485	546
Walsh	272	329	388	485	546
Wells	272	329	388	485	546

OHIO

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Akron, OH PMSA	308	374	442	553	619	Portage, Summit
Canton, OH MSA	272	329	388	485	546	Carroll, Stark
Cincinnati, OH-KY-IN PMSA	320	389	458	572	641	Clermont, Hamilton, Warren
Cleveland, OH PMSA	326	396	466	583	652	Cuyahoga, Geauga, Lake, Medina
Columbus, OH MSA	310	372	442	552	621	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway Union
Dayton-Springfield, OH MSA	286	350	407	512	569	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	324	396	465	582	652	Butler
Huntington-Ashland, WV-KY-OH MSA	299	363	429	537	603	Lawrence
Lima, OH MSA	287	350	411	516	579	Allen, Auglaize
Lorain-Elyria, OH PMSA	302	369	435	545	610	Lorain
Mansfield, OH MSA	259	318	372	468	522	Richland

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Parkersburg-Marietta, WV-OH MSA	283	344	405	509	569	Washington
Steubenville-Weirton, OH-WV MSA	290	354	414	520	585	Jefferson
Toledo, OH MSA	329	402	474	592	663	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	282	343	404	506	566	Belmont
Youngstown-Warren, OH MSA	287	350	411	516	579	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	257	311	363	452	510
Ashtabula	304	369	436	546	610
Brown	257	311	363	452	510
Clinton	261	320	376	472	526
Coshocton	235	286	338	419	472
Darke	261	320	376	472	526
Erie	296	360	425	530	595
Gallia	283	344	405	509	569
Hancock	279	338	398	497	559
Harrison	260	318	374	470	524
Highland	257	311	363	452	510
Holmes	276	336	395	494	554
Jackson	253	309	362	452	510
Logan	279	338	398	497	559
Meigs	250	304	358	447	503
Monroe	281	342	402	505	563
Morrow	253	309	362	452	510
Noble	281	342	402	505	563
Paulding	293	356	419	524	589
Pike	253	309	362	452	510
Putnam	283	344	405	509	569
Sandusky	296	360	425	530	595
Seneca	260	318	374	470	524
Tuscarawas	276	336	395	494	554
Vinton	283	344	405	509	569
Williams	293	356	419	524	589

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	284	347	407	511	571
Athens	270	331	391	487	547
Champaign	275	334	394	492	552
Columbiana	270	326	386	482	541
Crawford	260	318	374	470	524
Defiance	293	356	419	524	589
Fayette	261	320	376	472	526
Guernsey	278	337	397	496	557
Hardin	279	338	398	497	559
Henry	293	356	419	524	589
Hocking	250	304	358	447	503
Huron	260	318	374	470	524
Knox	253	309	362	452	510
Marion	253	309	362	452	510
Mercer	261	320	376	472	526
Morgan	281	342	402	505	563
Muskingum	261	318	374	470	524
Ottawa	296	360	425	530	595
Perry	250	304	358	447	503
Preble	285	348	408	513	573
Ross	261	320	376	472	526
Scioto	253	309	362	452	510
Shelby	282	342	403	504	563
Van Wert	283	344	405	509	569
Wayne	284	347	407	511	571
Wyandot	260	318	374	470	524

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.

092090

O K L A H O M A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Enid, OK MSA	310	378	445	557	624	Garfield
Fort Smith, AR-OK MSA	257	314	370	464	519	Sequoyah
Lawton, OK MSA	267	325	384	479	537	Comanche
Oklahoma City, OK*MSA	289	352	414	518	580	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	338	411	484	605	678	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	208	255	298	372	414
Atoka	182	222	262	328	367
Beckham	231	280	330	413	464
Bryan	219	267	314	394	441
Carter	219	267	314	394	441
Choctaw	182	222	262	328	367
Coal	182	222	262	328	367
Craig	264	323	379	475	533
Delaware	206	252	295	369	414
Ellis	236	288	339	423	476
Grady	218	265	312	392	439
Greer	231	280	330	413	464
Harper	236	288	339	423	476
Hughes	212	258	303	381	426
Jefferson	218	265	312	392	439
Kay	274	332	392	489	549
Kiowa	231	280	330	413	464
Le Flore	182	222	262	328	367
Love	219	267	314	394	441
Mcintosh	212	258	303	381	426
Marshall	219	267	314	394	441
Murray	219	267	314	394	441
Noble	274	332	392	489	549
Okfuskee	212	258	303	381	426
Ottawa	264	323	379	475	533
Payne	272	330	388	485	543
Pontotoc	219	267	314	394	441
Roger Mills	231	280	330	413	464
Stephens	218	265	312	392	439
Tillman	218	265	312	392	439
Washita	231	280	330	413	464
Woodward	236	288	339	423	476

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alfalfa	236	288	339	423	476
Beaver	236	288	339	423	476
Blaine	236	288	339	423	476
Caddo	218	265	312	392	439
Cherokee	208	255	298	372	414
Cimarron	236	288	339	423	476
Cotton	218	265	312	392	439
Custer	231	280	330	413	464
Dewey	236	288	339	423	476
Garvin	219	267	314	394	441
Grant	274	332	392	489	549
Harmon	231	280	330	413	464
Haskell	182	222	262	328	367
Jackson	231	280	330	413	464
Johnston	219	267	314	394	441
Kingfisher	274	332	392	489	549
Latimer	182	222	262	328	367
Lincoln	261	317	373	468	524
Mccurtain	232	283	333	415	466
Major	236	288	339	423	476
Mayes	275	333	394	491	551
Muskogee	212	258	303	381	426
Nowata	264	323	379	475	533
Okmulgee	212	258	303	381	426
Pawnee	261	317	373	468	524
Pittsburg	182	222	262	328	367
Pushmataha	182	222	262	328	367
Seminole	217	264	312	387	430
Texas	236	288	339	423	476
Washington	264	323	379	475	533
Woods	236	288	339	423	476

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING AGE 39

O R E G O N

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Eugene-Springfield, OR MSA	387	472	556	695	778	Lane
Medford, OR MSA	385	468	552	689	773	Jackson
Portland, OR PMSA	343	418	492	650	720	Clackamas, Multnomah, Washington, Yamhill
Salem, OR MSA	361	442	520	649	727	Marion, Polk

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	353	429	505	632	708
Clatsop	343	418	492	614	688
Coos	369	448	528	660	740
Curry	369	448	528	660	740
Douglas	369	448	528	660	740
Grant	353	429	505	632	708
Hood River	374	454	535	671	749
Josephine	369	448	528	660	740
Lake	337	410	483	604	677
Linn	359	437	516	645	721
Morrow	353	429	505	632	708
Tillamook	343	418	492	614	688
Union	353	429	505	632	708
Wasco	374	454	535	671	749

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	359	437	516	645	721
Columbia	343	418	492	614	688
Crook	374	454	535	671	749
Deschutes	374	454	535	671	749
Gilliam	353	429	505	632	708
Harney	337	410	483	604	677
Jefferson	374	454	535	671	749
Klamath	337	410	483	604	677
Lincoln	343	418	492	614	688
Malheur	337	410	483	604	677
Sherman	374	454	535	671	749
Umatilla	353	429	505	632	708
Wallowa	353	429	505	632	708
Wheeler	353	429	505	632	708

P E N N S Y L V A N I A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Allentown-Bethlehem, PA-NJ MSA	350	425	497	626	698	Carbon, Lehigh, Northampton
Altoona, PA MSA	311	377	445	555	623	Blair
Beaver County, PA PMSA	271	329	388	484	543	Beaver
Erie, PA MSA	357	435	511	641	718	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	371	445	526	657	735	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	301	368	432	540	606	Cambria, Somerset
Lancaster, PA MSA	374	455	534	670	751	Lancaster
Philadelphia, PA-NJ PMSA	408	495	583	729	817	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	307	373	439	549	615	Alleghany, Fayette, Washington, Westmoreland
Reading, PA MSA	350	426	501	626	702	Berks
Scranton--Wilkes-Barre, PA MSA	283	350	408	503	570	Columbia, Lackawanna, Luzerne, Monroe, Wyoming
Sharon, PA MSA	331	401	475	595	666	Mercer
State College, PA MSA	399	486	573	716	802	Centre
Williamsport, PA MSA	301	368	432	540	606	Lycoming
York, PA MSA	336	410	482	603	676	Adams, York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Armstrong	348	422	497	622	697
Bradford	288	351	413	516	578
Cameron	292	355	418	524	587
Clearfield	298	362	427	533	598
Crawford	296	357	423	529	593
Forest	284	348	409	510	573
Fulton	280	341	401	503	562
Huntingdon	280	341	401	503	562
Jefferson	298	362	427	533	598
Lawrence	296	357	423	529	593
Mifflin	289	352	422	520	580
Northumberland	311	362	427	533	598
Potter	292	355	418	524	587
Snyder	289	352	414	520	580
Susquehanna	288	351	413	516	578
Union	334	392	483	600	653
Warren	296	357	423	529	593

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bedford	280	341	401	503	562
Butler	346	420	494	620	693
Clarion	284	348	409	510	573
Clinton	292	353	415	520	580
Elk	292	355	418	524	587
Franklin	320	390	457	574	642
Greene	298	362	427	533	598
Indiana	348	422	497	622	697
Juniata	289	352	414	520	580
Mckean	292	355	418	524	587
Montour	298	362	427	533	598
Pike	414	503	591	739	828
Schuylkill	323	379	461	558	607
Sullivan	288	351	413	516	578
Tioga	288	351	413	516	578
Venango	284	348	409	510	573
Wayne	353	429	505	630	707

R H O D E I S L A N D

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Fall River, MA-RI PMSA	404	482	579	670	740	Newport county towns of Little Compton, Tiverton
New London-Norwich, CT-RI MSA	447	544	639	799	896	Washington county towns of Hopkinton, Westerly
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA	392	474	559	685	783	Providence county towns of Burrillville, Central Falls Cumberland, Lincoln, North Smithfield, Pawtucket Smithfield, Woonsocket
Providence, RI PMSA	427	519	610	763	855	Bristol county towns of Barrington, Bristol, Warren Kent county towns of Coventry, East Greenwich, Warwick West Warwick Newport county towns of Jamestown Providence county towns of Cranston, East Providence Foster, Glocester, Johnston, North Providence Providence, Scituate Washington county towns of Exeter, Narragansett North Kingstown, Richmond, South Kingstown

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. or 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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

RHODE ISLAND continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Kent	373	453	534	668	749	West Greenwich
Newport	488	592	698	872	977	Middletown, Newport, Portsmouth
Washington	373	453	534	668	749	Charlestown, New Shoreham

SOUTH CAROLINA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anderson, SC MSA	245	297	349	439	490	Anderson
Augusta, GA-SC MSA	284	343	400	500	560	Aiken
Charleston, SC MSA	302	369	435	542	609	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	301	363	427	533	596	York
Columbia, SC MSA	306	373	440	550	615	Lexington, Richland
Florence, SC MSA	248	301	356	445	499	Florence
Greenville-Spartanburg, SC MSA	267	325	384	479	538	Greenville, Pickens, Spartanburg

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Abbeville	215	261	310	384	426
Bamberg	223	274	322	403	451
Beaufort	278	338	399	499	559
Cherokee	215	260	308	386	434
Chesterfield	214	259	306	384	431
Colleton	278	338	399	499	559
Dillon	214	259	306	384	431
Fairfield	210	256	302	378	424
Greenwood	215	261	310	384	426
Horry	259	316	372	466	522
Kershaw	243	294	346	435	486
Laurens	215	261	310	384	426
Mccormick	210	256	302	378	424
Marlboro	214	259	306	384	431
Oconee	264	324	382	477	535
Saluda	210	256	302	378	424
Union	215	260	308	386	434

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allendale	223	274	322	403	451
Barnwell	223	274	322	403	451
Calhoun	231	281	333	407	457
Chester	215	260	308	386	434
Clarendon	243	294	346	435	486
Darlington	214	259	306	384	431
Edgefield	210	256	302	378	424
Georgetown	259	316	372	466	522
Hampton	278	338	399	499	559
Jasper	278	338	399	499	559
Lancaster	232	284	334	413	462
Lee	243	294	346	435	486
Marion	214	259	306	384	431
Newberry	210	256	302	378	424
Orangeburg	223	274	322	403	451
Sumter	243	294	346	435	486
Williamsburg	259	316	372	466	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.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Rapid City, SD MSA	285	344	401	497	556	Pennington
Sioux Falls, SD MSA	301	366	430	540	604	Minnehaha

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aurora	256	310	362	454	508
Bennett	233	282	333	417	467
Brookings	251	304	354	441	499
Brule	253	308	362	454	508
Butte	277	337	396	497	556
Charles Mix	253	308	362	454	508
Clay	253	308	362	454	508
Corson	233	282	333	417	467
Davison	256	310	362	454	508
Deuel	227	273	325	404	448
Douglas	253	308	362	454	508
Fall River	277	337	396	497	556
Grant	251	304	354	441	499
Haakon	233	282	333	417	467
Hand	256	310	362	450	502
Harding	277	337	396	497	556
Hutchinson	253	308	362	454	508
Jackson	233	282	333	417	467
Jones	233	282	333	417	467
Lake	220	269	315	395	443
Lincoln	256	310	362	454	508
Mccook	220	269	315	395	443
Marshall	245	300	353	443	496
Mellette	233	282	333	417	467
Moody	220	269	315	395	443
Potter	233	282	333	417	467
Sanborn	256	310	362	454	508
Spink	245	300	353	443	496
Sully	233	282	333	417	467
Tripp	233	282	333	417	467
Union	253	308	362	454	508
Yankton	253	308	362	454	508

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beadle	256	310	362	450	502
Bon Homme	253	308	362	454	508
Brown	274	331	388	486	544
Buffalo	233	282	333	417	467
Campbell	233	282	333	417	467
Clark	227	273	325	404	448
Codington	251	304	354	441	499
Custer	277	337	396	497	556
Day	245	300	353	443	496
Dewey	233	282	333	417	467
Edmunds	245	300	353	443	496
Faulk	245	300	353	443	496
Gregory	233	282	333	417	467
Hamlin	227	273	325	404	448
Hanson	256	310	362	454	508
Hughes	304	372	435	544	608
Hyde	233	282	333	417	467
Jerauld	256	310	362	454	508
Kingsbury	220	269	315	395	443
Lawrence	283	337	396	497	556
Lyman	233	282	333	417	467
Mcpherson	245	300	353	443	496
Meade	285	344	401	497	556
Miner	220	269	315	395	443
Perkins	233	282	333	417	467
Roberts	245	300	353	443	496
Shannon	233	282	333	417	467
Stanley	304	372	435	544	608
Todd	233	282	333	417	467
Turner	256	310	362	454	508
Walworth	233	282	333	417	467
Ziebach	233	282	333	417	467

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

TENNESSEE

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Chattanooga, TN-GA MSA	302	368	433	542	609	Hamilton, Marion, Sequatchie
Clarksville-Hopkinsville, TN-KY MSA	280	352	441	536	595	Montgomery
Jackson, TN MSA	275	330	392	488	551	Madison
Johnson City-Kingsport-Bristol, TN-VA MSA	253	308	362	453	509	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	279	340	399	500	560	Anderson, Blount, Grainger, Jefferson, Knox, Sevier Union
Memphis, TN-AR-MS MSA	298	361	425	529	592	Shelby, Tipton
Nashville, TN MSA	331	404	476	594	667	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bedford	238	299	340	424	476
Bledsoe	248	302	356	445	499
Campbell	202	246	292	363	404
Carroll	223	272	321	402	449
Claiborne	202	246	292	363	404
Cocke	225	275	322	404	452
Crockett	229	277	325	408	458
Decatur	244	298	351	439	491
Dyer	229	277	325	408	458
Fentress	223	275	324	404	453
Gibson	229	277	325	408	458
Greene	221	270	316	396	445
Hamblen	235	285	337	421	472
Hardeman	244	298	351	439	491
Haywood	234	293	335	420	470
Henry	223	272	321	402	449
Houston	206	250	295	369	413
Jackson	194	239	283	354	393
Lake	229	277	325	408	458
Lawrence	238	299	340	424	476
Lincoln	269	324	382	478	534
Mcminn	248	302	356	445	499
Macon	223	275	324	404	453
Maury	238	299	340	424	476
Monroe	238	293	343	429	480
Morgan	202	246	292	363	404
Overton	223	275	324	404	453
Pickett	223	275	324	404	453
Putnam	231	280	329	413	462
Roane	238	293	343	429	480

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	223	272	321	402	449
Bradley	248	302	356	445	499
Cannon	223	275	324	404	453
Chester	244	298	351	439	491
Clay	194	239	283	354	393
Coffee	238	299	340	424	476
Cumberland	223	275	324	404	453
De Kalb	223	275	324	404	453
Fayette	234	285	335	420	470
Franklin	269	324	382	478	534
Giles	238	299	340	424	476
Grundy	248	302	356	445	499
Hancock	221	270	316	396	445
Hardin	244	298	351	439	491
Henderson	244	298	351	439	491
Hickman	238	299	340	424	476
Humphreys	206	250	295	369	413
Johnson	215	262	309	387	433
Lauderdale	234	293	335	420	470
Lewis	236	287	339	424	476
Loudon	238	293	343	429	480
Mcnairy	244	298	351	439	491
Marshall	238	299	340	424	476
Meigs	248	302	356	445	499
Moore	238	299	340	424	476
Obion	232	285	325	411	458
Perry	236	287	339	424	476
Polk	248	302	356	445	499
Rhea	248	302	356	445	499
Scott	202	246	292	363	404

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Smith	223	275	324	404	453
Trousdale	223	275	324	404	453
Warren	231	280	329	413	462
Weakley	223	272	321	402	449

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Stewart	206	250	295	369	413
Van Buren	231	280	329	413	462
Wayne	236	287	339	424	476
White	231	280	329	413	462

T E X A S

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Abilene, TX MSA	301	368	433	542	609	Taylor
Amarillo, TX MSA	279	338	399	498	558	Potter, Randall
Austin, TX MSA	357	429	506	632	708	Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	321	389	459	574	642	Hardin, Jefferson, Orange
Brazoria, TX PMSA	324	393	463	579	648	Brazoria
Brownsville-Harlingen, TX MSA	284	345	405	508	569	Cameron
Bryan-College Station, TX MSA	376	459	538	673	755	Brazos
Corpus Christi, TX MSA	328	398	469	587	658	Nueces, San Patricio
Dallas, TX PMSA	369	450	529	661	740	Collin, Dallas, Denton, Ellis, Kaufman, Rockwall
El Paso, TX MSA	281	339	400	500	561	El Paso
Fort Worth-Arlington, TX PMSA	326	395	466	582	653	Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	291	354	417	521	584	Galveston
Houston, TX PMSA	300	364	429	537	601	Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	277	335	395	493	554	Bell, Coryell
Laredo, TX MSA	260	318	373	468	525	Webb
Longview-Marshall, TX MSA	316	384	451	563	632	Gregg, Harrison
Lubbock, TX MSA	235	294	386	489	540	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	283	344	403	506	567	Hidalgo
Midland, TX MSA	362	441	519	651	728	Midland
Odessa, TX MSA	360	439	516	645	723	Ector
San Angelo, TX MSA	303	370	436	546	613	Tom Green
San Antonio, TX MSA	337	409	482	603	675	Bexar, Comal, Guadalupe
Sherman-Denison, TX MSA	278	336	397	496	556	Grayson
Texarkana, TX-Texarkana, AR MSA	255	310	366	459	513	Bowie
Tyler, TX MSA	320	388	458	572	640	Smith
Victoria, TX MSA	390	473	557	699	782	Victoria
Waco, TX MSA	263	316	371	462	514	Mclennan
Wichita Falls, TX MSA	287	349	412	514	577	Wichita

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson	242	293	346	432	485
Angelina	282	340	402	504	563
Archer	232	283	332	416	466
Atascosa	248	301	357	447	499
Bailey	234	286	337	419	467
Bastrop	246	298	352	442	495
Bee	267	326	384	478	537
Borden	226	279	327	408	459
Brewster	207	251	294	369	415
Brooks	267	326	384	478	537
Burleson	248	300	355	444	497
Caldwell	246	298	352	442	495
Callahan	240	291	341	428	481
Carson	252	305	360	451	506
Castro	252	305	360	451	506
Cherokee	242	293	346	432	485
Clay	232	283	332	416	466
Coke	216	263	310	389	434
Collingsworth	252	305	360	451	506
Comanche	240	291	341	428	481
Cooke	265	324	382	476	535
Crane	207	251	294	369	415
Crosby	234	286	337	419	467
Dallam	252	305	360	451	506
Deaf Smith	252	305	360	451	506
De Witt	260	318	373	468	525
Dimmit	223	275	323	402	451
Duval	267	326	384	478	537
Edwards	231	283	331	407	453
Falls	212	258	302	382	426
Fayette	246	298	352	442	495
Floyd	234	286	337	419	467
Franklin	255	310	365	459	512
Frio	248	301	357	447	499
Garza	234	286	337	419	467
Glasscock	226	279	327	408	459
Gonzales	260	318	373	468	525
Grimes	248	300	355	444	497
Hall	252	305	360	451	506
Hansford	252	305	360	451	506

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Andrews	207	251	294	369	415
Aransas	267	326	384	478	537
Armstrong	252	305	360	451	506
Austin	286	347	408	512	574
Bandera	248	301	357	447	499
Baylor	232	283	332	416	466
Blanco	226	279	327	408	460
Bosque	212	258	302	382	426
Briscoe	252	305	360	451	506
Brown	234	286	337	419	467
Burnet	226	279	327	408	460
Calhoun	260	318	373	468	525
Camp	221	269	320	398	447
Cass	255	310	365	459	512
Chambers	295	359	423	529	592
Childress	232	283	332	416	466
Cochran	234	286	337	419	467
Coleman	234	286	337	419	467
Colorado	286	347	408	512	574
Concho	216	263	310	389	434
Cottle	232	283	332	416	466
Crockett	216	263	310	389	434
Culberson	207	251	294	369	415
Dawson	226	279	327	408	459
Delta	255	310	365	459	512
Dickens	234	286	337	419	467
Donley	252	305	360	451	506
Eastland	240	291	341	428	481
Erath	240	291	341	428	481
Fannin	265	324	382	476	535
Fisher	240	291	341	428	481
Foard	232	283	332	416	466
Freestone	212	258	302	382	426
Gaines	207	251	294	369	415
Gillespie	248	301	357	447	499
Goliad	260	318	373	468	525
Gray	252	305	360	451	506
Hale	234	286	337	419	467
Hamilton	226	279	327	408	460
Hardeman	232	283	332	416	466

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hartley	252	305	360	451	506
Hemphill	252	305	360	451	506
Hill	263	317	371	466	521
Hood	286	347	408	512	574
Houston	251	303	359	450	505
Hudspeth	207	251	294	369	415
Hutchinson	252	305	360	451	506
Jack	232	283	332	416	466
Jasper	267	326	384	478	537
Jim Hogg	254	307	363	457	510
Jones	240	291	341	428	481
Kendall	248	301	357	447	499
Kent	240	291	341	428	481
Kimble	216	263	310	389	434
Kinney	231	283	331	407	453
Knox	234	286	337	419	467
Lamb	234	286	337	419	467
La Salle	223	275	323	402	451
Lee	246	298	352	442	495
Limestone	212	258	302	382	426
Live Oak	267	326	384	478	537
Loving	207	251	294	369	415
Mcculloch	234	286	337	419	467
Madison	256	310	366	459	513
Martin	226	279	327	408	459
Matagorda	286	347	408	512	574
Medina	248	301	357	447	499
Milam	246	298	352	442	495
Mitchell	240	291	341	428	481
Moore	252	305	360	451	506
Motley	234	286	337	419	467
Navarro	212	258	302	382	426
Nolan	240	291	341	428	481
Oldham	252	305	360	451	506
Panola	242	293	346	432	485
Pecos	207	251	294	369	415
Presidio	207	251	294	369	415
Reagan	216	263	310	389	434
Red River	255	310	365	459	512
Refugio	267	326	384	478	537

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Haskell	240	291	341	428	481
Henderson	242	293	346	432	485
Hockley	234	286	337	419	467
Hopkins	255	310	365	459	512
Howard	226	279	327	408	459
Hunt	265	324	382	476	535
Irion	216	263	310	389	434
Jackson	260	318	373	468	525
Jeff Davis	207	251	294	369	415
Jim Wells	267	326	384	478	537
Karnes	204	248	292	366	409
Kenedy	267	326	384	478	537
Kerr	248	301	357	447	499
King	234	286	337	419	467
Kleberg	267	326	384	478	537
Lamar	255	310	365	459	512
Lampasas	226	279	327	408	460
Lauaca	260	318	373	468	525
Leon	256	310	366	459	513
Lipscomb	252	305	360	451	506
Llano	226	279	327	408	460
Lynn	234	286	337	419	467
Mcmullen	267	326	384	478	537
Marion	221	269	320	398	447
Mason	216	263	310	389	434
Maverick	231	283	331	407	453
Menard	216	263	310	389	434
Mills	234	286	337	419	467
Montague	232	283	332	416	466
Morris	255	310	365	459	512
Nacogdoches	282	340	402	504	563
Newton	267	326	384	478	537
Ochiltree	252	305	360	451	506
Palo Pinto	240	291	341	428	481
Parmer	252	305	360	451	506
Polk	282	340	402	504	563
Rains	230	282	329	406	449
Real	231	283	331	407	453
Reeves	207	251	294	369	415
Roberts	252	305	360	451	506

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Robertson	248	300	355	444	497
Rusk	242	293	346	432	485
San Augustine	220	269	318	398	445
San Saba	234	286	337	419	467
Scurry	240	291	341	428	481
Shelby	220	269	318	398	445
Somervell	212	258	302	382	426
Stephens	240	291	341	428	481
Stonewall	240	291	341	428	481
Swisher	252	305	360	451	506
Terry	234	286	337	419	467
Titus	255	310	365	459	512
Tyler	256	310	366	459	513
Upton	226	279	327	408	459
Val Verde	231	283	331	407	453
Walker	291	355	419	524	586
Washington	256	310	366	459	513
Wheeler	252	305	360	451	506
Willacy	267	326	384	478	537
Winkler	207	251	294	369	415
Wood	221	269	320	398	447
Young	232	283	332	416	466
Zavala	231	283	331	407	453

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Runnels	234	286	337	419	467
Sabine	220	269	318	398	445
San Jacinto	282	340	402	504	563
Schleicher	216	263	310	389	434
Shackleford	240	291	341	428	481
Sherman	252	305	360	451	506
Starr	220	268	317	395	443
Sterling	216	263	310	389	434
Sutton	216	263	310	389	434
Terrell	207	251	294	369	415
Throckmorton	240	291	341	428	481
Trinity	256	323	381	474	533
Upshur	221	269	320	398	447
Uvalde	231	283	331	407	453
Van Zandt	230	282	329	406	449
Ward	207	251	294	369	415
Wharton	286	347	408	512	574
Wilbarger	232	283	332	416	466
Wilson	204	248	292	366	409
Wise	286	347	408	512	574
Yoakum	234	286	337	419	467
Zapata	220	268	317	395	443

U T A H

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Provo-Orem, UT MSA	300	365	428	536	602	Utah
Salt Lake City-Ogden, UT MSA	288	350	412	515	577	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaver	328	399	471	587	658
Cache	302	367	433	541	607
Daggett	374	455	535	670	750
Emery	374	455	535	670	750
Grand	374	455	535	670	750
Juab	328	399	471	587	658
Millard	328	399	471	587	658
Piute	328	399	471	587	658
San Juan	374	455	535	670	750

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Box Elder	302	367	433	541	607
Carbon	374	455	535	670	750
Duchesne	374	455	535	670	750
Garfield	328	399	471	587	658
Iron	328	399	471	587	658
Kane	328	399	471	587	658
Morgan	374	455	535	670	750
Rich	302	367	433	541	607
Sanpete	328	399	471	587	658

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

U T A H continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sevier	328	399	471	587	658
Tooele	302	367	433	541	607
Wasatch	374	455	535	670	750
Wayne	328	399	471	587	658
Summit	374	455	535	670	750
Uintah	374	455	535	670	750
Washington	359	431	509	635	714

V E R M O N T

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Burlington, VT MSA	447	544	639	799	896	Chittenden county towns of Burlington, Charlotte Colchester, Essex, Hinesburg, Jericho, Milton, Richmond St. George, Shelburne, South Burlington, Williston Winooski Franklin county towns of Georgia Grand Isle county towns of Grand Isle, South Hero

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	358	434	512	639	717	
Bennington	363	447	524	654	737	
Caledonia	305	370	435	545	611	
Chittenden	413	504	593	743	833	
Essex	305	370	435	545	611	Bolton, Buels, Huntington, Underhill, Westford
Franklin	340	413	487	608	681	Bakersfield, Berkshire, Enosburg, Fairfax, Fairfield Fletcher, Franklin, Highgate, Montgomery, Richford St. Albans, St. Albans, Sheldon, Swanton
Grand Isle	305	370	435	545	611	Alburg, Isle La Motte, North Hero
Lamoille	369	448	526	659	738	
Orange	363	443	521	651	730	
Orleans	305	370	435	545	611	
Rutland	396	481	565	706	792	
Washington	363	447	524	654	737	
Windham	382	466	547	684	768	
Windsor	392	475	560	700	784	

V I R G I N I A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Charlottesville, VA MSA	351	428	503	629	704	Albemarle, Fluvanna, Greene, Charlottesville
Danville, VA MSA	269	326	384	480	538	Pittsylvania, Danville
Johnson City-Kingsport-Bristol, TN-VA MSA	253	308	362	453	509	Scott, Washington, Bristol
Lynchburg, VA MSA	289	359	414	506	580	Amherst, Campbell, Lynchburg
Norfolk-Virginia Beach-Newport News, VA MSA	359	436	514	642	719	Gloucester, James City, York, Chesapeake, Hampton Newport News City, Norfolk, Poquoson, Portsmouth, Suffolk

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Richmond-Petersburg, VA MSA	321	386	450	565	633	Virginia Beach, Williamsburg City Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights, Hopewell, Petersburg, Richmond
Roanoke, VA MSA	282	343	402	505	565	Botetourt, Roanoke, Roanoke, Salem
Washington, DC-MD-VA MSA	511	621	731	914	1023	Arlington, Fairfax, Loudoun, Prince William, Stafford Alexandria, Fairfax, Falls Church City, Manassas Manassas Park City

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Accomack	265	320	372	460	514
Amelia	233	282	331	416	467
Augusta	281	341	401	503	563
Bedford	242	294	348	434	486
Brunswick	219	267	313	393	440
Buckingham	233	282	331	416	467
Carroll	237	287	338	425	475
Clarke	282	343	402	505	565
Culpeper	292	355	420	523	586
Dickenson	250	291	345	431	482
Fauquier	292	355	420	523	586
Franklin	242	294	348	434	486
Giles	280	340	399	500	560
Greensville	219	267	313	393	440
Henry	282	343	402	504	564
Isle Of Wight	226	277	321	401	440
King George	331	403	475	592	666
Lancaster	254	311	367	459	514
Louisa	296	358	420	523	586
Madison	296	358	420	523	586
Mecklenburg	219	267	313	393	440
Montgomery	341	414	486	612	682
Northampton	265	320	372	460	514
Nottoway	233	282	331	416	467
Page	282	343	402	505	565
Prince Edward	233	282	331	416	467
Rappahannock	292	355	420	523	586
Rockbridge	281	341	401	503	563
Russell	269	326	384	480	539
Smyth	237	287	338	425	475
Spotsylvania	331	403	475	592	666

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	281	341	401	503	563
Appomattox	284	341	399	500	560
Bath	281	341	401	503	563
Bland	237	287	338	425	475
Buchanan	269	326	384	480	539
Caroline	331	403	475	592	666
Charlotte	233	282	331	416	467
Craig	219	267	313	392	439
Cumberland	233	282	331	416	467
Essex	254	311	367	459	514
Floyd	280	340	399	500	560
Frederick	282	343	402	505	565
Grayson	237	287	338	425	475
Halifax	233	282	331	416	467
Highland	281	341	401	503	563
King And Queen	254	311	367	459	514
King William	254	311	367	459	514
Lee	240	291	345	431	482
Lunenburg	233	282	331	416	467
Mathews	254	311	367	459	514
Middlesex	254	311	367	459	514
Nelson	246	298	352	440	493
Northumberland	254	311	367	459	514
Orange	296	358	420	523	586
Patrick	242	294	348	434	486
Pulaski	280	340	399	500	560
Richmond	254	311	367	459	514
Rockingham	281	341	401	503	563
Shenandoah	282	343	402	505	565
Southampton	226	277	321	401	440
Surry	226	277	321	401	440

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sussex	219	267	313	393	440
Warren	282	343	402	505	565
Wise	271	327	386	482	541
Bedford	242	294	348	434	486
Clifton Forge City	281	341	401	503	563
Emporia	219	267	313	393	440
Fredericksburg	392	476	560	700	784
Harrisonburg City	322	391	460	574	643
Martinsville City	282	343	402	504	564
Radford	341	414	486	612	682
Staunton	281	341	401	503	563
Winchester	342	415	488	610	683

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Tazewell	269	326	384	480	539
Westmoreland	254	311	367	459	514
Wythe	256	312	362	448	501
Buena Vista	281	341	401	503	563
Covington	281	341	401	503	563
Franklin	219	267	313	393	440
Galax	237	287	338	425	475
Lexington	281	341	401	503	563
Norton	270	326	385	481	540
South Boston City	233	282	331	416	467
Waynesboro	281	341	401	503	563

W A S H I N G T O N

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Bellingham, WA MSA	365	446	524	670	737	Whatcom
Bremerton, WA MSA	368	448	526	657	739	Kitsap
Olympia, WA MSA	381	462	544	681	764	Thurston
Richland-Kennewick-Pasco, WA MSA	305	371	436	545	610	Benton, Franklin
Seattle, WA PMSA	416	507	592	765	842	King, Snohomish
Spokane, WA MSA	321	381	449	574	635	Spokane
Tacoma, WA PMSA	330	401	473	630	701	Pierce
Vancouver, WA PMSA	283	344	451	595	661	Clark
Yakima, WA MSA	335	406	478	599	672	Yakima

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	272	331	388	488	546
Chelan	329	399	472	588	660
Columbia	353	428	505	631	708
Douglas	329	399	472	588	660
Garfield	353	428	505	631	708
Grays Harbor	355	431	508	635	713
Jefferson	355	431	508	635	713
Klickitat	330	401	472	591	664
Lincoln	272	331	388	488	546
Okanogan	300	363	430	539	603
Pend Oreille	272	331	388	488	546
Skagit	361	442	519	649	726
Stevens	272	331	388	488	546

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Asotin	353	428	505	631	708
Clallam	355	431	508	635	713
Cowlitz	259	315	370	606	662
Ferry	272	331	388	488	546
Grant	272	331	388	488	546
Island	361	442	519	649	726
Kittitas	300	363	430	539	603
Lewis	330	401	472	591	664
Mason	355	431	508	635	713
Pacific	355	431	508	635	713
San Juan	361	442	519	649	726
Skamania	330	401	472	591	664
Wahkiakum	330	401	472	591	664

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WASHINGTON continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Walla Walla	353	428	505	631	708
Whitman	353	428	505	631	708

WEST VIRGINIA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Charleston, WV MSA	363	441	520	651	729	Kanawha, Putnam
Cumberland, MD-WV MSA	275	327	383	473	528	Mineral
Huntington-Ashland, WV-KY-OH MSA	299	363	429	537	603	Cabell, Wayne
Parkersburg-Marietta, WV-OH MSA	283	344	405	509	569	Wood
Steubenville-Weirton, OH-WV MSA	290	354	414	520	585	Brooke, Hancock
Wheeling, WV-OH MSA	282	343	404	506	566	Marshall, Ohio

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	260	316	373	468	522
Boone	259	314	371	464	519
Calhoun	301	353	409	533	587
Doddridge	253	310	366	457	512
Gilmer	278	333	404	501	552
Greenbrier	239	290	343	428	480
Hardy	249	305	358	448	503
Jackson	301	353	409	533	587
Lewis	260	316	373	468	522
Logan	250	305	358	448	503
Marion	308	374	440	552	617
Mercer	245	299	353	441	495
Monongalia	308	374	440	552	617
Morgan	263	320	376	470	526
Pendleton	249	305	358	448	503
Pocahontas	239	290	343	428	480
Raleigh	250	301	348	434	487
Ritchie	220	268	314	392	440
Summers	250	301	353	441	495
Tucker	260	316	373	468	522
Upshur	260	316	373	468	522
Wetzel	263	320	377	472	528
Wyoming	250	301	348	434	487

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Berkeley	305	370	435	544	609
Braxton	229	278	326	409	459
Clay	259	314	371	464	519
Fayette	239	290	343	428	480
Grant	249	305	358	448	503
Hampshire	249	305	358	448	503
Harrison	301	353	409	533	587
Jefferson	295	359	422	528	591
Lincoln	250	305	358	448	503
Mcdowell	242	295	347	434	487
Mason	250	305	358	448	503
Mingo	250	305	358	448	503
Monroe	250	301	353	441	495
Nicholas	239	290	343	428	480
Pleasants	220	268	314	392	440
Preston	308	374	440	552	617
Randolph	260	316	373	468	522
Roane	301	353	409	533	587
Taylor	253	310	366	457	512
Tyler	220	268	314	392	440
Webster	239	290	343	428	480
Wirt	220	268	314	392	440

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Appleton-Oshkosh-Neenah, WI MSA	283	345	408	509	570	Calumet, Outagamie, Winnebago
Duluth, MN-WI MSA	313	373	440	552	619	Douglas
Eau Claire, WI MSA	280	343	405	504	566	Chippewa, Eau Claire
Green Bay, WI MSA	283	345	410	509	570	Brown
Janesville-Beloit, WI MSA	313	382	450	563	631	Rock
Kenosha, WI PMSA	352	430	504	633	707	Kenosha
La Crosse, WI MSA	336	408	480	600	672	La Crosse
Madison, WI MSA	336	410	489	593	683	Dane
Milwaukee, WI PMSA	338	407	482	603	672	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	382	464	550	688	768	St Croix
Racine, WI PMSA	318	387	456	570	639	Racine
Sheboygan, WI MSA	291	352	416	521	584	Sheboygan
Wausau, WI MSA	283	345	408	509	570	Marathon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	289	350	414	519	582
Barron	275	336	394	494	555
Buffalo	262	316	375	467	526
Clark	275	336	394	494	555
Crawford	248	304	356	447	500
Door	261	313	370	456	509
Florence	248	304	356	447	500
Forest	270	328	385	485	540
Green	270	328	383	477	529
Iowa	261	315	373	465	523
Jackson	262	316	375	467	526
Juneau	289	350	414	519	582
Lafayette	261	315	373	465	523
Lincoln	270	328	385	485	540
Marinette	253	306	358	449	500
Menominee	253	309	364	456	510
Oconto	248	304	356	447	500
Pepin	262	316	375	467	526
Polk	275	336	394	494	555
Price	253	309	364	456	510
Rusk	253	309	364	456	510
Sawyer	253	309	364	456	510
Taylor	253	309	364	456	510
Vernon	248	304	356	447	500
Walworth	303	368	432	540	607

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	253	309	364	456	510
Bayfield	253	309	364	456	510
Burnett	253	309	364	456	510
Columbia	265	319	378	472	530
Dodge	265	319	378	472	530
Dunn	275	336	394	494	555
Fond Du Lac	311	376	427	532	582
Grant	261	315	373	465	523
Green Lake	283	345	408	509	570
Iron	253	309	364	456	510
Jefferson	303	368	432	540	607
Kewaunee	261	313	370	456	509
Langlade	270	328	385	485	540
Manitowoc	261	313	370	456	509
Marquette	253	309	364	456	510
Monroe	262	316	375	467	526
Oneida	270	328	385	485	540
Pierce	262	316	375	467	526
Portage	289	350	414	519	582
Richland	261	315	373	465	523
Sauk	288	351	414	518	579
Shawano	253	309	364	456	510
Trempealeau	262	316	375	467	526
Vilas	270	328	385	485	540
Washburn	253	309	364	456	510

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 - FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Waupaca	253	309	364	456	510
Wood	289	350	414	519	582
Waushara	253	309	364	456	510

W Y O M I N G

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Casper, WY MSA	420	511	600	752	842	Natrona
Cheyenne, WY MSA	347	420	497	624	697	Laramie

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Albany	268	330	390	487	540
Campbell	268	330	390	487	540
Converse	268	330	390	487	540
Fremont	268	330	390	487	540
Hot Springs	275	335	396	492	552
Lincoln	268	330	390	487	540
Park	275	335	396	492	552
Sheridan	371	455	535	667	752
Sweetwater	268	330	390	487	540
Uinta	268	330	390	487	540
Weston	275	335	396	492	552
Big Horn	275	335	396	492	552
Carbon	268	330	390	487	540
Crook	268	335	396	492	552
Goshen	268	330	390	487	540
Johnson	268	330	390	487	540
Niobrara	268	330	390	487	540
Platte	268	330	390	487	540
Sublette	268	330	390	487	540
Teton	353	425	503	631	708
Washakie	275	335	396	492	552

G U A M

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Guam	440	529	625	782	880

P U E R T O R I C O

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Aguadilla, PR MSA	225	275	325	405	455	Aguada, Aguadilla, Isabela, Moca
Arecibo, PR MSA	330	400	470	590	660	Arecibo, Camuy, Hatillo, Quebradillas
Caguas, PR PMSA	275	330	390	490	545	Aguas Buenas, Caguas, Cayey, Cidra, Gurabo, San Lorenzo
Mayaguez, PR MSA	225	275	325	405	455	Anasco, Cabo Rojo, Hormigueros, Mayaguez, San German
Ponce, PR MSA	320	390	460	575	645	Juana Diaz, Ponce
San Juan, PR PMSA	320	390	460	575	645	Bayamon, Barceloneta, Canovanas, Carolina, Catano Corozal, Dorado, Fajardo, Florida, Guaynabo, Humacao Juncos, Las Piedras, Loiza, Luquillo, Manati, Naranjito Rio Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto Vega Alta, Vega Baja

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. 092090

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

P U E R T O R I C O continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adjuntas	215	265	310	390	435
Arroyo	215	265	310	390	435
Ceiba	215	265	310	390	435
Coamo	215	265	310	390	435
Culebra	215	265	310	390	435
Guayama	215	265	310	390	435
Jayuya	215	265	310	390	435
Lares	215	265	310	390	435
Maricao	215	265	310	390	435
Morovis	215	265	310	390	435
Orocovis	215	265	310	390	435
Penuelas	215	265	310	390	435
Sabana Grande	215	265	310	390	435
San Sebastian	215	265	310	390	435
Utuado	215	265	310	390	435
Villalba	215	265	310	390	435
Yauco	215	265	310	390	435

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aibonito	215	265	310	390	435
Barranquitas	215	265	310	390	435
Ciales	215	265	310	390	435
Comerio	215	265	310	390	435
Guanica	215	265	310	390	435
Guayanilla	215	265	310	390	435
Lajas	215	265	310	390	435
Las Marias	215	265	310	390	435
Maunabo	215	265	310	390	435
Naguabo	215	265	310	390	435
Patillas	215	265	310	390	435
Rincon	215	265	310	390	435
Salinas	215	265	310	390	435
Santa Isabel	215	265	310	390	435
Vieques	215	265	310	390	435
Yabucoa	215	265	310	390	435

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Charlotte Amalie	450	547	643	804	900
St. Thomas	450	547	643	804	900

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
St. Croix	401	487	574	717	803

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. 092090

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 55

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	69	80
MSA: Anniston, AL	72	81
MSA: Birmingham, AL	103	113
MSA: Columbus, GA-AL	93	103
MSA: Decatur, AL	69	80
MSA: Dothan, AL	67	76
MSA: Florence, AL	81	87
MSA: Gadsden, AL	72	81
MSA: Huntsville, AL	103	113
MSA: Mobile, AL	82	88
MSA: Montgomery, AL	82	87
MSA: Tuscaloosa, AL	96	109
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	159	159
MSA: Anchorage, AK	176	176
EXCEPTION COUNTY: KETCHIKAN	159	168
NON METRO STATE: ARIZONA	102	130
MSA: Phoenix, AZ	143	170
MSA: Tucson, AZ	102	143
NON METRO STATE: ARKANSAS	38	43
MSA: Fayetteville-Springdale, AR	64	68
MSA: Fort Smith, AR-OK	35	38
MSA: Little Rock-North Little Rock, AR	55	57
MSA: Memphis, TN-AR-MS	95	95
MSA: Pine Bluff, AR	28	30
MSA: Texarkana, TX-Texarkana, AR	112	126
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	160	210
PMSA: Anaheim-Santa Ana, CA	391	391
MSA: Bakersfield, CA	150	230
MSA: Chico, CA	160	210
MSA: Fresno, CA	230	259
PMSA: Los Angeles-Long Beach, CA	190	319
MSA: Merced, CA	160	210
MSA: Modesto, CA	239	259

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 56

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Oakland, CA	265	347
PMSA: Oxnard-Ventura, CA	243	368
MSA: Redding, CA	160	210
PMSA: Riverside-San Bernardino, CA	161	264
MSA: Sacramento, CA	185	220
MSA: Salinas-Seaside-Monterey, CA	230	289
MSA: San Diego, CA	276	302
PMSA: San Francisco, CA	284	370
PMSA: San Jose, CA	338	394
MSA: Santa Barbara-Santa Maria-Lompoc, CA	189	289
PMSA: Santa Cruz, CA	247	309
PMSA: Santa Rosa-Petaluma, CA	247	297
MSA: Stockton, CA	239	259
PMSA: Vallejo-Fairfield-Napa, CA	257	294
MSA: Visalia-Tulare-Porterville, CA	160	210
MSA: Yuba City, CA	160	210
EXCEPTION COUNTY: SAN LUIS OBI	219	259
NON METRO STATE: COLORADO	N/A	N/A
PMSA: Boulder-Longmont, CO	215	236
MSA: Colorado Springs, CO	150	170
PMSA: Denver, CO	245	265
MSA: Fort Collins-Loveland, CO	143	160
MSA: Greeley, CO	143	160
MSA: Pueblo, CO	143	160
EXCEPTION COUNTY: ALAMOSA	119	143
EXCEPTION COUNTY: ARCHULETA	143	160
EXCEPTION COUNTY: BACA	119	143
EXCEPTION COUNTY: BENT	119	143
EXCEPTION COUNTY: CHAFFEE	143	160
EXCEPTION COUNTY: CHEYENNE	119	143
EXCEPTION COUNTY: CLEAR CREEK	143	160
EXCEPTION COUNTY: CONEJOS	119	143
EXCEPTION COUNTY: COSTILLA	119	143
EXCEPTION COUNTY: CROWLEY	119	143
EXCEPTION COUNTY: CUSTER	143	160
EXCEPTION COUNTY: DELTA	143	160
EXCEPTION COUNTY: DELORES	143	160
EXCEPTION COUNTY: EAGLE	231	259
EXCEPTION COUNTY: ELBERT	119	143
EXCEPTION COUNTY: FREMONT	143	160
EXCEPTION COUNTY: GARFIELD	231	259
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	143	160
EXCEPTION COUNTY: GUNNISON	143	160

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 57

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: HINSDALE	143	160
EXCEPTION COUNTY: HUERFANO	119	143
EXCEPTION COUNTY: JACKSON	143	160
EXCEPTION COUNTY: KIOWA	119	143
EXCEPTION COUNTY: KIT CARSON	119	143
EXCEPTION COUNTY: LAKE	143	160
EXCEPTION COUNTY: LA PLATA	143	160
EXCEPTION COUNTY: LAS ANIMAS	119	143
EXCEPTION COUNTY: LINCOLN	119	143
EXCEPTION COUNTY: LOGAN	119	143
EXCEPTION COUNTY: MESA	143	160
EXCEPTION COUNTY: MINERAL	119	143
EXCEPTION COUNTY: MOFFAT	231	259
EXCEPTION COUNTY: MONTEZUMA	143	160
EXCEPTION COUNTY: MONTROSE	143	160
EXCEPTION COUNTY: MORGAN	119	143
EXCEPTION COUNTY: OTERO	119	143
EXCEPTION COUNTY: OURAY	143	160
EXCEPTION COUNTY: PARK	143	160
EXCEPTION COUNTY: PHILLIPS	119	143
EXCEPTION COUNTY: PITKIN	231	259
EXCEPTION COUNTY: PROWERS	119	143
EXCEPTION COUNTY: RIO BLANCO	231	259
EXCEPTION COUNTY: RIO GRANDE	119	143
EXCEPTION COUNTY: ROUTT	231	259
EXCEPTION COUNTY: SAGUACHE	119	143
EXCEPTION COUNTY: SAN JUAN	143	160
EXCEPTION COUNTY: SAN MIGUEL	143	160
EXCEPTION COUNTY: SEDGWICK	119	143
EXCEPTION COUNTY: SUMMIT	231	259
EXCEPTION COUNTY: TELLER	119	143
EXCEPTION COUNTY: WASHINGTON	119	143
EXCEPTION COUNTY: YUMA	119	143
NON METRO STATE: CONNECTICUT	160	160
PMSA: Bridgeport-Milford, CT	208	208
PMSA: Bristol, CT	160	160
PMSA: Danbury, CT	159	159
PMSA: Hartford, CT	174	174
PMSA: Middletown, CT	174	174
PMSA: New Britain, CT	174	174
MSA: New Haven-Meriden, CT	156	156
MSA: New London-Norwich, CT-RI	149	149
PMSA: Norwalk, CT	196	196
PMSA: Stamford, CT	196	196

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 58

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Waterbury, CT	160	160
NON METRO STATE: DELAWARE	70	70
PMSA: Wilmington, DE-NJ-MD	142	142
NON METRO STATE: DIST. OF COLUMBIA	N/A	N/A
MSA: Washington, DC-MD-VA	194	194
NON METRO STATE: FLORIDA	87	87
MSA: Bradenton, FL	126	126
MSA: Daytona Beach, FL	112	112
PMSA: Fort Lauderdale-Hollywood-Pompano Beach, FL	183	183
MSA: Fort Myers-Cape Coral, FL	117	117
MSA: Fort Pierce, FL	85	85
MSA: Fort Walton Beach, FL	87	87
MSA: Gainesville, FL	87	87
MSA: Jacksonville, FL	81	95
MSA: Lakeland-Winter Haven, FL	87	87
MSA: Melbourne-Titusville-Palm Bay, FL	103	103
PMSA: Miami-Hialeah, FL	145	145
MSA: Naples, FL	87	87
MSA: Ocala, FL	87	87
MSA: Orlando, FL	103	103
MSA: Panama City, FL	87	87
MSA: Pensacola, FL	87	87
MSA: Sarasota, FL	117	117
MSA: Tallahassee, FL	81	81
MSA: Tampa-St. Petersburg-Clearwater, FL	117	117
MSA: West Palm Beach-Boca Raton-Delray Beach, FL	149	149
EXCEPTION COUNTY: BAKER	79	92
EXCEPTION COUNTY: COLUMBIA	87	87
EXCEPTION COUNTY: WAKULLA	79	92
NON METRO STATE: GEORGIA	63	63
MSA: Albany, GA	56	59
MSA: Athens, GA	63	63
MSA: Atlanta, GA	101	109
MSA: Augusta, GA-SC	85	87
MSA: Chattanooga, TN-GA	56	81
MSA: Columbus, GA-AL	93	103
MSA: Macon-Warner Robins, GA	57	62
MSA: Savannah, GA	70	81

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 59

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BRYAN	63	64
EXCEPTION COUNTY: TWIGGS	56	61
NON METRO STATE: HAWAII	N/A	N/A
MSA: Honolulu, HI	N/A	N/A
NON METRO STATE: IDAHO	119	119
MSA: Boise City, ID	128	149
NON METRO STATE: ILLINOIS	113	122
PMSA: Aurora-Elgin, IL	230	248
MSA: Bloomington-Normal, IL	127	127
MSA: Champaign-Urbana-Rantoul, IL	103	103
PMSA: Chicago, IL	244	260
MSA: Davenport-Rock Island-Moline, IA-IL	139	146
MSA: Decatur, IL	139	139
PMSA: Joliet, IL	244	260
MSA: Kankakee, IL	101	101
PMSA: Lake County, IL	230	248
MSA: Peoria, IL	189	207
MSA: Rockford, IL	186	198
MSA: St. Louis, MO-IL	103	119
MSA: Springfield, IL	122	129
NON METRO STATE: INDIANA	62	80
MSA: Anderson, IN	69	69
MSA: Bloomington, IN	65	65
PMSA: Cincinnati, OH-KY-IN	125	131
MSA: Elkhart-Goshen, IN	89	89
MSA: Evansville, IN-KY	82	87
MSA: Fort Wayne, IN	76	103
PMSA: Gary-Hammond, IN	118	136
MSA: Indianapolis, IN	97	111
MSA: Kokomo, IN	89	102
MSA: Lafayette-West Lafayette, IN	83	123
MSA: Louisville, KY-IN	87	96
MSA: Muncie, IN	66	74
MSA: South Bend-Mishawaka, IN	102	107
MSA: Terre Haute, IN	65	80
EXCEPTION COUNTY: ADAMS	62	80
EXCEPTION COUNTY: BLACKFORD	70	80
EXCEPTION COUNTY: GIBSON	62	80

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 60

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GRANT	70	80
EXCEPTION COUNTY: HENRY	70	80
EXCEPTION COUNTY: JAY	70	80
EXCEPTION COUNTY: MARSHALL	74	80
EXCEPTION COUNTY: RANDOLPH	70	80
EXCEPTION COUNTY: SULLIVAN	63	75
EXCEPTION COUNTY: VERMILLION	63	75
EXCEPTION COUNTY: WAYNE	70	80
EXCEPTION COUNTY: WELLS	62	80
NON METRO STATE: IOWA	97	104
MSA: Cedar Rapids, IA	111	129
MSA: Davenport-Rock Island-Moline, IA-IL	139	146
MSA: Des Moines, IA	119	127
MSA: Dubuque, IA	111	138
MSA: Iowa City, IA	111	127
MSA: Omaha, NE-IA	104	122
MSA: Sioux City, IA-NE	107	107
MSA: Waterloo-Cedar Falls, IA	111	129
NON METRO STATE: KANSAS	85	97
MSA: Kansas City, MO-KS	99	121
MSA: Lawrence, KS	87	100
MSA: Topeka, KS	85	97
MSA: Wichita, KS	100	106
EXCEPTION COUNTY: JEFFERSON	81	94
EXCEPTION COUNTY: OSAGE	81	94
NON METRO STATE: KENTUCKY	76	84
PMSA: Cincinnati, OH-KY-IN	125	131
MSA: Clarksville-Hopkinsville, TN-KY	81	87
MSA: Evansville, IN-KY	82	87
MSA: Huntington-Ashland, WV-KY-OH	92	92
MSA: Lexington-Fayette, KY	96	110
MSA: Louisville, KY-IN	87	95
MSA: Owensboro, KY	88	106
NON METRO STATE: LOUISIANA	82	96
MSA: Alexandria, LA	81	95
MSA: Baton Rouge, LA	95	112
MSA: Houma-Thibodaux, LA	80	93
MSA: Lafayette, LA	87	103

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 61

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Lake Charles, LA	93	110
MSA: Monroe, LA	81	95
MSA: New Orleans, LA	100	115
MSA: Shreveport, LA	87	103
EXCEPTION COUNTY: GRANT	79	92
EXCEPTION COUNTY: WEBSTER	82	96
NON METRO STATE: MAINE	142	163
MSA: Bangor, ME	142	163
MSA: Lewiston-Auburn, ME	108	108
MSA: Portland, ME	177	201
MSA: Portsmouth-Dover-Rochester, NH-ME	142	163
NON METRO STATE: MARYLAND	127	127
MSA: Baltimore, MD	204	204
MSA: Cumberland, MD-WV	127	127
MSA: Hagerstown, MD	195	195
MSA: Washington, DC-MD-VA	194	194
PMSA: Wilmington, DE-NJ-MD	142	142
EXCEPTION COUNTY: ST MARYS	220	220
NON METRO STATE: MASSACHUSETTS	174	174
PMSA: Boston, MA	169	183
PMSA: Brockton, MA	169	169
PMSA: Fall River, MA-RI	108	108
MSA: Fitchburg-Leominster, MA	129	129
PMSA: Lawrence-Haverhill, MA-NH	160	171
PMSA: Lowell, MA-NH	160	171
MSA: New Bedford, MA	149	149
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA	148	148
MSA: Pittsfield, MA	161	161
PMSA: Salem-Gloucester, MA	169	183
MSA: Springfield, MA	127	127
MSA: Worcester, MA	111	111
NON METRO STATE: MICHIGAN	122	135
PMSA: Ann Arbor, MI	175	189
MSA: Battle Creek, MI	104	122
MSA: Benton Harbor, MI	122	135
PMSA: Detroit, MI	170	183
MSA: Flint, MI	148	148
MSA: Grand Rapids, MI	111	120

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 62

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Jackson, MI	122	122
MSA: Kalamazoo, MI	128	131
MSA: Lansing-East Lansing, MI	143	166
MSA: Muskegon, MI	111	113
MSA: Saginaw-Bay City-Midland, MI	129	129
EXCEPTION COUNTY: BARRY	100	116
EXCEPTION COUNTY: IONIA	122	135
EXCEPTION COUNTY: OCEANA	106	108
EXCEPTION COUNTY: SHIAWASSEE	142	142
EXCEPTION COUNTY: VAN BUREN	122	126
NON METRO STATE: MINNESOTA	87	87
MSA: Duluth, MN-WI	89	101
MSA: Fargo-Moorhead, ND-MN	138	155
MSA: Minneapolis-St. Paul, MN-WI	209	222
MSA: Rochester, MN	126	126
MSA: St. Cloud, MN	110	110
EXCEPTION COUNTY: POLK	133	151
NON METRO STATE: MISSISSIPPI	82	96
MSA: Biloxi-Gulfport, MS	95	112
MSA: Jackson, MS	103	126
MSA: Memphis, TN-AR-MS	95	95
MSA: Pascagoula, MS	81	95
EXCEPTION COUNTY: STONE	82	96
NON METRO STATE: MISSOURI	68	75
MSA: Columbia, MO	97	104
MSA: Joplin, MO	68	75
MSA: Kansas City, MO-KS	99	121
MSA: St. Joseph, MO	100	107
MSA: St. Louis, MO-IL	103	119
MSA: Springfield, MO	70	76
EXCEPTION COUNTY: ANDREW	95	102
NON METRO STATE: MONTANA	N/A	N/A
MSA: Billings, MT	178	199
MSA: Great Falls, MT	150	170
EXCEPTION COUNTY: BEAVERHEAD	143	160
EXCEPTION COUNTY: BIG HORN	143	160
EXCEPTION COUNTY: BLAINE	102	119
EXCEPTION COUNTY: BROADWATER	143	160

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 63

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: CARBON	143	160
EXCEPTION COUNTY: CARTER	102	119
EXCEPTION COUNTY: CHOUTEAU	102	119
EXCEPTION COUNTY: CUSTER	143	160
EXCEPTION COUNTY: DANIELS	102	119
EXCEPTION COUNTY: DAWSON	143	160
EXCEPTION COUNTY: DEER LODGE	143	160
EXCEPTION COUNTY: FALLON	102	119
EXCEPTION COUNTY: FERGUS	102	119
EXCEPTION COUNTY: FLATHEAD	143	160
EXCEPTION COUNTY: GALLATIN	143	160
EXCEPTION COUNTY: GARFIELD	102	119
EXCEPTION COUNTY: GLACIER	102	119
EXCEPTION COUNTY: GOLDEN VALLE	102	119
EXCEPTION COUNTY: GRANITE	143	160
EXCEPTION COUNTY: HILL	102	119
EXCEPTION COUNTY: JEFFERSON	143	160
EXCEPTION COUNTY: JUDITH BASIN	102	119
EXCEPTION COUNTY: LAKE	143	160
EXCEPTION COUNTY: LEWIS+ CLARK	143	160
EXCEPTION COUNTY: LIBERTY	102	119
EXCEPTION COUNTY: LINCOLN	143	160
EXCEPTION COUNTY: MCCONE	102	119
EXCEPTION COUNTY: MADISON	143	160
EXCEPTION COUNTY: MEAGHER	143	160
EXCEPTION COUNTY: MINERAL	143	160
EXCEPTION COUNTY: MISSOULA	143	160
EXCEPTION COUNTY: MUSSELSHELL	143	160
EXCEPTION COUNTY: PARK	143	160
EXCEPTION COUNTY: PETROLEUM	102	119
EXCEPTION COUNTY: PHILLIPS	102	119
EXCEPTION COUNTY: PONDERA	102	119
EXCEPTION COUNTY: POWDER RIVER	143	160
EXCEPTION COUNTY: POWELL	143	160
EXCEPTION COUNTY: PRAIRIE	102	119
EXCEPTION COUNTY: RAVALLI	143	160
EXCEPTION COUNTY: RICHLAND	102	119
EXCEPTION COUNTY: ROOSEVELT	102	119
EXCEPTION COUNTY: ROSEBUD	143	160
EXCEPTION COUNTY: SANDERS	143	160
EXCEPTION COUNTY: SHERIDAN	102	119
EXCEPTION COUNTY: SILVER BOW	143	160
EXCEPTION COUNTY: STILLWATER	102	119
EXCEPTION COUNTY: SWEET GRASS	102	119
EXCEPTION COUNTY: TETON	102	119
EXCEPTION COUNTY: TOOLE	102	119

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) AGE 64

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: TREASURE	143	160
EXCEPTION COUNTY: VALLEY	102	119
EXCEPTION COUNTY: WHEATLAND	102	119
EXCEPTION COUNTY: WIBAUX	102	119
EXCEPTION COUNTY: YL-ST-NT-PK	143	160
NON METRO STATE: NEBRASKA	88	108
MSA: Lincoln, NE	120	127
MSA: Omaha, NE-IA	104	122
MSA: Sioux City, IA-NE	107	107
NON METRO STATE: NEVADA	113	130
MSA: Las Vegas, NV	239	267
MSA: Reno, NV	239	267
NON METRO STATE: NEW HAMPSHIRE	128	142
PMSA: Lawrence-Haverhill, MA-NH	160	171
PMSA: Lowell, MA-NH	160	171
MSA: Manchester, NH	146	160
PMSA: Nashua, NH	183	183
MSA: Portsmouth-Dover-Rochester, NH-ME	142	163
NON METRO STATE: NEW JERSEY	131	131
MSA: Allentown-Bethlehem, PA-NJ	129	129
MSA: Atlantic City, NJ	202	202
PMSA: Bergen-Passaic, NJ	275	276
PMSA: Jersey City, NJ	267	267
PMSA: Middlesex-Somerset-Hunterdon, NJ	313	313
PMSA: Monmouth-Ocean, NJ	240	290
PMSA: Newark, NJ	258	267
PMSA: Philadelphia, PA-NJ	224	224
PMSA: Trenton, NJ	197	197
PMSA: Vineland-Millville-Bridgeton, NJ	174	174
PMSA: Wilmington, DE-NJ-MD	142	142
NON METRO STATE: NEW MEXICO	106	123
MSA: Las Cruces, NM	106	123
MSA: Albuquerque, NM	119	138
MSA: Santa Fe, NM	106	123
EXCEPTION COUNTY: SANDOVAL	113	128
NON METRO STATE: NEW YORK	153	153

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 65

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Albany-Schenectady-Troy, NY	191	191
MSA: Binghamton, NY	114	114
PMSA: Buffalo, NY	135	135
MSA: Elmira, NY	122	122
MSA: Glens Falls, NY	153	153
MSA: Jamestown-Dunkirk, NY	290	290
PMSA: Nassau-Suffolk, NY	210	272
PMSA: New York, NY	218	218
PMSA: Niagara Falls, NY	129	129
PMSA: Orange County, NY	151	151
MSA: Poughkeepsie, NY	290	290
MSA: Rochester, NY	174	174
MSA: Syracuse, NY	141	141
MSA: Utica-Rome, NY	143	143
EXCEPTION COUNTY: WESTCHESTER	258	258
NON METRO STATE: NORTH CAROLINA	57	70
MSA: Asheville, NC	81	95
MSA: Burlington, NC	81	95
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	81	95
MSA: Fayetteville, NC	81	95
MSA: Greensboro--Winston-Salem--High Point, NC	81	95
MSA: Hickory, NC	57	70
MSA: Jacksonville, NC	57	70
MSA: Raleigh-Durham, NC	81	95
MSA: Wilmington, NC	81	95
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY: MADISON	64	76
NON METRO STATE: NORTH DAKOTA	110	127
MSA: Bismarck, ND	156	173
MSA: Fargo-Moorhead, ND-MN	138	155
MSA: Grand Forks, ND	119	147
NON METRO STATE: OHIO	79	79
PMSA: Akron, OH	117	117
MSA: Canton, OH	85	85
PMSA: Cincinnati, OH-KY-IN	125	131
PMSA: Cleveland, OH	125	125
MSA: Columbus, OH	111	129
MSA: Dayton-Springfield, OH	85	85
PMSA: Hamilton-Middletown, OH	101	104

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 66

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Huntington-Ashland, WV-KY-OH	93	93
MSA: Lima, OH	111	111
PMSA: Lorain-Elyria, OH	134	134
MSA: Mansfield, OH	104	104
MSA: Parkersburg-Marietta, WV-OH	93	93
MSA: Steubenville-Weirton, OH-WV	83	83
MSA: Toledo, OH	140	189
MSA: Wheeling, WV-OH	85	85
MSA: Youngstown-Warren, OH	104	104
EXCEPTION COUNTY: CHAMPAIGN	79	79
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	79	79
EXCEPTION COUNTY: PUTNAM	81	81
EXCEPTION COUNTY: VAN WERT	81	81
NON METRO STATE: OKLAHOMA	79	85
MSA: Enid, OK	79	85
MSA: Fort Smith, AR-OK	35	38
MSA: Lawton, OK	80	87
MSA: Oklahoma City, OK	82	90
MSA: Tulsa, OK	87	95
EXCEPTION COUNTY: LE FLORE	34	37
EXCEPTION COUNTY: MAYES	79	85
NON METRO STATE: OREGON	151	160
MSA: Eugene-Springfield, OR	178	184
MSA: Medford, OR	151	160
PMSA: Portland, OR	201	223
MSA: Salem, OR	178	184
NON METRO STATE: PENNSYLVANIA	91	91
MSA: Allentown-Bethlehem, PA-NJ	129	129
MSA: Altoona, PA	119	119
PMSA: Beaver County, PA	93	93
MSA: Erie, PA	119	119
MSA: Harrisburg-Lebanon-Carlisle, PA	135	135
MSA: Johnstown, PA	119	119
MSA: Lancaster, PA	123	123
PMSA: Philadelphia, PA-NJ	224	224
PMSA Pittsburgh, PA	97	97
MSA Reading, PA	123	123
MSA: Scranton--Wilkes-Barre, PA	109	109
MSA Sharon, PA	91	91

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 67

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: State College, PA	91	91
MSA: Williamsport, PA	91	91
MSA: York, PA	123	123
EXCEPTION COUNTY: SUSQUEHANNA	91	91
NON METRO STATE: RHODE ISLAND	142	142
PMSA: Fall River, MA-RI	108	108
MSA: New London-Norwich, CT-RI	149	149
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA	149	149
PMSA: Providence, RI	149	149
NON METRO STATE: SOUTH CAROLINA	63	63
MSA: Anderson, SC	63	63
MSA: Augusta, GA-SC	85	87
MSA: Charleston, SC	81	81
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	81	95
MSA: Columbia, SC	70	81
MSA: Florence, SC	63	63
MSA: Greenville-Spartanburg, SC	70	70
NON METRO STATE: SOUTH DAKOTA	94	110
MSA: Rapid City, SD	94	110
MSA: Sioux Falls, SD	132	148
NON METRO STATE: TENNESSEE	63	63
MSA: Chattanooga, TN-GA	56	81
MSA: Clarksville-Hopkinsville, TN-KY	81	87
MSA: Jackson, TN	63	63
MSA: Johnson City-Kingsport-Bristol, TN-VA	87	87
MSA: Knoxville, TN	70	70
MSA: Memphis, TN-AR-MS	95	95
MSA: Nashville, TN	95	112
NON METRO STATE: TEXAS	68	85
NON METRO STATE: TEXAS	68	85
MSA: Abilene, TX	59	66
MSA: Amarillo, TX	110	115
MSA: Austin, TX	100	117
MSA: Beaumont-Port Arthur, TX	103	117

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091490

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 68

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Brazoria, TX	105	123
MSA: Brownsville-Harlingen, TX	81	95
MSA: Bryan-College Station, TX	100	112
MSA: Corpus Christi, TX	85	112
PMSA: Dallas, TX	79	101
MSA: El Paso, TX	114	129
PMSA: Fort Worth-Arlington, TX	79	101
PMSA: Galveston-Texas City, TX	102	114
PMSA: Houston, TX	108	127
MSA: Killeen-Temple, TX	103	112
MSA: Laredo, TX	70	87
MSA: Longview-Marshall, TX	95	109
MSA: Lubbock, TX	109	112
MSA: Mc Allen-Edinburg-Mission, TX	93	112
MSA: Midland, TX	112	117
MSA: Odessa, TX	112	117
MSA: San Angelo, TX	95	103
MSA: San Antonio, TX	81	95
MSA: Sherman-Denison, TX	87	103
MSA: Texarkana, TX-Texarkana, AR	112	126
MSA: Tyler, TX	87	92
MSA: Victoria, TX	68	85
MSA: Waco, TX	90	103
MSA: Wichita Falls, TX	63	70
EXCEPTION COUNTY: CALLAHAN	58	64
EXCEPTION COUNTY: CLAY	62	68
EXCEPTION COUNTY: HOOD	70	88
EXCEPTION COUNTY: JONES	58	64
EXCEPTION COUNTY: WISE	70	88
NON METRO STATE: UTAH	N/A	N/A
MSA: Provo-Orem, UT	143	160
MSA: Salt Lake City-Ogden, UT	160	178
EXCEPTION COUNTY: BEAVER	102	119
EXCEPTION COUNTY: BOX ELDER	102	119
EXCEPTION COUNTY: CACHE	102	119
EXCEPTION COUNTY: CARBON	143	160
EXCEPTION COUNTY: DAGGETT	102	119
EXCEPTION COUNTY: DUCHESNE	102	119
EXCEPTION COUNTY: EMERY	143	160
EXCEPTION COUNTY: GARFIELD	102	119
EXCEPTION COUNTY: GRAND	143	160
EXCEPTION COUNTY: IRON	102	119
EXCEPTION COUNTY: JUAB	102	119
EXCEPTION COUNTY: KANE	102	119

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 69

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: MILLARD	102	119
EXCEPTION COUNTY: MORGAN	102	119
EXCEPTION COUNTY: PIUTE	102	119
EXCEPTION COUNTY: RICH	102	119
EXCEPTION COUNTY: SAN JUAN	102	119
EXCEPTION COUNTY: SANPETE	102	119
EXCEPTION COUNTY: SEVIER	102	119
EXCEPTION COUNTY: SUMMIT	102	119
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY: UINTAH	143	160
EXCEPTION COUNTY: WASATCH	102	119
EXCEPTION COUNTY: WASHINGTON	102	119
EXCEPTION COUNTY: WAYNE	102	119
NON METRO STATE: VERMONT	133	154
MSA: Burlington, VT	160	183
EXCEPTION COUNTY: CHITTENDEN	161	186
EXCEPTION COUNTY: FRANKLIN	137	158
EXCEPTION COUNTY: GRAND ISLE	151	173
EXCEPTION COUNTY: ORANGE	149	172
EXCEPTION COUNTY: WASHINGTON	153	177
EXCEPTION COUNTY: WINDHAM	197	227
EXCEPTION COUNTY: WINDSOR	212	243
NON METRO STATE: VIRGINIA	90	90
MSA: Charlottesville, VA	90	90
MSA: Danville, VA	90	90
MSA: Johnson City-Kingsport-Bristol, TN-VA	87	87
MSA: Lynchburg, VA	81	81
MSA: Norfolk-Virginia Beach-Newport News, VA	128	128
MSA: Richmond-Petersburg, VA	126	126
MSA: Roanoke, VA	87	87
MSA: Washington, DC-MD-VA	194	194
EXCEPTION COUNTY: APPOMATTOX	79	79
EXCEPTION COUNTY: CRAIG	85	85
NON METRO STATE: WASHINGTON	130	151
MSA: Bellingham, WA	130	169
MSA: Bremerton, WA	130	169
MSA: Olympia, WA	130	169
MSA: Richland-Kennewick-Pasco, WA	178	178
PMSA: Seattle, WA	167	235
MSA: Spokane, WA	143	160

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) PAGE 70

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Tacoma, WA	149	176
PMSA: Vancouver, WA	188	206
MSA: Yakima, WA	143	150
NON METRO STATE: WEST VIRGINIA	87	87
MSA: Charleston, WV	95	95
MSA: Cumberland, MD-WV	127	127
MSA: Huntington-Ashland, WV-KY-OH	92	92
MSA: Parkersburg-Marietta, WV-OH	92	92
MSA: Steubenville-Weirton, OH-WV	83	83
MSA: Wheeling, WV-OH	85	85
EXCEPTION COUNTY: BERKELEY	125	125
EXCEPTION COUNTY: JEFFERSON	125	125
EXCEPTION COUNTY: MORGAN	125	125
EXCEPTION COUNTY: WIRT	85	85
NON METRO STATE: WISCONSIN	97	104
MSA: Appleton-Oshkosh-Neenah, WI	122	129
MSA: Duluth, MN-WI	89	101
MSA: Eau Claire, WI	113	123
MSA: Green Bay, WI	119	127
MSA: Janesville-Beloit, WI	119	127
PMSA: Kenosha, WI	133	143
MSA: La Crosse, WI	107	117
MSA: Madison, WI	179	188
PMSA: Milwaukee, WI	139	148
MSA: Minneapolis-St. Paul, MN-WI	209	222
PMSA: Racine, WI	131	138
MSA: Sheboygan, WI	97	104
MSA: Wausau, WI	97	104
NON METRO STATE: WYOMING	N/A	N/A
MSA: Casper, WY	239	259
MSA: Cheyenne, WY	143	171
EXCEPTION COUNTY: ALBANY	143	171
EXCEPTION COUNTY: BIG HORN	143	171
EXCEPTION COUNTY: CAMPBELL	239	259
EXCEPTION COUNTY: CARBON	239	259
EXCEPTION COUNTY: CONVERSE	239	259
EXCEPTION COUNTY: CROOK	143	171
EXCEPTION COUNTY: FREMONT	239	259
EXCEPTION COUNTY: GOSHEN	143	171
EXCEPTION COUNTY: HOT SPRINGS	143	171

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) AGE 71

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: JOHNSON	143	171
EXCEPTION COUNTY: LARAMIE	143	171
EXCEPTION COUNTY: LINCOLN	143	171
EXCEPTION COUNTY: PARK	143	171
EXCEPTION COUNTY: PLATTE	143	171
EXCEPTION COUNTY: SHERIDAN	239	259
EXCEPTION COUNTY: SUBLETTE	143	171
EXCEPTION COUNTY: SWEETWATER	239	259
EXCEPTION COUNTY: TETON	143	171
EXCEPTION COUNTY: UINTA	143	171
EXCEPTION COUNTY: WASHAKIE	143	171
EXCEPTION COUNTY: WESTON	143	171

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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[FR Doc. 90-22975 Filed 9-28-90; 8:45 am]
BILLING CODE 4210-27-C

federal register

Monday
October 1, 1990

Part III

Department of Education

34 CFR Part 682

Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs; Interpretation; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs

AGENCY: Department of Education.

ACTION: Notice of interpretation.

SUMMARY: The Secretary interprets regulations issued for the Stafford Loan Program (formerly the Guaranteed Student Loan Program), the Supplemental Loans for Students (SLS) Program, the PLUS Program, and the Consolidation Loan Program, collectively referred to as the Guaranteed Student Loan (GSL) Programs, that prescribe the actions lenders and guarantee agencies must take to collect loans guaranteed under the GSL Programs. The substance of the interpretation is that these regulations preempt State law regarding the conduct of these loan collection activities.

EFFECTIVE DATE: This interpretation takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this interpretation, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Pam Moran, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education, room 4310, Mail Stop 5345, ROB-3, 7th and D Streets SW., Washington, DC 20202-5449, telephone number (202) 708-8242.

SUPPLEMENTARY INFORMATION: Questions have recently arisen about whether regulations issued by the Secretary to prescribe the actions that lenders must take to exercise due diligence in collecting delinquent GSL obligations, 34 CFR 682.411, and that guarantee agencies must take to collect defaulted GSL obligations, 34 CFR 682.410(b)(4), preempt State law. The Secretary issues this interpretation that 34 CFR 682.410(b)(4) and 34 CFR 682.411 preempt State law, including State case law, statutes, and regulations that are inconsistent with the provisions of these GSL regulations.

Background

Under section 432(a)(1) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1082(a)(1), the Secretary is authorized to prescribe such regulations as may be necessary to carry out the purposes of part B of title IV of the HEA. Among the purposes of part B is to authorize the Secretary to guarantee loans insured by guarantee agencies, 20 U.S.C. 1071(a)(1)(D), and in furtherance of that purpose, to ensure that holders of loans guaranteed under the GSL programs exercise due diligence in attempting to collect those loans. 20 U.S.C. 1078(c)(2)(A).

In regulations adopted in 1979 and in effect through 1986, the Secretary established detailed directions specifying the collection actions to be taken by lenders on loans guaranteed directly by the Department under the Federal Insured Student Loan Program (FISLP) component of the GSL programs. *See:* 45 CFR 177.511 (1979), 34 CFR 682.511 (1985). Those regulations, however, imposed no comparable requirements on lenders with regard to loans guaranteed by State or private non-profit guarantee agencies, or on those agencies themselves, in collecting GSL program obligations that were reinsured and subsidized by the Department. The dramatic increase in the number and amount of delinquent and defaulted GSL obligations held by these parties between 1980 and 1986 demonstrated the need to adopt similar standards in the collection of these loans as well.

On November 10, 1986, therefore, the Secretary published regulations that prescribed, in 34 CFR 682.411, the steps that lenders must take to attempt to collect delinquent loans guaranteed by State and non-profit guarantee agencies in order for those loans to qualify for coverage under the Secretary's reinsurance agreements with the guarantee agencies. In 34 CFR 682.410(b)(4) of those same regulations, the Secretary prescribed the steps that guarantee agencies must take to attempt to collect defaulted loans on which they have paid default claims. Both regulations require holders of GSL obligations to complete a particular sequence of written and oral contacts with the borrower to demand repayment of delinquent or defaulted loan obligations, and to use skip-tracing if needed to locate debtors; guarantee agencies are also required, under certain circumstances, to sue borrowers, and to enforce judgments taken against the borrowers.

The Secretary expressly promulgated these rules in order to establish the "minimal level of effort necessary to protect the Federal fiscal interest in diligent loan collection," both by guarantee agencies and by lenders. 51 FR 40943. As reflected in the summary of comments and responses on the proposed rule, 51 FR 40943-40944, none of the parties that commented on these regulations raised specific questions or comments regarding the existence or effect of State law regulating debt collection activities on the conduct of the required collection actions described here. Moreover, in the preceding seven years during which lenders holding FISLP obligations had already been subject to comparably prescriptive collection rules, no instances had come to the Secretary's attention in which State rules were found to restrict or otherwise affect compliance with those FISLP-specific rules. For these reasons, the Secretary did not believe there was any need to articulate his intention to preempt inconsistent State laws in promulgating the GSL regulations at issue here in 1986. Nevertheless, in promulgating the rules as the "minimum level of [collection] effort necessary" to accomplish the Federal purpose, the Secretary clearly intended these 1986 rules to establish a uniform national minimum level of collection activity, and therefore to preempt any State rule that would hinder or prohibit the collection actions required under the rules.

Need for Issuance of Interpretation

Specific questions have now arisen about the effect of particular State laws that may restrict or prohibit holders of GSLP obligations from taking some of the actions required under these regulations. For example, in a number of instances borrowers who were contacted by a loan servicer acting on behalf of a lender after the servicer had been notified that the borrowers were represented by counsel asserted that the servicer had violated State law prohibiting those direct contacts. Similar charges were asserted by borrowers who were contacted directly by a guarantee agency after the agency had been notified that the borrowers were represented by counsel. Still other borrowers asserted that holders of GSL obligations violated State law by continuing to demand repayment of loans on which the borrowers had raised objections to repayment of their loans. In each of these instances, the borrowers invoked State law to attempt to prevent the holder of the loan from commencing or completing the sequence of collection actions prescribed in these regulations; the borrowers have also sought damages from the holders of these loans for the alleged violations of State law. Other State statutes have recently come to light that would prohibit lenders and guarantee agencies from taking any collection action to collect a loan if the school at which the borrower enrolled closed during the

academic period for which the loan was made.

These recent developments demonstrate the need to immediately clarify the Secretary's intention to preempt inconsistent State law that underlay the promulgation of these GSL collection regulations in 1986. The Secretary recognized in November 1986 that if there were State laws inconsistent with these GSL regulations, those laws could pose a substantial obstacle to lender and agency efforts to comply with the GSL regulations. Since it is clear that those State laws in fact now exist, the threat of substantial financial penalties for potential violations of those State laws could force holders of GSL Program loans to choose between incurring those penalties by complying with the GSL regulations, or refraining from federally-required collection efforts and losing the Federal guarantee. The possibility of those penalties, moreover, would not only tend to make holders of loans reluctant to complete the required collection actions, but reluctant to undertake those actions at all, and in fact, reluctant to make new loans. If those State laws were to apply to collection activity of the kind required in the regulations, they would thwart the congressional intention implemented in these regulations that holders exercise due diligence in attempting to recover on these loans, to the serious detriment of the GSL Programs.

In issuing the following interpretation explaining the Secretary's intention to preempt State law in promulgating the 1986 regulations, the Secretary stresses the limited nature of this action in displacing State rules and authority. This preemption applies only to actions to collect loans that are federally guaranteed through the vehicle of Federal reinsurance agreements with the guarantee agencies and, in most cases, directly federally subsidized as well. These regulations are designed to prevent defaults and the loss to the Federal Treasury, through claims under the Department's reinsurance commitments, caused by these defaults, and, where these losses have already occurred, to recover from defaulting borrowers the amounts paid from the Treasury. Therefore, rather than intruding into transactions in which the Federal Government has no direct involvement, this preemption is narrowly tailored to apply to situations in which the Federal Government has already given borrowers financial benefits, and has incurred, or will in all likelihood incur in the near future, even greater costs because of default on loans.

Thus, while this preemption imposed no added costs on States, the preemptive effect of these regulations extended no farther than is reasonably necessary to achieve an effective minimum standard of collection action. Given the strength of the public interest in preventing the need for Federal payments on defaulted loans, and in recovering those amounts after payment has been made, the Secretary believed at the time these regulations were promulgated, and continues to believe, that any balancing of interests between appropriate State regulation of collection actions on private debts and the need for a uniform minimum national standard of collection action on publicly-financed student loan debts tips decidedly in favor of diligent student loan collection.

A great deal of the collection action on GSL Program loans is performed for guarantee agencies by third party collection contractors. In balancing the need for local regulation of collection activity on GSL obligations against the public need for efficient and effective collection activity, the Secretary took particular note of the existence of Federal law that regulated the conduct of these third party collectors of defaulted student loans. These debt collectors were subject to the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692–1692o, prior to the promulgation of these GSL regulations, and even under these preempting regulations, they remain subject to the FDCPA.[1] Thus, while the GSL regulations preempt inconsistent State laws regarding pre-litigation collection activity, significant Federal protection for GSL debtors remains under the FDCPA. On the other hand, Federal law does not typically regulate the conduct of litigation in State courts or the enforcement of judgments, two areas traditionally regarded as within the sovereignty of State governments, and this GSL regulatory preemption has little or no impact on the exercise of that State power.

Not only did the Secretary regard the issuance of regulations preempting State law affecting student loan collections as well within the general authority and responsibility given under 20 U.S.C. 1082(a)(1), but the Secretary notes that he has long been authorized under 20 U.S.C. 1080(b) to contract with guarantee agencies and other parties to collect defaulted FISLP obligations, and to set the terms of those contracts so as to avoid unfair or oppressive collection practices by those parties in their collection efforts. In promulgating these regulations to set detailed minimum levels of collection activity, the Secretary was exercising this same kind of authority, over the activities of some of the very same GSL participants, in collecting loans in which the Federal government has almost the same financial interest as those to which 20 U.S.C. 1080(a) expressly applies.

Interpretation

The Secretary promulgated §§ 682.410(b)(4) and 682.411 to establish minimum required collection actions on GSL obligations, and intended these provisions of the GSL regulations to preempt contrary or inconsistent State law to the extent necessary to permit compliance with the Federal regulations. The Secretary issues this interpretation to clarify that intention and to explain the scope of that preemptive effect.

1. Contacts With Borrowers by Demand Letters and Telephone Calls

First, the Department's regulations require lenders and agencies to make a number of contacts with the borrower directly, at specified intervals, using particular warnings to attempt to persuade the borrower to repay the loan. §§ 682.410(b)(4) (i)–(vi), 682.411 (c)–(f). The regulations require both lenders and guarantors to use skip-tracing if necessary, §§ 682.410(b)(4)(xii), 682.411(g), and direct lenders to seek timely preclaims assistance from their respective guarantors. § 682.411(h).

These provisions comprehensively regulate the pre-litigation informal collection activity on GSL obligations, by specifically requiring holders to complete a sequence of collection contacts with debtors. These provisions therefore preempt State law that would prohibit, restrict, or impose burdens on the completion of that sequence of contacts either on GSLP loans in general, or on any category of GSLP loans. §§ 682.410(b)(4) (i)–(vi), (xii); 682.411 (c)–(h). Moreover, because holders of GSLP loans commonly engage servicers and collection agencies to perform these dunning activities, this preemption includes any State law that would hinder or prohibit any activity taken by these third parties to complete these required steps.

[1] The Secretary has been advised by Federal Trade Commission representatives that no State has yet applied for exemption from coverage under the FDCPA under 15 U.S.C. 1692o, and therefore there is no need at this time to address the effect of this preemption under GSL regulations on State law as it might affect third-party collectors in a State for which the FTC has granted an exemption from compliance with the FDCPA.

2. Litigation and Judgment Enforcement

The regulations in § 682.410(b)(4)(vii)–(xi) generally require guarantee agencies to sue defaulters and to attempt to enforce judgments entered against defaulters, but do not otherwise dictate the manner in which the agency must conduct the litigation or enforce the judgment. Therefore, the regulations do not preempt State law that would affect the conduct of litigation or the enforcement of judgments, but would only preempt those State laws, if any, that would conflict with the regulatory requirement that a guarantee agency initiate suit and attempt to enforce a judgment.[2]

3. Other Collection Activities

This interpretation applies only to preemption by §§ 682.410(b)(4) and 682.411. The Secretary does not attempt here to describe which other provisions of the GSL regulations, or the HEA itself, preempt State law. The Secretary does note, with regard to other collection actions, that the HEA itself expressly requires holders of GSL obligations to report the status of those loans to credit reporting agencies, 20 U.S.C. 1080a, makes GSL borrowers liable for reasonable collection costs, 20 U.S.C. 1091a(b)(1), and abrogates the defense of infancy on GSL obligations. 20 U.S.C. 1091a(b)(2). Each of these three provisions also relates to loan collection and preempts any conflicting or inconsistent State law.

In addressing the preemptive effect of these collection regulations, the Secretary likewise does not suggest that other provisions of GSL regulations do not suggest that other provisions of GSL regulations do not also preempt State law if a direct conflict exists between the requirements of the regulations and State law, or if compliance with State law would frustrate achievement of the purposes of the regulations.

Authority: 20 U.S.C. 1082.

Dated: August 28, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90–23063 Filed 9–28–90; 8:45 am]

BILLING CODE 4000-01-M

[2] The HEA itself preempts State law in two areas directly affecting the litigation of GSL obligations: The calculation of the statute of limitations on lawsuits to collect these loans, and the recovery of collection costs from the borrower. 20 U.S.C. 1091a(a)(2), (b)(1).

federal register

Monday,
October 1, 1990

Part IV

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 7, 18, 57 and 75
Electric Cables, Signaling Cables, and Cable Splice Kits; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 18, 57 and 75

RIN 1219-AA57

Electric Cables, Signaling Cables and Cable Splice Kits

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement new procedures for testing and approval of electric cables, signaling cables and cable splice kit designs. The proposed rule would revise the existing requirements for acceptance of cables in 30 CFR part 18, would establish the flame-resistant requirements for approval of cable splice kit designs, and would contain the approval requirements for signaling cables, all which are currently being granted acceptance by MSHA.

DATES: Written comments must be received on or before November 30, 1990. It is proposed that part 7, subpart K and §§ 7.44(k), 18.35(a)(3), 18.94(a)(2), and conforming amendments to parts 57 and 75 will be effective upon adoption of the final rule. It is proposed that §§ 18.1, 18.2, 18.6(a), 18.6(b), 18.6(i), 18.9, and 18.64 will be effective one year from adoption of the final rule.

ADDRESSES: Send written comments to the Office of Standards, Regulations and Variances, MSHA, room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This proposal contains information collection requirements in § 7.403. These paperwork requirements have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on the proposed paperwork provisions should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for MSHA (see address at the end of this discussion). The respondents would be mine equipment manufacturers. The burden hour estimate includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection information. In each instance, the resultant information collection would be used by MSHA to assess compliance with the proposed requirements. The information collection requirements contained in the proposal are discussed below.

Proposed § 7.403 would require applicants seeking approval of electric cables, signaling cables, and cable splice kits to submit an application for approval. MSHA estimates that there would be 51 applications submitted per year, each requiring 1 hour to prepare, and 3 applications submitted per year, each requiring 4 hours to prepare. The estimated burden hours are 63.

Existing § 7.4(a) requires records of test results and procedures that must be retained for at least 3 years. Standard testing protocols used by the manufacturing community include the keeping of records of product testing; therefore, no additional burden hours are assigned to this requirement.

Existing § 7.4(d) requires applicants to report to MSHA and knowledge of a product distributed with critical characteristics not in accordance with the approval specifications. MSHA estimates that manufacturers would submit 126 reports per year requiring 15 minutes per report. Estimated burden hours are 32.

The proposal would require applicants to maintain records on the distribution of each product bearing an approval marking as set forth in § 7.7(c). This provision does not specify the type of record, and MSHA believes applicants will use existing sales record systems to comply; therefore, no burden hours are assigned to this requirement.

Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, room 631, Balston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203, and to the Office of Information and Regulatory Affairs of OMB, Attention: Diana Rowen, Desk Officer for the Mine Safety and Health Administration, room 3001, New Executive Office Building, Washington, DC 20503.

II. Background

This proposal, in one year, would replace the current regulations and acceptance programs covering the testing and approval for flame resistance of electric cables, signaling cables, and cable splice kits found in 30 CFR part 18. These revisions are proposed pursuant to section 508 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957).

Under this proposal, electric cables, signaling cables, and splice kits would be evaluated for approval under the procedures of MSHA's part 7, Testing By Applicant or Third Party. Electric cables, signaling cables, and splice kits meet the criteria for applicant or third party testing because they are products possessing characteristics that can be objectively tested in a routine and readily reproducible manner with no elements of subjective analysis.

As explained in that rulemaking, part 7 initiated a revised role for MSHA in the evaluation and testing of selected products used in underground mines. Products approved under part 7 are required to be tested by the applicant or by a third party selected by the applicant to conduct the testing. All testing is to be conducted using MSHA-specified test procedures with certification of test results by the applicant. In addition, the Agency has the right to observe all product testing. When requesting approval, the applicant is required to submit certain product information. This includes, for example, drawings and specifications to document compliance with the technical requirements. Based upon an evaluation of the technical documentation, MSHA observations of product testing, and a review of the certification statements, MSHA will issue an approval or notice denying approval of the product.

Once a product is approved under part 7, an approval holder is required to inspect or test critical characteristics of the product as part of its quality assurance program. Under the provisions of subpart A, the approval holder will report to MSHA any knowledge that a product has been distributed with critical characteristics not meeting required specifications. Upon receiving such a report, MSHA will work with the approval holder to implement appropriate corrective action. Since critical characteristics are features of a product which, if not built to specification, can create a hazard, immediate notification should be by expeditious means, such as by telephone. MSHA will perform periodic audits of products approved under part 7 to ensure that they are being manufactured as approved. If a product fails to meet the technical requirements of part 7 or creates a hazard related to its use, MSHA will take immediate action to address the problem, including revocation of the approval, if necessary.

III. Discussion and Summary of the Proposed Rule

MSHA's existing regulations governing the approval of electric cables (30 CFR part 18) were last revised in 1968. Since that time, technological advances in insulation and jacket material, as well as manufacturing techniques, have led to the development of improved electric cables suitable for use in underground mines having potentially explosive atmospheres.

As a new subpart K to part 7, this proposal specifies the technical requirements and test procedures for the approval of electric cables, signaling cables, and cable splice kits. This proposal is derived from existing part 18 and current MSHA policies interpreting parts 18 and 75. The purpose of this proposed revision is to provide objective criteria for applicant or third party testing and to replace subjective technical requirements with performance-oriented tests. These proposed tests are based on MSHA's engineering experience with the subjective criteria in the existing approval requirements. Except where indicated, they are not intended to introduce more stringent testing methods but rather to more explicitly state the tests used in MSHA's current testing program which have proven to be effective. By using these test procedures, manufacturers can measure, evaluate, and certify compliance of their product with the requirements of this subpart in order to receive an MSHA approval.

This proposal is consistent with Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

IV. Section-by-Section Discussion

Section 7.401 Purpose and Effective Date

This section is derived from § 18.1 and defines the purpose and scope of electric cable, splice kit, and signaling cable approvals issued under this subpart. Electric cables are used for the transmission and distribution of electric energy for powering equipment in both gassy metal/nonmetal mines and coal mines. Splice kits are used in the repair of damaged electric cables. Signaling cables are used in the transmission of optical signals or electric signals in current-limited applications which include low-energy communication circuits and intrinsically safe remote control circuits. Because of the hazard presented by fire in underground coal mines and gassy underground metal/nonmetal mines, MSHA safety standards such as 30 CFR 75.600, 57.4057, 57.22310 and 57.22311 require the use of flame-resistant cables. In addition, MSHA safety standards in 30 CFR 75.604 address flame-resistant splices in electric cables; however, the flame-resistant performance requirements for splices are not specified. This proposal would modify the existing requirements for acceptance of cables contained in §§ 18.6(b), 18.6(i), and 18.64 of this chapter and establish the flame-resistant requirements for approval of electric cable splice kit designs. Additionally, this proposal would contain the approval requirements for signaling cables which are currently being granted acceptance by MSHA. Amendments to 30 CFR parts 7 and 18, which reflect the revisions proposed to the cable and splice kit programs, are also included in the proposal.

MSHA proposes a 1-year phase-in period for these requirements. During this period, MSHA will accept applications for approval of electric cables, signaling cables, and splice kit designs under this subpart, as well as applications for acceptance and extensions of acceptance for these products under existing procedures. After 1 year, the applicable portions of part 18 referring to cables would be modified and the signaling cable and splice kit acceptance programs discontinued. All cables and splice kit designs submitted for approval would be required to meet the requirements of this subpart.

Section 7.402 Definitions

The following definitions which apply to the approval of electric cables, cable splice kits, and signaling cables are new. They are intended to clarify the requirements of subpart K.

Component. This definition would include any material in a splice kit which becomes part of the splice. Materials such as conductor insulation, outer jacket, and shielding would be included in this definition. Assembly instructions, cleaning solvents, abrasive strips and other materials included in the splice kit, necessary for preparing the splice but not part of the final assembly, would not be included in this definition.

Conductor. This definition would specify a conductor to be a bare or insulated wire or combination of wires not insulated from one another, suitable for carrying an electric current.

Electric cable. This definition would identify as an electric cable the assembly of one or more insulated conductors of electric current under a common or integral jacket. Additionally, an electric cable could contain one or more uninsulated conductors. Under the definition, single conductor cables as well as multiple conductor cables would be covered. While the minimum materials comprising an electric cable would be specified, materials such as filler and metallic shielding could also be included. The cable construction and type would determine those additional materials which may be included in the assembly.

Filler. This definition would include the materials used to fill the interstices of a cable to provide for a substantially uniform cross section of the completed assembly. A uniform cross section facilitates application of the jacket material and aids in controlling final assembly dimensions, material thickness and conductor configuration within the cable or splice assembly.

Jacket. This definition would specify a jacket to be a nonmetallic abrasion-resistant outer covering of a cable or splice. The jacket is intended to provide protection against physical damage. Commonly used jacket materials include neoprene and polyvinyl chloride.

Power conductor. This definition would identify a power conductor to be an insulated conductor of a cable assembly through which the primary electric current or power is transmitted.

Signaling cable. Under this definition, a signaling cable could be a fiber optic cable. It could also be a cable containing electric conductors, of cross-sectional area less than #14 AWG, used where the circuit cannot deliver electric currents which could increase conductor temperatures beyond the normal operating temperature as established for the current-carrying capacity of the conductors. These cables would normally be used to transmit signals for audio or visual annuciation. Equipment using these cables is typically powered by regulated power supplies or batteries. This equipment would generally include, but not be limited to, intrinsically safe systems.

Splice. This definition would specify a splice to be the mechanical joining of one or more severed conductors in a single length of a cable and would include the replacement of insulation and jacket. A splice is intended as a repair to a damaged electric cable.

Splice Kit. This definition would identify a cable splice kit as a group of materials and related instructions for making a flame-resistant splice in an electric cable. The materials typically included in a splice kit would include replacement jacket, insulation, shielding (if for shielded cable), cable cleaner, abrasive strips, and assembly instructions.

Section 7.403 Application Requirements

Section 7.403(a) would contain the application requirements for approval of electric cables and signaling cables. These requirements are derived from existing requirements of 30 CFR 18.6 and the standard application procedures presently in use. Under this proposal, an application for approval would be required to provide product identification information to include cable type, construction, number and size of conductors, and voltage rating for all cables containing electric conductors. Applications would also be required to include technical specifications related to the flame resistance of the product, such as the type of material and identifying number for each material comprising the finished assembly, as well as current-carrying capacity (rated ampacity) with the corresponding ambient temperature upon which the current rating is based. Since current-carrying capacity is not a factor in determining the flame resistance of signaling cables, the proposal would not require this information to be provided for this product. Technical information related to jacket, conductor insulation, and filler materials would be required for all electric cables and signaling cables approved under this subpart. Because applicable design factors such as material thickness, conductor configuration, kind and position of shield or braid coverings, and type of construction may affect the flame-resistant performance of electric cables or signaling cables, the proposal would require that complete design specifications or a reference to an existing consensus design standard specification such as the Insulated Cable Engineer's Association (ICEA) Publication No. S-19-81, Fourth Edition, be submitted with the application. If a product submitted for approval is not based on an existing consensus design standard specification, the application would be required to be accompanied by complete specifications related to the design of the product or include information which details differences in design between the product and an existing consensus design standard specification.

Section 7.403(b) contains the application requirements for approval of electric cable splice kit designs which would similarly be based on existing procedures. Under the proposal, applications for approval would be required to include product identification information such as trade names, style, code numbers, and voltage rating. Applications would also be required to include complete splice assembly instructions and technical specifications related to the flame resistance of the splice, such as type of material and identifying number for each component used in the finished product. Design factors such as material thickness. conductor configuration, kind and position of shield or braid coverings, and type of construction could affect the flame-resistant performance of a splice. Therefore, the proposal would require that the complete design specifications or a reference to a published design standard be provided with the application. This information would include identification of the type of splice (shielded, non-shielded) and final assembly dimensions for all components required for splices in each cable that the splice kit is designed to repair.

MSHA would use the application information to evaluate electric cables, signaling cables, and splice kit designs submitted for approval or extension of approval, as well as to identify those bearing an MSHA approval marking as those approved by the Agency.

Fees

In accordance with 30 CFR part 5, fees for MSHA processing of an application under part 7 are subject to an hourly charge. Fee schedules are updated at least once every 3 years and published in the **Federal Register**.

Under the 1990 rate schedule, the Agency would charge $36 per hour and an application fee of $100 for processing requests for approval or extensions of approval for electric cables, signaling cables and splice kits under subpart K of part 7.

Section 7.404—Technical Requirements

Proposed § 7.404 is derived from and would retain the existing technical requirement of § 18.35(a)(3) for flame resistance of electric cables and apply the same criteria to splices in electric cables. The test presently used for signaling cables would also be incorporated. Flame resistance would be demonstrated by successful completion of the applicable flame test, as specified in the subpart. A complete description of the flame test is contained in the discussion of proposed §§ 7.407 and 7.408.

Section 7.405—Critical Characteristics

This section would be new. Certain critical characteristics would have to be inspected or tested from each production run, batch, or lot manufactured. MSHA realizes that it is not necessary to perform flame tests in all cases, but MSHA believes that flame testing samples is an appropriate method to make a determination as to whether an electric cable, signaling cable, or splice made from a splice kit meets the technical requirement of this subpart. Section 7.405(a) would provide for the flame testing of a sample of each production run, batch, or lot as one method to ensure continued compliance with the flame-resistant requirements. In addition, the Agency is aware that inspections and tests other than flame testing may be used to determine whether a product meets the technical requirements of this subpart. As an alternate to flame testing, § 7.405(b) would provide that the materials that contribute to the flame-resistant characteristic, along with a sample of the cable or splice kit assembly for each production run, batch, or lot, could be inspected or tested. Such inspections or tests would be conducted to verify material composition, thickness, and, for cables, position within the finished product in relationship to the approved design.

Appropriate inspection or test procedures other than flame testing that would satisfy the requirements of § 7.405(b) are dependent upon the materials used that contribute to the flame-resistant characteristic of the product as well as the manufacturing process used. MSHA has, therefore, not identified these inspection or test procedures specifically. Inspections could include observation of the color or consistency of the materials or sample of the Assembly. Tests could include chemical analysis or physical analysis of the elongation, tear resistance and tensile strength of the materials that comprise the final product. MSHA requests specific comment on the costs associated with this proposed requirement as well as existing quality assurance programs.

Section 7.406 Flame Test Apparatus.

The flame test apparatus described in § 7.406 would be the same as that presently used by MSHA for conducting tests under § 18.64 (a) and (b). Because variations in design would change the conditions of the test or disturb the burning process, the design factors essential to obtaining uniform and consistent test results are stated for each principal part of the flame test apparatus. They are based on equipment presently used by MSHA. However, where variations do not affect the reliability of the test results, MSHA has not specified design characteristics and would allow design flexibility.

Section 7.406(a) would retain the existing requirement concerning the size

of the test chamber. It would clarify the requirement that the chamber be completely open at the top and front as well as have provisions (supports) for mounting the test specimen and energizing electric cable or splice specimens with electric current. It would also require that the floor of the chamber be fabricated or lined with a noncombustible material, such as metal, that will not readily extinguish burning matter which may fall from the specimen during testing. This reduces the possibility that burning matter will either ignite the floor of the chamber or be extinguished due to the composition of the floor material. Disturbances of the burning process by such events would affect the reliability of the test results.

Section 7.406(b) would retain and clarify the existing requirement that the specimen holder (support) be constructed of three metal rods and be designed to support and maintain the specimen at a specific level within the test chamber. The present requirement that the metal rods be wrapped with asbestos tape to reduce the cooling effect would be replaced with a new requirement that the rods have a nominal diameter of approximately 3/16 inch. Further, the length of the horizontal portion of the rod which contacts the test specimen would be defined to be approximately 12 inches in length. Existing requlations do not specify rod size, and MSHA believes that this new regulation would provide uniform control of the cooling effects of the rods upon the test specimen, thereby improving the repeatability of the test.

Section 7.406(c) would retain and clarify the existing requirements concerning the type of fuel and gas burner used to ignite the test specimen. It would continue to specify a natural gas type Tirrill burner as the gas ignition source. It would clarify the existing requirement concerning the natural gas fuel for the burner by specifying that the gas be composed of at least 98 percent combustible hydrocarbons, with a methane content of at least 80 percent. These fuel specifications, derived from the fuel used by MSHA in flame testing, would be considered necessary in order to ensure proper operation of the gas burner. Variations in gas composition would affect the BTU output as well as the flame temperature of the gas during the igniting process. The Agency believes the specified gas compositions would allow the use of most natural gas supplies while ensuring the consistency and reliability of the test results.

Section 7.406(d) would retain the existing requirement for a source of either alternating current or direct current to energize and regulate electric current flow through the electric cable or spliced test specimen. It would clarify the existing requirement by specifying the type of conductors which would be subject to heating current. It would add a new requirement concerning the output voltage of the current source because MSHA believes unpredictable results would occur if an incompatible voltage were used to energize test specimens during the flame test. In addition to the existing requirement for a device to monitor the flow of electric current through the power conductors of electric cables and spliced test specimens, § 7.406(e) would require that the instrument measure current flow within an accuracy of ± 1 percent. This monitoring accuracy would be necessary to attain a consistent heating rate of the cable.

Section 7.406(f) would retain the existing requirement for a device to measure the conductor temperature of the electric cable and spliced test specimen. It would allow for design flexibility in the type of device provided and not require the use of a thermocouple-type instruction as specified in existing regulations. However, MSHA would require that the device measure conductor temperature within an accuracy of ± 2 percent. In addition, the device used would have to be capable of measuring the temperature without removing any cable material from the test specimen in order to make the temperature measurements. Any material disturbed in inserting the device, such as a thermocouple, would be required to be returned as closely as possible to its original location and be maintained there for the duration of the testing. MSHA believes that if such material were removed or unduly displaced, unpredictable cooling effects could occur which would affect the repeatability of the test. Section 7.406(d) through 7.406(f) does not apply to signaling cables because signaling cables are not tested with any preheating requirements.

Section 7.407 Test for Flame Resistance of Electric Cables and Cable Splices

The flame test described in § 7.407(a) is derived from § 18.64 (a), (c), and (d). It would be the same as that presently used, with some minor changes detailed below. MSHA's experience with this procedure is that it produces repeatable, objective test results which assess the flame-resistant properties of electric cables and is considered equally effective for testing splices.

Existing requirements concerning the size and preparation of test speciments would be maintained in § 7.407(a)(1). Section 7.407(a)(2) would add a new requirement for conditioning all specimens before testing and for maintaining the same environmental conditions during testing. Temperature and moisture content of the specimen at the start of and during the flame resistance test may affect the repeatability of test results.

Section 7.407(a)(3) would retain and clarify existing requirements concerning the location for measuring conductor temperature for electric cables and spliced cables. It would provide flexibility in the method of securing the sensing element of the temperature measuring instrument. The existing requirement for tying the flap of jacket and insulation material with wire would be replaced by the more performance-oriented requirement that any disturbed jacket or insulation material be restored as closely as possible to its original location and be maintained there for the duration of the test. Unpredictable cooling effects could occur if such material were displaced.

Section 7.407(a)(4) would retain existing requirements concerning the mounting of the applicable test speciment on the rods positioned within the chamber. It would provide flexibility in the placement of the test chamber by deleting the existing requirement for using a ventilated hood or canopy, although use of a hood or canopy would still be acceptable. The existing requirement for the test specimen to be free from external air currents during testing would be retained and, as stated previously, the test chamber would have to be placed in an area having controlled temperature and humidity, because uncontrolled environmental conditions could affect the burning process.

Section 7.407(a)(5) would specify the adjustment of the flame from the gas ignition source and retain present specifications concerning flame height and size. Also, a new requirement would be added to require that the flame be blue in color without a persistence of yellow coloration. This would provide for a controlled and consistent flame during the igniting process. The persistence of yellow coloration indicates maladjustment or impurities in the fuel. The requirement for a controlled and consistent flame would provide more consistent repeatable test results.

Section 7.407(a)(6) would retain the existing requirement for connecting electric cable and spliced test specimens to the current source. It would require that connections be secure and

compatible with the size of the specimen's power conductors, as improper connections would produce undesirable heating effects affecting temperature measurement and yielding unreliable results.

Section 7.407(a)(7) would retain and clarify the existing test procedure requirements for electric cable and spliced test specimens by specifying that all power conductors be energized with electric current. It would retain the intent of the existing requirement that the value of the effective heating current be five times the rated power conductor ampacity but specifically state that the rating be based on using an ambient temperature of 104 °F (40 °C) for consistency. This would modify the existing requirement to address advances in technology, thereby providing the flexibility for testing a variety of cable constructions that result in various current ratings.

Section 7.407(a)(8) would retain the existing requirement for electric cable and spliced test specimens for monitoring the current flow through the power conductors and clarify the existing requirement for adjusting the effective heating current to within ±5 percent, as required, to maintain the proper value. This would provide a controlled and consistent heating process, thus improving the repeatability of the test results.

Section 7.407(a)(9) would retain and clarify the existing procedure for the location and application of the flame. For electric cables, the tip of the inner cone from the flame of a gas burner would be applied directly beneath the test specimen for 60 seconds at a location 14 inches from one end of the cable and between the supports separated by a 16-inch distance. For spliced cable specimens, the tip of the inner cone from the flame of a gas burner would be applied for 60 seconds beneath the midpoint of the splice jacket.

Section 7.407(a) (10) and (11) would retain the existing requirements concerning the duration of exposure to external flame and the measurement and recording of burn time of the specimen, respectively. Section 7.407 (a)(10) would require the flame from the gas burner and the electric current to be removed simultaneously from the test specimen after the specified time period. It would further require that the flame from the gas burner be removed from beneath the test specimen in a manner which would not disturb air currents created during the burning process within the test chamber. If special care is not taken, unnatural turbulences could be produced which could affect the burning process and the results of the tests. MSHA has not specified a method for removing the flame or electric current in order to provide more performance-related requirements and to allow design flexibility. Section 7.407(a)(11) would require that the duration of burning be recorded and that the measurement of the time the specimen continues to burn after the flame from the gas burner has been removed begin concurrently with flame removal. The duration of burning would include the burn time of material that falls from the test specimen after the flame from the gas burner has been removed. This requirement is based on an interpretation of the existing requirement for measuring burn time and is currently considered as a factor for evaluating the flame-resistant properties of electric cables and splices under existing procedures.

Section 7.407(a) (12) and (13) would retain the existing requirements for measuring the length of burned area of the test specimen and for testing three cable specimens, respectively. It would clarify that the measurement be made longitudinally along the cable axis to provide for a consistent measurement parameter. Also clarified would be the determination that the burned length include any charred length.

Section 7.407(b) of this section is derived from § 18.64(e). It would modify and expand the requirements to include splices. This section would set forth the criteria for acceptable performance for this test. It would require that each of the three specimens tested exhibit burn times not exceeding 240 seconds and the length of burned area be less than 6 inches. This change from the present requirement that two of three specimens meet the acceptable performance criteria would address advances in technology. The existing criteria for acceptable performance for testing were developed approximately 40 years ago based upon the use of natural rubber-jacketed cables. Two out of three specimens represented optimal performance and was acceptable for these cables. Jacket materials presently used have better flame-resistant properties, and three out of three represents the optimal performance for these synthetic compounds and produces reliable test results. The Agency believes that the technology currently used in the manufacturing process has advanced to provide more consistent flame-resistant properties for the manufactured product. The test results of cable and splice acceptance applications for the past several years indicate the products currently being manufactured and marketed would meet the proposed rule without requiring modification to the manufacturing process.

These test procedures are essentially unchanged since 1968 and MSHA specifically requests comment on the appropriateness of these tests and how improvements could best be incorporated into the approval process.

Section 7.408 Test for Flame Resistance of Signaling Cables

The flame test described in § 7.408 is derived from § 18.64 (a), (c), and (d). The procedure would be the same as that presently performed under the signaling cable acceptance program. The test apparatus for signaling cables would be the same as that for electric cables except that there would be no preheating requirement. Preheating would not be performed for these cables due to their intended use. Fiber optic cables do not carry electric current and therefore would not be subject to electric current heating. Cables having electric conductors of cross-sectional area less than #14 AWG for use as signaling cables are used in low-current applications, as stated earlier. Equipment using these signaling cables is typically powered by batteries or by regulated power supplies which are not capable of delivering currents which exceed the current-carrying capacities of the conductors. As a result, the signaling cables are not subject to excessive currents that would cause the conductors to become overheated. Electrically preheating the cable during testing would simulate a condition to which these cables would not be subjected.

The requirements concerning the size and preparation of test specimens would be specified in paragraph 7.408(a)(1).

Section 7.408(a)(2) would add a new requirement for conditioning all specimens before and during testing. As stated previously, temperature and mositure content of the specimen at the start of and during the flame resistance test may affect the repeatability of test results.

Section 7.408(a)(3) would retain existing requirements concerning the mounting of the applicable test specimen on the rods positioned within the chamber. It would provide flexibility in the placement of the test chamber by removing the existing requirement for using a ventilated hood or canopy, although use of a hood or canopy would still be acceptable. The existing requirement for the test specimen to be free from external air currents during testing would be retained, and the test chamber would have to be placed in an

area having controlled temperature and humidity because uncontrolled environmental conditions could affect the burning process.

Section 7.408(a)(4) would specify the adjustment of the flame from the gas ignition source and retain present specifications concerning flame height and size. Also, a new requirement would be added to require that the flame be blue in color without a persistence of yellow coloration. This would provide for a controlled and consistent flame during the igniting process. The persistence of yellow coloration indicates maladjustment or impurities in the fuel. The requirement for a controlled and consistent flame would provide more consistent repeatable test results. Paragraph 7.408(a)(5) would retain and clarify the existing procedure for the location and application of the flame. The flame would be applied for 30 seconds directly beneath the sample centered between either end support and the center support.

Section 7.408(a) (6) and (7) would retain the existing requirements concerning the duration of exposure to external flame and the measurement and recording of burn time of the specimen, respectively. Section 7.408(a)(6) would require the flame from the gas burner be removed from the test specimen after the specified time period. It would further require that the flame from the gas burner be removed from beneath the test specimen in a manner which would not disturb air currents created during the burning process within the test chamber. If special care is not taken, unnatural turbulences could be produced which could affect the burning process and the results of the tests. MSHA has not specified a method for removing the flame in order to provide a more performance-oriented requirement and to allow design flexibility. Section 7.408(a)(7) would require that the duration of burning be recorded and that the measurement of the time the specimen continues to burn after the flame from the gas burner has been removed begin concurrently with flame removal. The duration of burning would include the burn time of material that falls from the test specimen after the flame from the gas burner has been removed. This requirement is based on an interpretation of the existing requirement for measuring burn time and is currently considered as a factor for evaluating the flame-resistant properties of signaling cables under existing procedures. Section 7.408(a) (8) and (9) would retain the existing requirement for measuring the length of burned area of the test specimen and for testing three cable specimens, respectively. It would clarify that the measurement be made longitudinally along the cable axis to provide for a consistent measurement parameter. Also clarified would be the determination that the burned length would include any charred length.

Section 7.408(b) would be derived from § 18.64(e) and the existing signaling cable acceptance program. It would specify the criteria for acceptable performance for this test. It would require that each of the three specimens tested exhibit burn times not exceeding 60 seconds, which is the same as is presently required under the signaling cable flame test program. This time is shorter than for electric cables and splices because the signaling cables are not preheated. The allowable length of burned (charred) area specified; i.e., not exceeding 6 inches, would remain the same as the present criteria for this product. The requirement that each of the three specimens meet the acceptable performance criteria of this section would be consistent with the existing signaling cable acceptance program.

Section 7.409 Approval Markings

Section 7.409 is derived from existing § 18.64(f) which requires approval markings on electric cables. It would expand the marking requirements to include signaling cables and splices. The proposal would also add additional marking requirements for electric cables and signaling cables. The marking requirements for splices would remain the same as that covered by existing policy. Under part 18, MSHA requires trailing cables to be marked at intervals not exceeding 12 feet with the marking impressed in the jacket or as raised letters and figures on an impressed background. Other types of cable may be marked in the same manner or have a durable marking printed on the surface of the cable at intervals not exceeding 3 feet.

The proposal would require all approved cables to be legibly and permanently marked on the jacket at 3-foot intervals and would require the marking to include additional information pertaining to the size and number of conductors, type of cable, and voltage rating for those cables containing electric conductors, as well as the MSHA-assigned approval number. Although the proposal imposes additional cable marking requirements, it would allow flexibility by not specifying the marking method. The 12-foot marking interval currently specified under part 18 has been deleted from the proposal to provide for identification of shorter sections of cable. The marking requirements for the jacket in a splice kit would be proposed to remain unchanged from existing policy. The approval marking would be required to be legible and permanent and appear at least once on the outside of the assembled splice.

MSHA believes the revised approval marking requirements for cables will facilitate identification of approved cables. Mine operators are obligated to maintain permissible equipment in approved condition. Equipment manufacturers are obligated to assemble permissible equipment according to the design approved by MSHA. Additionally, underground equipment is required to use electric cables and conductors of proper size for the loads involved. Improper cable selection when installing or replacing cables on permissible equipment could cause potential fire and explosion hazards. Cable marking information pertaining to the size (gauge) and number of conductors as well as cable type and voltage rating for cables containing electric conductors, in addition to the MSHA approval number designation, is considered necessary for a proper and complete identification of an electric cable or signaling cable. Based upon experience, MSHA believes that there are cable manufacturers who are producing "MSHA accepted" cables that comply with the marking requirements as stated in this proposal.

Section 7.410 Post-approval Product Audit

This section would be new and would implement the post-approval product audit requirement of subpart A. Paragraph (a) would specify that upon request by MSHA, 12 feet of an approved electric cable or approved signaling cable design be provided at no cost for auditing purposes. Paragraph (b) would specify that 3 approved splice kits of an approved splice kit design, as well as 12 feet of MSHA-approved cable for which the splice is designed to repair, be provided at MSHA's request at no cost. Subpart A sets forth that a product will be audited no more than once a year unless MSHA has cause to audit more frequently.

Section 7.411 New Technology

This section is derived from existing § 18.20(b). Section 7.411 would allow approval of cables and splice kit designs that incorporate technology for which the specific requirements of this subpart are not applicable, if MSHA determines that the product is as safe as those which meet the requirements of this subpart. To implement this provision,

MSHA would prescribe appropriate test procedures and performance requirements when such an approval is sought.

Once MSHA approves an electric cable, signaling cable or splice kit under this section, the Agency will make the modified tests and requirements used by MSHA to evaluate a particular technology available to manufacturers and other interested persons. If, over a period of time, MSHA receives a number of applications for the same type of technology or newly adapted technology, MSHA will revise the electric cable, signaling cable or splice kit approval regulations through the rulemaking process to recognize such developments.

Conforming Amendments

The changes being proposed to MSHA's current requirements for acceptance of cable and splice kits as flame resistant would also necessitate certain conforming modifications to the Agency's safety standards in 30 CFR parts 57 and 75. Currently MSHA's standards require mine operators to use cable which is accepted as flame resistant pursuant to 30 CFR 18.64 in underground coal and metal and nonmetal mines. (See §§ 57.4057, 57.22310, 57.22311, and 75.600–1.) In addition, permanent splices in cable used in underground coal mines must also be flame resistant (see § 75.604(c)).

On December 4, 1989, preceding completion of this proposal, MSHA published proposed revisions to its electrical safety standards for underground coal mines (54 FR 50062) and surface and underground metal and nonmetal mines (54 FR 50158). Although the two electrical proposals would make changes in the current standards requiring flame-resistant cables and splices, the proposals continue to specify cable and splice flame resistance as determined by MSHA in accordance with § 18.64. These proposed electrical safety standards are presently before the public for comment until June 15, 1990, for the metal and nonmetal proposed standards (55 FR 4264) and until August 10, 1990, for the underground coal proposed electrical revisions (55 FR 5858).

To avoid conflict with amendatory language already proposed for the parts 57 and 75 electrical standards, MSHA has not proposed amendatory language to these parts in the regulatory text of this proposal. Instead, it is the purpose of this discussion to provide the public with notice of the language changes the Agency would make to parts 57 and 75 if the revisions to the cable and splice kit acceptance programs proposed here become final.

Revisions would be made wherever part 57 or part 75 requires cables or splices to be flame resistant or references the flame-resistance test in § 18.64. In its electrical rules, MSHA would amend any such safety standard language to state that cables or splices "be accepted or approved by MSHA as flame resistant." The modified wording would allow mine operators to use any cable or splice determined by MSHA to be flame resistant without regard to the specific approval part under which the approval or acceptance was issued. This is possible because cable and splices already tested and accepted by the Agency as flame resistant would remain unaffected by this proposal to approve cable and splice kits under the procedures of part 7. The Agency specifically solicits comments on this language and its effect on the proposed electrical standards.

Derivation Table

The following derivation table lists: (1) Each section number of the proposed rule (New Section) and (2) the section number of the existing standard from which the proposed section is derived (Old Section).

DERIVATION TABLE

New section	Old section
7.401	18.1
7.402	New
7.403	18.6
7.404	18.35(a)(3)
7.405	New
7.406	18.64 (a) and (b)
7.407(a)	18.64 (a), (c) and (d)
7.407(b)	18.64(e)
7.408(a)	18.64 (a), (c) and (d)
7.408(b)	18.64(e)
7.409	18.64(f)
7.410	New
7.411	18.20(b)

Distribution Table

The following distribution table lists: (1) Each section number of the existing part 18 standard (Old Section) and (2) each section number of proposed subpart K of part 7 (New Section). New section numbers marked with an asterisk (*) refer to subpart A—the general provisions of part 7 applicable to all technical product subparts.

DISTRIBUTION TABLE

Old section	New section
18.1	7.1*, 7.401, 18.1
18.2	7.2*, 18.2
18.6	7.3*, 7.403, 18.6

DISTRIBUTION TABLE—Continued

Old section	New section
18.9(a)	7.4(c)*, 18.9(a)
18.10	7.5*, 18.10(a)
18.15	7.3(a)*, 18.15
18.16	7.9*, 18.16
18.20(b)	7.411*, 18.20(b)
18.35(a)(3)	7.404
18.64(a)	7.406, 7.407(a), 7.408(a)
18.64(b)	7.406
18.64(c)	7.407(a) and 7.408(a)
18.64(d)	7.407(a) and 7.408(a)
18.64(e)	7.407(b) and 7.408(b)
18.64(f)	7.409

V. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to identify the potential costs and benefits associated with proposed subpart K. Executive Order 12291 requires that a Regulatory Impact Analysis (RIA) be performed for any regulation that would have a major impact on the economy. MSHA has determined that the proposal would not result in major cost increases nor have an incremental effect of $100 million or more on the economy; therefore, a Regulatory Impact Analysis is not necessary.

This initial analysis has formed the basis for the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. The Regulatory Flexibility Act requires that in developing regulatory proposals agencies evaluate compliance alternatives that minimize any adverse impact on small businesses. Proposed subpart K would clarify the standards which industry must meet for approval of electric cables, signaling cables, and cable splice kits. MSHA designed its product testing requirements to be as performance oriented as possible to allow manufacturers to choose the most cost-effective option. Performance-oriented standards should benefit both large and small manufacturers.

The proposal would upgrade existing requirements in 30 CFR 18.64 that address the acceptance of electric cables as flame resistant. It would establish flame-resistant requirements for the approval of signaling cables and cable splice kit designs. MSHA currently accepts these products under the requirements in § 18.64, which have been modified for signaling cables and cable splice kits. The proposal also would include current terminology, not in part 18, in the definitions section of part 7; eliminate unnecessary provisions, such as certain cable marking requirements; and, where

possible, provide alternative methods of compliance.

This proposed rule does not significantly alter the existing technical requirement for electric cables, signaling cables, and cable splice kits. MSHA requires certain electric cables used in underground coal and gassy metal/nonmetal mines to be approved (accepted). MSHA has interpreted this to include signaling cables and splice kits, although existing requirements do not include approval criteria for these materials. The proposed rule sets out, with little modification, the approval criteria presently used by MSHA to approve these products. MSHA expects all currently accepted electric cables, signaling cables and splice kit materials to be able to meet the proposed technical requirements. There is no additional cost associated with this requirement, since existing regulations require approval. Any necessary testing of products required by MSHA either is not substantially different from that currently undertaken or does not impose significant costs compared to the sales value of the product. The application procedures, testing procedures, quality assurance program, and annual audit do not impose significant costs.

The proposal would increase private-sector involvement in the approval of mining products. For the first time, in lieu of testing only by MSHA, the applicant or a third party selected by the applicant would test electric cables, signaling cables, and splices in electric cables. The Agency anticipates that this new procedure would reduce duplicate testing of products in some cases and eliminate associated costs and potential delays in product approvals. In addition, MSHA expects that this procedure would enhance the safety of miners through the more rapid introduction of technological advances in mining products.

During the phase-in period for subpart K, which would be 1 year from the effective date of the final rule, MSHA would grant extensions of approval only pursuant to the part under which the original approval was granted. After the phase-in period, MSHA would discontinue issuing acceptances under the existing acceptance programs, and all applications for an approval or an extension of approval for electric cables, signaling cables, and cable splice kits would be subject to the provisions of part 7. If a manufacturer does not change a product that has a current acceptance, then it can continue to be manufactured and used.

The proposal would affect 124 foreign and domestic firms that currently have MSHA acceptances for electric cables, signaling cables, or cable splice kits. Of these firms, 70 manufacture electric cable, 4 manufacture signaling cable, 2 manufacture both signaling and electric cable, and 48 manufacture splice kits. About 33 percent of these firms have not had any contact with MSHA in the past 10 years.

MSHA estimates that the annual compliance cost increase due to the provisions of subpart K would be about $14,922, but there would be an offsetting cost reduction of about $7,140 from MSHA testing fees and shipping costs. The total annual incremental cost increase, therefore, would be about $7,781. Product audits, the most costly provision, would cost about $8,700.

VI. Executive Order 12612

The Agency has reviewed the final rule in accordance with Executive Order 12612 regarding federalism and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under this Executive Order.

List of Subjects in 30 CFR Parts 7 and 18

Mine safety and health, Underground mining.

Dated: September 24, 1990.

John B. Howerton,

Deputy Assistant Secretary for Mine Safety and Health.

It is proposed that chapter I of title 30 of the Code of Federal Regulations be amended as follows:

PART 7—TESTING BY APPLICANT OR THIRD PARTY

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

Authority: 30 U.S.C. 957.

2. Section 7.44 is amended by revising the first sentence of paragraph (k) to read as follows:

§ 7.44 Technical requirements.

* * * * *

(k) Cables within a battery box shall be accepted by MSHA as flame resistant under part 18 of this chapter or approved under subpart K of this part. * * *

* * * * *

3. A new subpart K is added to part 7 to read as follows:

Subpart K—Electric Cables, Signaling Cables and Cable Splice Kits

Sec.
7.401 Purpose and effective date.
7.402 Definitions.
7.403 Application requirements.
7.404 Technical requirements.
7.405 Critical characteristics.
7.406 Flame test apparatus.
7.407 Test for flame resistance of electric cables and cable splices.
7.408 Test for flame resistance of signaling cables.
7.409 Approval markings.
7.410 Post-approval product audit.
7.411 New technology.

Subpart K—Electric Cables, Signaling Cables and Cable Splice Kits

§ 7.401 Purpose and effective date.

This subpart establishes the flame-resistant requirements for approval of electric cables, signaling cables and cable splice kit designs. Applications for approval or extension of approval submitted after (date 1 year after the effective date of this subpart) shall meet the requirements of this subpart.

§ 7.402 Definitions.

The following definitions apply in this subpart.

Component. Any material in a cable splice kit which becomes part of a splice.

Conductor. A bare or insulated wire or combination of wires not insulated from one another, suitable for carrying an electric current.

Electric cable. An assembly of one or more insulated conductors of electric current under a common or integral jacket. A cable may also contain one or more uninsulated conductors.

Filler. Materials used to fill the interstices of a cable in order to provide for a substantially uniform cross section of the completed cable assembly.

Jacket. A nonmetallic abrasion-resistant outer covering of a cable or splice.

Power conductor. An insulated conductor of a cable assembly through which the primary electric current or power is transmitted.

Signaling cable. A fiber optic cable, or a cable containing electric conductors of cross-sectional area less than #14 AWG used where the circuit cannot deliver currents which would increase conductor temperatures beyond that established for the current-carrying capacity of the conductors.

Splice. The mechanical joining of one or more severed conductors in a single length of a cable including the replacement of insulation and jacket.

Splice kit. A group of materials and related instructions which clearly identify all components and detail procedures used in safely making a flame-resistant splice in an electric cable.

§ 7.403 Application requirements.

(a) *Electric cables and signaling cables.* A single application may address two or more sizes, types, and constructions if the products do not differ in composition of materials or basic design. Applications shall include the following information for each product:

(1) Product information:

(i) Cable type (for example, G or G–GC).

(ii) Construction (for example, round or flat).

(iii) Number and size (gauge) of each conductor.

(iv) Voltage rating for all cables containing electric conductors.

(v) For electric cables, current-carrying capacity of each conductor, with corresponding ambient temperature upon which the current rating (ampacity) is based, of each power conductor.

(2) Design standard. Specify any published consensus standard used and fully describe any deviations from it, or fully describe any nonstandard design used.

(3) Materials. Type and identifying numbers for each material comprising the finished assembly.

(b) *Splice kit.* A single application may address two or more sizes, types, and constructions if the products do not differ in composition of materials or basic design. Applications shall include the following information for each product:

(1) *Product information.* (i) Trade name or designation (for example, style or code number).

(ii) Type of kit (for example, shielded or nonshielded).

(iii) Voltage rating.

(2) *Design standard.* Specify any published design standard used and fully describe any deviations from it, or provide complete final assembly dimensions for all components used in splices for each cable that the splice kit is designed to repair.

(3) *Materials.* Type of materials, supplier, supplier's stock number or designation for each component.

(4) Complete splice assembly instructions which clearly identify all components and detail procedures used in safely making the splice.

§ 7.404 Technical requirements.

(a) Electric cables and splices shall be flame resistant when tested in accordance with § 7.407.

(b) Signaling cables shall be flame resistant when tested in accordance with § 7.408.

§ 7.405 Critical characteristics.

(a) A sample from each production run, batch, or lot of manufactured electric cable, signaling cable, or splice made from a splice kit shall be flame tested, or

(b) A sample of the materials that contribute to the flame-resistant characteristic of the cable or splice and a sample of the cable or splice kit assembly shall be visually inspected or tested through other means for each production run, batch, or lot to ensure that the finished product meets the flame-resistance test.

§ 7.406 Flame test apparatus.

The principal parts of the apparatus used to test for flame resistance of electric cables, signaling cables and splices shall include:

(a) *Test chamber.* A rectangular enclosure meansuring 17 inches deep by 14½ inches high by 39 inches wide and completely open at the top and front. The floor or base of the chamber shall be fabricated or lined with a noncombustible material that will not extinguish burning matter which may fall from the test specimen during testing. The chamber shall have permanent connections mounted to the back wall, sides, or floor of the chamber which extend to the sample end location. These are used to energize the electric cable and splice specimens. They are not used, but may stay in place, when testing signaling cables.

(b) *Specimen holder (support).* A specimen holder (support) consisting of three separate metal rods each measuring approximately 3/16 inch in diameter (nominal) to support the specimen. The horizontal portion of the rod which contacts the test specimen shall be approximately 12 inches in length.

(c) *Gas ignition source.* A standard natural gas type Tirrill burner, with a nominal inside diameter of ⅜ inch, to apply the flame to the test specimen. The fuel for the burner shall be natural gas composed of at least 98 percent combustible hydrocarbons, with at least 80 percent being methane.

(d) *Current source.* (For electric cables and splices only). A source of electric current (either alternating current or direct current) for heating the power conductors of the test specimen. The current source shall have a means to regulate current flow through the test specimen and have an open circuit voltage not exceeding the voltage rating of the test specimen.

(e) *Current measuring device.* (For electric cables and splices only). An instrument to monitor the effective value of heating current flow through the power conductors of the specimen within an accuracy of ± 1 percent.

(f) *Temperature measuring device.* (For electric cables and splices only). An instrument to measure conductor temperature within an accuracy of ± 2 percent without the necessity of removing material from the test specimen in order to measure the temperature.

§ 7.407 Test for flame resistance of electric cables and cable splices.

(a) *Test procedure.* (1) For electric cables, prepare 3 specimens of cable, each 3 feet in length, by removing 5 inches of jacket material and 2½ inches of conductor insulation from both ends of each test specimen. For splices, prepare a splice specimen in each of 3 sections of MSHA-approved flame-resistant cable. The cable shall be of the type that the splice kit is designed to repair. The finished splice shall not exceed 18 inches or be less than 6 inches in length for test purposes. The spliced cables shall be 3 feet in length with the midpoint of the splice located 14 inches from one end. Both ends of each of the spliced cables shall be prepared by removing 5 inches of jacket material and 2½ inches of conductor insulation. The type, amperage, voltage rating, and construction of the cable shall be compatible with the splice kit design. Each splice shall be made in accordance with the instructions provided with the splice kit.

(2) Prior to testing, condition each test specimen for a minimum of 24 hours at a temperature of 7010 °F (21.1±5.5 °C) and a relative humidity of 55±10 percent. These environmental conditions shall be maintained during testing.

(3) For electric cables, locate the sensing element of the temperature measuring device 26 inches from one end of each test specimen. For splices, locate the sensing element 12 inches from the midpoint of the splice and 10 inches from the end of the cable. The sensing element must be secured so that it remains in direct contact with the metallic portion of the power conductor for the duration of the flame-resistant test. If a thermocouple-type temperature measuring instrument is used, connect the sensing element through the cable jacket and power conductor insulation. Other means for monitoring conductor temperature may be used, provided the temperature measurement is made at the same location. If the jacket and conductor insulation must be disturbed to insert the temperature measuring device, each must be restored as closely as possible to its original location and

maintained there for the duration of the testing.

(4) Center the test specimen horizontally in the test chamber on the three rods. The three rods shall be positioned perpendicular to the longitudinal axis of the test specimen and at the same height, which permits the tip of the inner cone from the flame of the gas burner, when adjusted in accordance with the test procedure, to touch the jacket of the test specimen. The specimen shall be maintained at this level for the duration of the flame test. The two outermost rods shall be placed so that 1 inch of cable jacket extends beyond each rod. For electric cables, the third rod shall be placed 14 inches from the end of the test specimen nearer the temperature monitoring location on the specimen. For splices, the third rod shall be placed between the splice and the temperature monitoring location at a distance 8 inches from the midpoint of the splice. The specimen shall be free from external air currents during testing.

(5) Adjust the gas burner to give an overall blue flame 5 inches high with a 3-inch inner cone. There shall be no persistence of yellow coloration.

(6) Connect all power conductors of the test specimen to the current source. The connections shall be secure and compatible with the size of the cable's power conductors in order to reduce contact resistance.

(7) Energize all power conductors of the test specimen with an effective heating current value of 5 times the power conductor ampacity rating (to the nearest whole ampere) at an ambient temperature of 104 °F (40 °C).

(8) Monitor the electric current through the power conductors of the test specimen with the current measuring device. Adjust the amount of heating current, as required, to maintain the proper effective heating current value within ± 5 percent until the power conductors reach a temperature of 400 °F (204.4 °C).

(9) For electric cables, apply the tip of the inner cone from the flame of the gas burner directly beneath the test specimen for 60 seconds at a location 14 inches from one end of the cable and between the supports separated by a 16-inch distance. For splices, apply the tip of the inner cone from the flame of a gas burner for 60 seconds beneath the midpoint of the splice jacket.

(10) After subjecting the test specimen to external flame for the specified time, fully remove the flame of the gas from beneath the specimen without disturbing air currents within the test chamber. Simultaneously turn off the heating current.

(11) Record the amount of time the test specimen continues to burn after the flame from the gas burner has been removed. The duration of burning includes the burn time of any material that falls from the test specimen after the flame from the gas has been removed.

(12) Record the length of burned (charred) area of each test specimen measured longitudinally along the cable axis.

(13) Repeat the procedure for the remaining two specimens.

(b) *Acceptable performance.* Each of the three test specimens shall meet the following criteria:

(1) The duration of burning shall not exceed 240 seconds.

(2) The length of the burned (charred) area shall not exceed 6 inches.

§ 7.408 Test for flame resistance of signaling cables.

(a) *Test procedure.* (1) Prepare 3 samples of cable each 2 feet long.

(2) Prior to testing, condition each test specimen for a minimum of 24 hours at a temperature of 70 ± 10 °F (21.1 ± 5.5 °C) and relative humidity of 55 ± 10 percent. These environmental conditions shall be maintained during testing.

(3) Center the test specimen horizontally in the test chamber on the three rods. The three rods shall be positioned perpendicular to the longitudinal axis of the test specimen and at the same height, which permits the tip of the inner cone from the flame of the gas burner, when adjusted in accordance with the test procedure, to touch the test specimen. The specimen shall be maintained at this height for the duration of the flame test. The two outermost rods shall be placed so that 1 inch of cable extends beyond each rod. The third rod shall be placed at the midpoint of the cable. The specimen shall be free from external air currents during testing.

(4) Adjust the gas burner to give an overall blue flame 5 inches high with a 3-inch inner cone. There shall be no persistence of yellow coloration.

(5) Apply the tip of the inner cone from the flame of the gas burner for 30 seconds directly beneath the specimen centered between either end support and the center support.

(6) After subjecting the test specimen to external flame for the specified time, fully remove the flame of the gas from beneath the specimen without disturbing air currents within the test chamber.

(7) Record the amount of time the test specimen continues to burn after the flame from the gas burner has been removed. The duration of burning includes the burn time of any material that falls from the test specimen after the flame from the gas has been removed.

(8) Record the length of burned (charred) area of each test specimen measured longitudinally along the cable axis.

(9) Repeat the procedure for the remaining two specimens.

(b) *Acceptable performance.* Each of the three test specimens shall meet the following criteria:

(1) The duration of burning shall not exceed 60 seconds.

(2) The length of the burned (charred) area shall not exceed 6 inches.

§ 7.409 Approval marking.

Approved electric cables, signaling cables, and splices shall be legibly and permanently marked with the MSHA-assigned approval marking. For electric cables and signaling cables, the marking shall appear at intervals not exceeding 3 feet and shall include the MSHA-assigned approval number in addition to the number and size (gauge) of conductors and cable type. For cables containing electric conductors, the marking shall also include the voltage rating. For splices, the marking shall be placed on the jacket so that it will appear at least once on the assembled splice.

§ 7.410 Post-approval product audit.

Upon request by MSHA, but no more than once a year except for cause, the approval holder shall supply to MSHA for audit at no cost—

(a) 12 feet of an approved electric cable or approved signaling cable; or

(b) 3 splice kits of one approved splice kit design and 12 feet of MSHA-approved cable that the splice kit is designed to repair.

§ 7.411 New technology.

MSHA may approve cable products or splice kits that incorporate technology for which the requirements of this subpart are not applicable if the Agency determines that they are as safe as those which meet the requirements of this subpart.

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

4. The authority citation for part 18 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 18.1 [Amended]

5. Section 18.1 is amended by removing the phrase "cables, hoses, and conveyor belts," and inserting "hoses and conveyor belts,".

§ 18.2 [Amended]

6. Section 18.2 is amended by removing the phrase "cable, hose, or conveyor belt" and inserting "hose or conveyor belt" in the definitions of "Acceptance," "Acceptance marking," and "Applicant."

§ 18.6 [Amended]

7. Section 18.6(a) is amended by removing the phrase "cables, hose, or conveyor belt," and inserting "hose or conveyor belt,".

§ 18.6 [Amended]

8. Section 18.6(b) is removed and reserved.

§ 18.6 [Amended]

9. Section 18.6(i) is amended by removing the phrase "cable, hose, or conveyor belt," and inserting "hose or conveyor belt,", and removing the words "Cable—a sample having a minimum length of 12 feet;".

§ 18.9 [Amended]

10. Section 18.9(a) is amended by removing the phrase "cable, hose, or conveyor belt," and inserting "hose or conveyor belt,".

11. Section 18.35(a)(3) is revised to read as follows:

§ 18.35 Portable (trailing) cables and cords.

(a) * * *

(3) Be accepted as flame resistant under this part or approved under subpart K of part 7 of this chapter.

* * * * *

§ 18.54 [Removed]

12. Section 18.64 is removed.

13. Section 18.94(a)(2) is revised to read as follows:

§ 18.94 Application for field approval; contents of application.

(a) * * *

(2) The trade name and the flame resistance acceptance number of any cable, cord, hose, or conveyor belt installed on the machine for which prior acceptance or approval by MSHA has been issued.

* * * * *

[FR Doc. 90-23108 Filed 9-28-90; 8:45 am]

BILLING CODE 4510-43-M

federal register

Monday
October 1 1990

Part V

Department of Agriculture

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Inspection and Official Weighing Services; Proposed Rule

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Inspection and Official Weighing Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes to increase its fees by 13.5 percent for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. The proposed change is intended to cover, as nearly as practicable, the FGIS operating costs, including related supervisory and administrative costs.

DATES: Comments must be submitted on or before October 31, 1990.

ADDRESSES: Written comments must be submitted to Paul D. Marsden, Federal Grain Inspection Service, USDA, Room 0628 South Building, Box 96454, Washington, DC 20090–6454; telemail users may respond to (IRSTAFF/FGIS/USDA) telemail; telex users may respond to Paul D. Marsden, TLX 7607351 ANS: FGIS UC; and telecopy users may send responses to the automatic telecopier machine at (202) 447–4628.

All comments received will be made available for public inspection during regular business hours in Room 0628 South Building, 1400 Independence Avenue, SW., Washington, DC (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul D. Marsden, Federal Grain Inspection Service, USDA, Room 0628 South Building, Box 96454, Washington, DC 20090–6454; telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by statute to make services available and to recover costs of providing such services as nearly as practicable.

Background

The USGSA, as amended (7 U.S.C. 71 *et seq.*), provides that FGIS shall charge and collect reasonable fees that cover its estimated cost for performing official inspection, weighing, reinspection, and appeal inspection services. The fees are to cover, as nearly as practicable, and taking into consideration any proceeds from the sale of samples, the FGIS costs for performance of these official services, including related administrative and supervisory costs. FGIS costs include personnel compensation, personnel benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment. The current USGSA fees became effective on January 5, 1987 (51 FR 43723). The fees were designed to cover, as nearly as practicable, the level of operating costs as projected for fiscal year 1988. They presently appear in § 800.71 on Schedule A of the regulations, Fees for Official Inspection, Weighing, and Appeal Inspection Services, Performed in the United States (7 CFR 800.71 (Schedule A)).

A proposed rule was published on June 28, 1990, in the **Federal Register** (55 FR 26598) which would amend 7 CFR 800.71 (Schedule A) to provide for a separate fee for official track scale test services. Currently, applicants that request and are provided official railroad track scale test services are assessed the noncontract hourly rate of $38.80 for regular workday (Monday to Saturday), and $52.80 for nonregular workday (Sunday and Holiday).

The proposed new hourly rates for official railroad track scale test services are: regular workdays (Monday to Saturday) $56.60 per hour, and nonregular workdays (Sunday and Holiday) $73.60 per hour. Comments on the June 28 proposed rule were to be submitted on or before July 30, 1990. While this proposed rule reflects the June 28 proposal, this action does not make changes to the previously proposed rule for railroad track scale test services.

FGIS continually monitors its cost, revenue, and operating reserve levels to assure that there are sufficient resources for operations. During the fiscal years 1988 and 1989 FGIS continued to implement cost-saving measures in an effort to provide cost-effective quality services. As a result, the revenue of $23,396,548 covered the operating costs of $19,778,546 for fiscal year 1988. However, the fiscal year 1989 revenue of $22,488,972 did not cover operating costs of $22,566,180 resulting in a negative margin of $77,208.

The fiscal year 1989 offers the most current one-year figures available to compare FGIS's inspection and weighing operating costs with revenue. These figures were used to project the budgeted fiscal year 1990 inspection and weighing costs and establish revenue levels necessary to cover the projected operating costs. During the period October 1, 1989 to July 31, 1990, the actual operating cost was $18,248,057 and the revenue was $16,645,965, resulting in a loss of $1,602,092. The fiscal year 1990 loss is projected to be as high as $1,922,510. This trend, which is expected to continue, would require an increase in fees to recover projected operating costs and maintain a 3 month operating reserve. While the quantity of inspection and weighing services may fluctuate, certain FGIS costs remain constant.

Proposed Action

It is proposed to increase fees for inspection, weighing, reinspection, and appeal inspection services by 13.5 percent including both the contract hourly rates and noncontract hourly rates for original inspection and official weighing. The official inspection and weighing services hourly rates include, but are not limited to grading, weighing, sampling, stowage examination, equipment testing, test weight reverification, evaluation of inspection and weighing equipment, demonstrating official inspection and weighing functions, furnishing standard illustrations, certifying inspection and weighing results, and other services requested by the applicant when performed at the point of service. The proposed railroad track scale test services fees proposed at 55 FR 26598 would not be changed by this action.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure; Grains.

For the reasons set out in the preamble, 7 CFR part 800 is proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.71 is revised to read as follows:

§ 800.71 [Revised]

SCHEDULE A.—FEES FOR OFFICIAL INSPECTION, WEIGHING, AND APPEAL INSPECTION SERVICES PERFORMED IN THE UNITED STATES [1]

Inspection and weighing service (bulked or sacked grain)	Regular workday (Monday to Saturday)	Nonregular workday (Sunday and Holiday)
(1) Original inspection and official weighing		
(i) Contract (per hour per service representative)	$33.10	$45.30
(ii) Noncontract (per hour per service representative)	44.00	59.90
(2) Reinspection, appeal inspection, Board appeal inspection, and review of weighing services: [2] [3]		
(i) Grading service:		
(A) Grade and factors (per sample)	64.20	82.80
(B) Protein test (per sample)	16.10	20.80
(C) Factor determination (per factor)	32.10	41.60
(ii) Sampling services (per hour per service representative)	64.20	82.80
(iii) Review of weighing service (per service representative)	64.20	82.80
(3) Extra copies of certificates (per copy)	3.00	3.00
(4) Official track scale testing service	56.60	73.60

[1] Official inspection and weighing services include, but are not limited to: grading, weighing, sampling, stowage examination, equipment testing, scale testing and certification, test weight reverification, evaluation of inspection and weighing equipment, demonstrating official inspection and weighing functions, furnishing standard illustrations, and certifying inspection and weighing results.

[2] Fees for reinspection and appeal inspection services performed at locations where FGIS is providing original inspection service shall be assessed at the applicable contract or noncontract hourly rate as the original inspection. However, if additional personnel are required to perform the reinspection or appeal inspection service, the applicant will be assessed the noncontract original inspection hourly fee.

[3] If at the request of the Service a file sample is located and forwarded by an agency for an official appeal, the agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service.

Dated: August 29, 1990.

D.R. Galliart,

Acting Administrator.

[FR Doc. 90-21491 Filed 9-28-90; 8:45 am]

BILLING CODE 3410-EN-M

federal register

Monday
October 1, 1990

Part VI

Department of Health and Human Services

Public Health Service

42 CFR Part 60

Health Education Assistance Loan Program; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

RIN 0905-AC87

42 CFR Part 60

Health Education Assistance Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend existing regulations governing the Health Education Assistance Loan (HEAL) program to establish performance standards against which school, lender, and holder default rates would be measured; to require a lender to apply more stringent creditworthiness standards in determining an applicant's eligibility for a HEAL loan; to require lenders to report a borrower's HEAL indebtedness to one or more credit bureaus at the time the loan is made; to strengthen a school's authority to deny a HEAL loan to an applicant who is expected to have difficulty repaying the loan; to require a school to withhold services from a defaulted HEAL borrower, except in cases of bankruptcy; and to include hearing procedures prior to termination from the program.

DATES: To be considered, comments must be received by November 30, 1990.

ADDRESSES: Respondents should address written comments to Fitzhugh Mullan, M.D., Acting Director, Bureau of Health Professions (BHPr), room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Development, BHPr, Room 8A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: James W. Farrington, D.M.D., Deputy Director, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8-48, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443-1173.

SUPPLEMENTARY INFORMATION: The Secretary is proposing in this Notice of Proposed Rulemaking (NPRM) to amend the HEAL regulations to establish performance standards against which school, lender, and holder default rates would be measured. Recognizing that the HEAL program is seriously flawed, the Secretary has developed these regulations as a temporary stop-gap measure until the program is phased out or the legislation is amended.

The HEAL program has been flawed from its inception. Although designed to be self-financing, HEAL has relied on ever-increasing premiums from new loans to pay off defaults from old loans. In the early years of HEAL, premiums from each year's guarantees never covered defaults resulting from those guarantees. While HEAL collected about $537,000 in premiums from loans guaranteed in FY 1982, claims from those guarantees totalled approximately $18 million. For loans guaranteed in FY 1983 and FY 1984, HEAL collected premiums of $3 million and $6 million respectively. However, claims resulting from those loans far outpaced premiums, totalling $22 million and $21 million respectively.

In recent years, the dollars paid in claims, and the amounts currently in litigation that are expected to result in future claims, have increased significantly as rising numbers of loans have entered repayment each year. Loans in repayment increased by more than $200 million to $1.1 billion from FY 1988 to FY 1989. HEAL disbursements peaked at $321 million in FY 1986 and decreased to $222 million in FY 1987. Loan volume was $230 million in FY 1988 and $250 million in FY 1989. The decrease in disbursements since FY 1986 has resulted in a decrease in the amount of insurance premium income being paid into the Student Loan Insurance Fund (SLIF).

The continuing increase in dollar volume of HEAL claims and potential claims, coupled with the significant decline in loan disbursements (and therefore insurance premium income), now jeopardize the solvency of the SLIF, creating a need for appropriations to pay HEAL claims. Given the magnitude of HEAL's flaws, there is a need for fundamental reform. However, until the program is phased out or major reforms can be legislated, short term steps are necessary to minimize claims in the existing HEAL program. As such, these regulations propose to establish default standards, with which schools, lenders, and holders would be required to comply to continue participating in the HEAL program.

Schools, lenders, and holders all play a significant role in helping to assure the collectibility of HEAL loans, and all benefit from participation in the HEAL program. Accordingly, this approach is designed to assure accountability among all parties which are involved in and benefit from the HEAL program.

The Secretary is proposing in these regulations that schools, lenders, and holders comply with a 5 percent default standard, measured on an annual basis. A 5 percent standard is consistent with the standard established for the Health Professions Student Loan (HPSL) program in 1983, and is considered by the Department to be a reasonable standard for health professions borrowers. HPSL schools have been successful in complying with the 5 percent standard, in spite of objections from schools and professional associations when it initially was proposed. Since the implementation of the HPSL standard in 1983, there has been no Congressional action opposing the 5 percent level, an indication that the Congress also considers this a reasonable default standard for health professions borrowers.

To measure compliance with the 5 percent standard, the Secretary is proposing the use of a default rate formula that focuses on default rates by Federal fiscal year (October 1-September 30). Under this formula, the original principal amount of loans that enter repayment in a given fiscal year, and for which a default claim is filed with the Department and approved for payment by the end of the second succeeding fiscal year, would be divided by the original principal amount of all loans that entered repayment in that fiscal year. Claims paid due to death, disability, and bankruptcy, as authorized by the HEAL regulations, would not be included in the numerator.

The proposal to use a formula that focuses on loans entering repayment within a given fiscal year is designed to measure the effectiveness of activities undertaken by schools, lenders, and holders which affect the likelihood of repayment by the borrower. For purposes of determining which loans fall into the default category, the formula provides up to 3 years for a default claim to be filed and approved for payment by the Department. The 3-year period is based on a sampling of approximately 3,400 loans for which HEAL claims have been paid, with an original principal value of $24.3 million. This data showed that, of the $24.3 million in original principal paid on these claims, significant amounts could be attributed to claims filed during each of the first 3 years of repayment, with the amount dropping off for claims filed after the third year, as follows: first year—42 percent; second year—29 percent; third year—17 percent; fourth year—9 percent; after the fourth year—3 percent.

Fiscal Year 1989 would be the first year for which progress toward meeting the standard would be measured. Data

on loans entering repayment in FY 1989 for which default claims were filed and approved for payment by the end of the second succeeding fiscal year would be available at the end of FY 1991 (September 30, 1991). In November 1991, the Department would notify schools, lenders, and holders of their FY 1989 default rates. The formula for determining the FY 1989 default rate can be expressed as follows: Dollar (principal) amount of loans entering repayment in FY 1989 and defaulting in FYs 1989, 1990, and 1991 divided by dollar (principal) amount of loans entering repayment in FY 1989. Initial penalties of suspension or termination, based on FY 1990 default rates, would become effective January 1, 1993. Rates for each subsequent fiscal year would be measured annually thereafter, with penalties effective January 1 of the fiscal year in which the default rate calculation is made.

To assist schools and lenders in complying with the proposed default standards, these regulations also would propose to allow more stringent standards to be applied in determining an applicant s eligibility for a HEAL loan and would require a school to withhold services from a defaulted HEAL borrower except in instances where the borrower has filed for bankruptcy

Since schools, lenders, and holders each play a different role in the HEAL program, the implementation of the performance standard, including the penalties for noncompliance, would vary somewhat in recognition of these differences. The specific amendments proposed are described below according to the subparts, section numbers, and headings of the HEAL regulations affected.

Subpart D—The Lender

Section 60.33 Making a HEAL Loan

The Department is proposing to amend paragraph (c) of this section to provide that a lender, in determining an applicant s eligiblity for a HEAL loan, must compare the applicant s anticipated indebtedness from all sources at the anticipated time of repayment with the applicant's expected income (based on, for example, average starting incomes for graduates in the course of study for which the applicant is requesting the HEAL loan, or other sources of expected income), and may deny or reduce the amount of the HEAL loan if the lender determines that the expected income would be insufficient to allow the applicant to make the payments required by the anticipated level of indebtedness. This provision is designed to assist lenders in meeting the default standard by making clear their authority to deny or reduce a HEAL loan in cases where the proposed debt level compared with expected income indicates a strong likelihood of default.

The Department also is proposing to add a new paragraph (h) to this section to require the lender to report a borrower's HEAL indebtedness to one or more credit bureaus at the time the loan is made. The Department believes that the reporting of all HEAL loans to credit bureaus will help reduce defaults by assuring that other potential creditors of a borrower have access to information on the borrower's HEAL indebtedness and take this into consideration when determining whether to extend additional credit to the borrower.

Section 60.43 Limitation, Suspension, or Termination of the Eligibility of a HEAL Lender or Holder

This section currently provides that the Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible lender that violates any provision of title VII, part C, subpart I of the Act as amended (42 U S.C. 294–294l), these regulations, or agreements with the Secretary concerning the HEAL program. This action is to be taken in accordance with procedures for the limitation, suspension, or termination of the eligibility of lenders under the Federal Insured Student Loan Program as set forth in 34 CFR part 682.

The Department is proposing to revise this section to provide that prior to terminating a lender's or holder's participation in the program, the Secretary will provide the lender or holder with an opportunity for a hearing and will follow the hearing procedures which the Department has adopted for the Health Professions Student Loan program.

To help assure that the hearing process is administered as efficiently and cost-effectively as possible for the lenders, holders, and the Federal Government, the revision would set forth procedures for determining whether a hearing is warranted and would involve an administrative summary judgment proceeding.

Under these procedures, the Secretary will provide any lender or holder subject to termination with a written notice specifying his or her intention to terminate the lender's or holder's participation in the program and stating that the entity may request, within 30 days of the receipt of this notice, a formal hearing If the lender or holder requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The lender or holder does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the lender or holder setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the lender or holder will be terminated from participation in the program. An entity will be permitted to reapply for participation in the program. An entity will be permitted to reapply for participation in the program when it demonstrates, and the Secretary agrees, that it is in compliance with all HEAL requirements.

Section 60.44 Performance Standard for Lenders

The Department is proposing to add a new § 60.44 to subpart D which would require that, to continue originating loans, lenders must maintain a fiscal year lender default rate of not more than 5 percent, based on loans originated by the lender.

To calculate a lender's default rate, "applicable defaults" would be divided by the "fiscal year base," expressed as a percentage. For this purpose, "applicable defaults" would mean the original principal amount of loans originated by the lender that enter the repayment period in a given fiscal year, and for which default claims are filed with the Department and approved for payment by the end of the second succeeding fiscal year. "Fiscal year base" means the original principal amount of loans originated by the lender that entered repayment in that fiscal year.

A lender that complies with the lender default standard would continue to be in active status for originating loans. A lender that fails to comply with the standard would be placed in probation for 1 year. During probation, loans could continue to be made to any eligible applicant. At the end of probation, a lender that meets the 5 percent default standard would be placed in active

status; a lender with a lender default rate exceeding the standard would be placed in a termination status. During termination, a lender would not be authorized to make any new HEAL loans, but could make disbursements to cover the remaining amounts of loans already approved. A lender for which authority to originate loans has been terminated would be eligible to return to active status for originating loans when it achieves the 5 percent standard.

Under this proposal, lenders with lender default rates exceeding 5 percent for 2 consecutive years would be placed in terminated status for purposes of originating HEAL loans. The Department believes that this approach would provide lenders with adequate time to make any improvements necessary to comply with the standard, while at the same time most effectively safeguarding the HEAL program by excluding lenders with default rates that exceed acceptable levels from originating additional loans. Borrowers should not be adversely affected by the termination of a lender's authority to originate loans, since they should be able to secure loans from other approved lenders.

Section 60.45 Performance Standard for Holders of HEAL Loans

The Department is proposing to add a new § 60.45 to subpart D which would require that, to continue purchasing loans, holders must maintain a fiscal year holder default rate of not more than 5 percent, based on loans held either at the time of default or at the end of the fiscal year on which the default rate is based. For purposes of calculating a holder default rate, a holder would be defined as an entity other than the originator of the HEAL loan.

To calcualte a holder's default rate, "applicable defaults" would be divided by the "fiscal year base," expressed as a percentage. For this purpose, "applicable defaults" means the original principal amount of loans entering repayment in a given fiscal year that were held by the holder at the time of default, and for which a default claim is filed with the Department and approved for payment by the end of the second fiscal year following the fiscal year during which repayment began. "Fiscal year base" means the original principal amount of all loans entering repayment in that fiscal year that were held by the holder at the end of that fiscal year, plus the "applicable defaults."

A holder that complies with the 5 percent standard would continue to be in active status for purchasing loans. A holder that fails to comply with the standard would be placed in probation for 1 year. During probation, loans could continue to be purchased from lenders and other holders. At the end of probation, a holder that meets the holder default standard would be placed in active status; a holder with a default rate exceeding the standard would be placed in a termination status. During termination, a holder would not be authorized to purchase any HEAL loans. A holder for which the authority to purchase loans has been terminated would be eligible to return to active status for purchasing loans when it achieves the 5 percent standard.

Holders with default rates exceeding the 5 percent standard for 2 consecutive years would be placed in terminated status for purposes of purchasing HEAL loans. The Department believes that this approach would provide holders with adequate time to make any improvements necessary to comply with the standard, while at the same time most effectively safeguarding the HEAL program by excluding entities with default rates that exceed acceptable levels from purchasing and thus taking on the responsibility for servicing additional loans.

Subpart E—The School

Section 60.51 The Student Loan Application

The Department is proposing to amend paragraph (e) of this section to provide that a school, in determining an applicant s eligibility for a HEAL loan, must compare the applicant's anticipated indebtness from all sources at the anticipated time of repayment with the applicant s expected income (based on, for example, average starting incomes for graduates in the course of study for which the applicant is requesting the HEAL loan, or other sources of expected income levels), and may deny or reduce the amount of the HEAL loan if the school determines that the expected income would be insufficient to allow the applicant to make the payments required by the proposed level of indebtedness. This provision is designed to assist schools in meeting the default standard by providing them with authority to deny or reduce a HEAL loan in cases where the anticipated debt level compared with expected income indicates a strong likelihood of default.

Section 60.60 Limitation, Suspension of the Eligibility of a HEAL School

This section currently provides that the Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible school that violates any provision of title VII, part C, subpart I of the Act as amended (42 U.S.C. 294–294l), these regulations, or agreements with the Secretary concerning the HEAL program. This action is to be taken in accordance with procedures for the limitation, suspension, or termination of the eligibility of schools under the Student Assistance General Provisions of the Department of Education as set forth in 34 CFR part 668.

The Department is proposing to revise this section to provide that prior to terminating a school's participation in the program, in accordance with section 739(a)(3) of the Act, the Secretary will provide the school an opportunity for a hearing and will follow the hearing procedures which the Department has adopted for the Health Professions Student Loan program.

To help assure that the hearing process is administered as efficiently and cost-effectively as possible, the revision would set forth procedures for determining whether is hearing is warranted and would involve an administrative summary judgment proceeding. Procedures for schools would parallel those for lenders and holders as discussed under § 60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender or holder A school would be permitted to reapply for participation in the program when it demonstrates, and the Secretary agrees, that it is in compliance with all HEAL requirements.

Section 60.61 Responsibilities of a HEAL School

The Department is proposing to add a new paragraph (d) to this section to require that a school withhold services, including, but not limited to, academic transcripts, financial aid transcripts, and alumni services, from a defaulted HEAL borrower, except in instances where the borrower has filed for bankruptcy. This proposal is intended to assist schools in meeting the default standards by making clear their authority to take action aganist defaulted borrowers, and thus deter future defaults. The exception to withholding services when a borrower has filed for bankruptcy would assure that the "fresh start" provision of the Bankruptcy Code is not violated.

Section 60.62 Performance Standard for Schools

The Department is proposing to add a new § 60.62 to subpart E which would require that, to continue participating in the HEAL program, schools must maintain a fiscal year school default rate of not more than 5 percent.

To calculate a school default rate, "applicable defaults" would be divided

by the "fiscal year base," expressed as a percentage. For this purpose, "applicable defaults" means the original principal amount of loans made to the school s borrowers that enter repayment in a given fiscal year, and for which a default claim is filed with the Department and approved for payment by the end of the second succeeding fiscal year "Fiscal year base" means the original principal amount of all loans made to the school s borrowers that entered repayment in that fiscal year.

Fiscal year 1989 would be the first year for which progress toward achieving the standard would be measured. Each school would be required to achieve the 5 percent standard by FY 1995 when its FY 1992 default rate would be measured, and would be provided a phase-in period to achieve compliance with the 5 percent standard.

Prior to the measurement of its FY 1992 default rate, if a school has a default rate for any year greater than 5 percent, it will be required, by the end of the following year, to achieve the 5 percent standard or meet reductions as follows:

(1) If the school is in the 10 percent (adjusted upward to the nearest whole number) of schools in its health profession with the highest default rates, it will be required to reduce its rate by 50 percent from the prior year's rate until it reaches the 5 percent standard; provided that no school in this category would be required to reduce its rate to a level below the maximum rate permitted for the remaining 90 percent of schools in its health profession, as described below.

(2) If a school is not in the 10 percent (adjusted upward to the nearest whole number) of schools in its health profession with the highest rates, it must reduce its default rate by 25 percent from the prior year's rate until it reaches the 5 percent or less standard.

The phase-in period is designed to assist a school in meeting the standard by taking into account the wide variations in default rates by health profession and by assuring that schools with the highest default rates are making adequate progress toward achieving the standard. Fiscal Year 1986 annual default rates for major HEAL disciplines range by health profession from a low of 9.3 percent for osteopathic medical schools to a high of 18.4 percent for chiropractic schools. This approach is also consistent with a legislative amendment to the program which the Congress included in the Health Professions Reauthorization Act of 1988 (title VI of Public Law 100–607, enacted on November 4, 1988). Specifically, Public Law 100–607 amended the statute to authorize the Secretary to establish reasonable limits for default rates for borrowers in each of the health professions.

A school that complies with the 5 percent standard or required reduction would continue to be in active status. A school that fails to comply with the standard or reduction would be placed in probation for 1 year. During probation, loans could continue to be approved for any eligible applicant. At the end of probation, a school that meets the standard or reduction would be placed in active status; a school with a default rate exceeding the standard or required reduction would be placed in suspension. During suspension, a school could approve loans for previous HEAL borrowers only.

At the end of 1 year of suspension, a school which meets the standard or required reduction would be placed in active status. A school with a default rate that continues to exceed the standard or reduction would remain in suspension for up to 4 years, or as long as it has previous HEAL borrowers still enrolled, whichever is shorter. This provision is designed to allow previous HEAL borrowers to receive funding through the remainder of their educational program, and thus prevent these students from being forced to drop out due to a lack of available funding. A school with a default rate that continues to exceed the standard would be terminated at the end of 4 years in suspension, or when previous HEAL borrowers have completed their educational program, whichever is sooner. During termination, a school would not be authorized to approve HEAL loans for any of its students. A terminated school would be eligible to apply for reentry into the program when it achieves a 5 percent or less default rate for 2 consecutive years. The 2-year period is designed to assure that a school demonstrates stability in its default rate before it reenters active status, and is considered necessary because of the length of time associated with suspending and terminating a school.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the proposed requirements in these regulations are minimal. Under this proposed rule schools, lenders, and holders would be required to comply with default standards to continue participating in the HEAL program. These proposals may require some additional resources in those instances where a school, lender or holder consistent with its role in the HEAL program, is doing an unsatisfactory job of assuring that borrowers understand and comply with their repayment responsibilities. However, they should not require significant additional resources for the majority of schools, lenders, and holders. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of HEAL schools, lenders, or holders.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondent description of the information collections are shown below with an estimate of the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Health Education Assistance Loan (HEAL) Program: Performance Standards.

Description of Respondents: Non-profit institutions and Businesses or other for profit.

Description: Lenders must report new HEAL loans to credit bureaus. Lenders and schools requesting a hearing prior to termination must submit a statement of material issues in dispute.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section requirement	Annual No. of respondents	Annual frequency	Average burden per response	Annual burden hours
60.33(h)	66	29,000 (borrowers)	1 min.	483 hrs.
60.43(b)	10	1	3 hrs.	30 hrs.
60.60(b)	90	1	3 hrs.	270 hrs.
Total Burden Hours				783 hrs.

We have submitted a copy of this proposed rule to OMB for its review of these information collections. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503.

List of Subjects in 42 CFR Part 60

Educational study programs, Health professions, Loan programs—education, Loan programs—health, Medical and dental schools, Reporting requirements, Student aid.

Accordingly, the Department of Health and Human Services proposes to amend 42 CFR part 60 as follows:

Dated: August 7, 1989.

James O. Mason,

Assistant Secretary for Health.

Approved: May 10, 1990.

Louis W. Sullivan,

Secretary.

(Catalog of Federal Domestic Assistance, No. 13.108, Health Education Assistance Loan Program)

PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

1. The authority citation for 42 CFR part 60 is revised to read as follows:

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 727–739 of the Public Health Service Act, 90 Stat. 2243, as amended, 93 Stat. 582, 99 Stat. 529–532, 102 Stat. 3122–3125 (42 U.S.C. 294–294l).

2. Section 60.33, in subpart D, is amended by redesignating introductory paragraph (c), (c)(1), and (c)(2) as (c)(1) introductory text, (c)(1)(i), and (c)(1)(ii); and by adding new paragraphs (c)(2) and (h) to read as follows:

Subpart D—The Lender

§ 60.33 Making a HEAL loan.

* * * * *

(c) *Lender determination of the borrower's creditworthiness.*

* * * * *

(2) In determining an applicant's eligibility for a HEAL loan, a lender must compare the applicant's anticipated indebtedness from all sources at the anticipated time of repayment with the applicant's expected income (based on, for example, average starting incomes for graduates in the course of study for which the applicant is requesting the HEAL loan) and may deny or reduce the amount of the HEAL loan if the lender determines that the expected income would be insufficient to allow the applicant to make the payments required by the anticipated level of indebtedness.

* * * * *

(h) The lender must report a borrower's HEAL indebtedness to one or more credit bureaus within 30 days of the date the loan is made.

3. Section 60.43 is amended by revising the section heading and paragraph (a); by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively; and adding a new paragraph (b) to read as follows:

§ 60.43 Limitation, suspension, or termination of the eligibility of a HEAL lender or holder.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible lender or holder that violates or fails to comply with any provision of title VII, part C, subpart I of the Act as amended (42 U.S.C. 294–294l), these regulations, or agreements with the Secretary concerning the HEAL program. Prior to terminating a lender or holder's participation in the program, the Secretary will provide the entity an opportunity for a hearing in accordance with the procedures under paragraph (b) of this section.

(b) The Secretary will provide any lender or holder subject to termination with a written notice specifying his or her intention to terminate the lender or holder's participation in the program and stating that the entity may request, within 30 days of the receipt of this notice, a formal hearing. If the entity requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if;

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The lender or holder does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the lender or holder setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the lender or holder will be terminated from participation in the program. An entity will be permitted to reapply for participation in the program when it demonstrates, and the Secretary agrees, that it is in compliance with all HEAL requirements.

* * * * *

4. A new § 60.44 is added to subpart D to read as follows:

§ 60.44 Performance standard for lenders.

(a) Beginning with its FY 1989 default rate, and for each fiscal year default rate thereafter, except as provided in paragraph (c) of this section, a lender must have a lender default rate (as calculated under paragraph (b) of this section) of not more than 5 percent to be eligible to continue making HEAL loans. A lender that meets the standard shall be in active status for making loans.

(b) The lender default rate shall be the ratio (stated as a percentage) that "applicable defaults" bears to the "fiscal year base." For this purpose, applicable defaults means the original principal amount of loans originated by the lender that enter repayment in a given fiscal year, and for which a default claim is filed with the Department and approved for payment by the end of the second succeeding fiscal year. "Fiscal year base" means the original principal amount of loans originated by the lender that entered repayment in that fiscal year. The lender default rate for a fiscal

year shall be calculated 2 years after the end of the base fiscal year.

(c) A lender that fails to comply with the requirements of paragraph (a) of this section shall be placed on probation for originating loans for 1 year, effective January 1 of the fiscal year in which the calculation of the lender default rate is made During probation, the lender may continue to make loans to any eligible applicant. At the end of probation, a lender that has met the lender default standard for the most recently calculated fiscal year shall be placed in active status for making loans; a lender with a lender default rate exceeding the standard shall have its authority to make loans terminated. Prior to termination, a lender will be provided an opportunity for a hearing in accordance with § 60.43. During termination, a lender is not authorized to make any new HEAL loans, but may make disbursements to cover the remaining amounts of loans already approved. A lender for which the authority to make loans has been terminated is eligible to return to active status if its achieves a fiscal year lender default rate of 5 percent or less for any subsequent fiscal year.

5. A new § 60.45 is added to subpart D to read as follows:

§ 60.45 Performance standard for holders of HEAL loans.

(a) Beginning with its FY 1989 default rate, and for each fiscal year default rate thereafter, except as provided in paragraph (c) of this section, a holder must have a holder default rate (as calculated under paragraph (b) of this section) of not more than 5 percent to be eligible to continue purchasing HEAL loans. For purposes of calculating a holder default rate, a holder is defined as an entity other than the originator of the HEAL loan. A holder that meets the standard shall be in active status for purchasing loans.

(b) The holder default rate shall be the ratio (stated as a percentage) that "applicable defaults" bears to the "fiscal year base." For this purpose, *applicable defaults* means the original principal amount of loans entering repayment in a given fiscal year that were held by the holder at the time of default, and for which a default claim is filed with the Department and approved for payment by the end of the second fiscal year following the fiscal year during which repayment began. *Fiscal year base* means the original principal amount of all loans entering repayment in that fiscal year that were held by the holder at the end of that fiscal year, plus the applicable defaults." The holder default rate for a fiscal year shall be calculated 2 years after the end of the fiscal year.

(c) A holder that fails to comply with the requirements of paragraph (a) of this section shall be placed on probation for purchasing loans for 1 year, effective January 1 of the fiscal year in which the calculation of the default rate is made. During probation, the holder may continue to purchase loans. At the end of probation, a holder that has met the holder default standard for the most recently calculated fiscal year shall be placed in active status for purchasing HEAL loans; a holder with a holder default rate exceeding the standard shall have its authority to purchase loans from lenders or other holders terminated. Prior to termination, a holder will be provided an opportunity for a hearing in accordance with § 60.43. During termination, a holder is not authorized to purchase any HEAL loans. A holder for which the authority to purchase loans has been terminated is eligible to return to active status for purchasing loans when it achieves a fiscal year holder default rate of 5 percent or less for any subsequent fiscal year.

6. Section 60.51, in subpart E, is amended by revising paragraph (e) to read as follows:

Subpart E—The School

§ 60.51 The student loan application.

* * * * *

(e) State that it has no reason to believe that the borrower may not be willing or able to repay the HEAL loan. In determining an applicant's eligibility for a HEAL loan, a school must compare the applicant's anticipated indebtedness from all sources at the anticipated time of repayment with the applicant's expected income (based on, for example, average starting incomes for graduates in the course of study for which the applicant is requesting the HEAL loan) and may deny or reduce the amount of the HEAL loan if the school determines that the expected income would be insufficient to allow the applicant to make the payments required by the anticipated level of indebtedness;

* * * * *

7 Section 60.60 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively· by revising paragraph (a); and by adding a new paragraph (b) to read as follows:

§ 60.60 Limitation, suspension, or termination of the eligibility of a HEAL school.

(a) The Secretary may limit, suspend, or terminate the eligibility under the HEAL program of an otherwise eligible school that violates or fails to comply with any provision of title VII, part C, subpart I of the Act as amended (42 U S.C. 294–294l), these regulations, or agreements with the Secretary concerning the HEAL program. Prior to terminating a school's participation in the program, the Secretary will provide the school an opportunity for a hearing in accordance with the procedures under paragraph (b) of this section.

(b) The Secretary will provide any school subject to termination with a written notice specifying his or her intention to termination the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program. A school will be permitted to reapply for participation in the program when it demonstrates, and the Secretary agrees, that it is in compliance with all HEAL requirements.

* * * * *

8. Section 60.61 is amended by adding a new paragraph (d) to read as follows:

§ 60.61 Responsibilities of a HEAL school.

* * * * *

(d) A school must withhold services, including, but not limited to, academic transcripts, financial aid transcripts, and alumni services, from a defaulted borrower except in instances where the borrower has filed for bankruptcy.

9. A new § 60.62 is added to subpart E to read as follows:

§ 60.62 Performance standard for schools.

(a) Beginning with its FY 1989 default rate, and for each fiscal year thereafter, except as provided in paragraphs (c) and (d) of this section, a school must have a default rate (as calculated under paragraph (b) of this section) of not more than 5 percent or meet required reductions to be eligible to continue participating in the HEAL program. A school that meets the standard or the reductions required under paragraph (c) of this section shall be in active status.

(b) The school default rate shall be the ratio (stated as a percentage) that applicable defaults bears to the fiscal year base. For this purpose, applicable defaults means the original principal amount of loans made to the school's borrowers that enter repayment in a given fiscal year, and for which a default claim is filed with the Department and approved for payment by the end of the second succeeding fiscal year. Fiscal year base means the original principal amount of all loans made to the school's borrowers that entered repayment in that fiscal year. The school default rate for a fiscal year shall be calculated 2 years after the end of the fiscal year.

(c) Prior to the measurement of its FY 1992 default rate, if a school has a default rate for any year greater than 5 percent, it will be required, by the end of the following fiscal year, to achieve the 5 percent standard or meet reductions as follows:

(1) If the school is in the 10 percent (adjusted upward to the next higher whole number) of schools in its health profession with the highest default rates, it will be required to reduce its rate by 50 percent from the prior year's rate until it reaches the 5 percent or less standard. *Provided,* that no school covered by this paragraph shall be required to reduce its rate in any fiscal year to a level below the maximum rate permitted for any school covered by paragraph (c)(2) of this section for such year.

(2) If a school is not in the 10 percent (adjusted upward to the next higher whole number) of schools in its health profession with the highest default rates, it must reduce its default rate by 25 percent from the prior year's rate until it reaches the 5 percent or less standard.

(3) Effective with the measurement of its FY 1992 default rate, each school must achieve a default rate of 5 percent or less to be eligible to continue participating in the HEAL program.

(d) A school that fails to comply with the requirements of paragraph (a) or paragraph (c) of this section shall be placed in probation for 1 year, effective January 1 of the fiscal year in which the calculation of the school default rate is made. During probation, the school may continue to approve loans to any eligible applicant. At the end of probation, a school that has met the 5 percent default standard or the required reduction for the most recently calculated fiscal year shall be placed in active status; a school with a default rate exceeding the standard or not meeting the required reduction shall be placed in suspension effective January 1 of the fiscal year in which the calculation of the default rate is made, and must comply with the requirements of paragraph (e) of this section.

(e) During a period of suspension resulting from failure to comply with the school default standard or the required reduction, a school may approve loans for its previous HEAL borrowers only. At the end of 1 year of suspension, a school that has met the school default standard or required reduction for the most recently calculated fiscal year shall be placed in active status; a school with a default rate exceeding the standard may remain in suspension for up to 4 years, or as long as it has previous HEAL borrowers still enrolled, whichever is shorter. A school with a default rate that continues to exceed the standard shall be terminated at the end of 4 years in suspension, or when its previous HEAL borrowers have completed their educational program, whichever is sooner. Prior to termination, a school will be provided an opportunity for a hearing in accordance with § 60.60.

(f) A school terminated for failure to comply with the school default standard may not approve HEAL loans for any of its students. A school for which authority to approve loans has been terminated is eligible to return to active status when it achieves a fiscal year school default rate of 5 percent or less for 2 consecutive fiscal years.

[FR Doc. 90-23056 Filed 9-28-90; 8:45 am]

BILLING CODE 4160-15-m

federal register

Monday
October 1, 1990

Part VII

Department of Education

Office of the Secretary

34 CFR Part 668

Student Assistance General Provisions; Proposed Rule

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 668

RIN 1840-AB39

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend subpart A of the Student Assistance General Provisions regulations to eliminate a serious abuse of the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). The Secretary is proposing to add provisions to subpart A of the Student Assistance General Provisions regulations that establish a regulatory formula for the calculation of semester, trimester, or quarter hours in undergraduate vocational training programs offered in semester, trimester, or quarter hours that prepare students for gainful employment in a recognized occupation. This regulatory formula will govern the determination of whether the educational program qualifies as an eligible program under § 668.8, and the amount of title IV, HEA program assistance that a student who is enrolled in that eligible program may receive. These proposed regulations apply only to calculations made for title IV, HEA program purposes. They are not intended to and do not interfere with the supervision or control over the curriculum, program of instruction or administration of an educational institution.

DATES: Comments must be received on or before October 31, 1990.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ms. Carney M. McCullough, Chief, Pell Grant Policy Section, Division of Policy and Program Development, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Andrade, Program Specialist, Pell Grant Policy Section, Division of Policy and Program Development, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346. Telephone (202) 708-7888.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions regulations implement requirements that are common to the participation of postsecondary institutions in the title IV, HEA programs. The title IV, HEA programs include the Pell Grant, Stafford Loan (formerly Guaranteed Student Loan (GSL)), PLUS, Supplemental Loans for Students (SLS), Consolidation Loan, State Student Incentive Grant (SSIG), Income Contingent Loan (ICL), Perkins Loan, College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs. The last three programs are known collectively as the "campus-based programs."

Description of Proposed Changes

The Secretary is proposing to amend § 668.8 by adding a new paragraph (c). Under this new paragraph, an institution that offers an undergraduate vocational training program in semester, trimester, or quarter hours as described in § 668.8(a)(2) (iii), (iv), or (v) must use a regulatory formula to determine the number of semester, trimester, or quarter hours in that program for the purpose of determining whether the program meets one of the qualifications of an eligible program under § 668.8. This regulatory formula establishes the number of semester, trimester, or quarter hours on the basis of the number of clock hours of instruction provided in that program.

The Secretary is basing this regulatory formula upon the definition of the term "academic year" that has been in use under the title IV, HEA programs for almost 20 years. Under this long-standing, commonly-accepted definition, which is in § 668.2, the Secretary has defined an academic year as at least 24 semester or trimester hours, 36 quarter hours, or 900 clock hours of instruction. Applying this definition to the comparability between credit hours and clock hours, the latter term being defined in § 668.2, the proposed formula provides that a semester or trimester hour must provide at least 37.5 clock hours of instruction (900 clock hours divided by 24 semester or trimester hours), while a quarter hour must provide at least 25 clock hours of instruction (900 clock hours divided by 36 quarter hours).

In addition, the Secretary is proposing to add a new section, § 668.9. In this new section the Secretary proposes that an institution must use the formula contained in § 668.8(c) to calculate the amount of title IV, HEA program assistance that a student, who is enrolled in an undergraduate vocational program offered in semester, trimester, or quarter hours that prepares students for gainful employment in a recognized occupation, is eligible to receive. However, the application of this formula does not prevent an institution from using its own credit hour measurements of that program for its own purposes.

Background on Clock Hour to Credit Hour Conversions

For many years, the Secretary has been concerned that many institutions that offered undergraduate vocational training programs in clock hours have purported to increase the quantity of education they offered in those programs simply by converting those clock hour programs to credit hour programs. In addition, other institutions have also measured their undergraduate vocational programs in credit hours, seemingly without regard to the number of clock hours in those programs.

As a result, undergraduate vocational training programs that were not, or could not have been, of sufficient educational quantity to qualify for certain title IV, HEA programs when measured in clock hours, qualified for those title IV, HEA programs when measured in credit hours. In other instances, institutions began awarding Title IV, HEA assistance as though the quantity of education in their programs had doubled or tripled, even though the actual quantity of education provided had not increased at all. This abuse has been documented over the last several years, more recently in the ED Office of Inspector General audits, and has two major consequences.

An example of the first consequence of this abuse occurred at a trade school which offered a 10-week casino dealer program consisting of 309 clock hours of instruction. A 309 clock-hour vocational program is not an eligible program for the Pell Grant and campus-based programs because the HEA requires such an eligible program to be at least a six month program (*i.e.*, at least 600 clock hours, 16 semester or trimester credit hours, or 24 quarter credit hours). The school converted that program into a program of 27.7 quarter credit hours. Therefore, solely by virtue of the conversion technique, this institution's 309 clock-hour program is now considered to be a six month training program eligible for the Pell Grant Program and the campus-based programs.

An example of the second consequence of this abuse, that was uncovered by the Office of the Inspector General, occurred in the following manner. An institution that was audited offered a 900 clock-hour dental assistant program that the institution considered to be a program of one academic year. If

the program were measured in clock hours, needy full-time students in this program would have received a full Pell Grant of $2,200 and Stafford Loan of $2,625 in 1988–89. However, the institution had previously converted to credit hours and represented the dental assistant program as 48 semester credit hours, equivalent to two academic years. Thus, the program appeared to have doubled in quantity of educational instruction without any increase in the amount of instruction offered in the program. As a result, in 1988–89 and 1989–90, students qualified for two full Pell Grants and two maximum Stafford Loans or $4,925 more than if the program were measured in clock hours.

An additional consequence of this abuse is that these institutions have increased their tuition and fee charges for these programs even though no additional services were provided, because students could obtain greater amounts of title IV, HEA program assistance.

The Secretary is proposing these regulations only after attempting over the past decade to curb this abuse by relying on institutional self-regulation, accrediting agencies standards and reviews of accredited institutions, and existing State law. However, those attempts met with only limited success.

Limited Scope of the Proposed Regulations

In proposing these regulations, the Secretary recognizes that there may be a legitimate need to convert clock hours into credit hours. This need is especially important when a student, for example, transfers from a clock-hour program at a trade school into a credit hour program at a community college using quarter hours. The Secretary recognizes that the acceptance of transfer credit is solely within the purview of the new institution accepting the student. These proposed regulations do nothing to interfere with these important relationships, nor do they obstruct a student's ability to transfer between institutions that measure academic progress in clock hours and those that measure academic progress in credit hours. The Secretary's objective in proposing these regulations is simply to ensure institutions cannot, for purposes of the title IV, HEA programs, purport to increase the quantity of education of their educational programs without increasing the amount of educational instruction offered to their students in those programs.

Institutions Affected by These Proposed Regulations

These proposed regulations will apply to undergraduate vocational training programs at all institutions which offer programs in semester, trimester, or quarter hours, including those institutions currently considered by the Secretary to be eligible institutions. These proposed regulations will also apply to those programs currently considered by the Secretary to be eligible programs that are offered in credit hours. Moreover, these regulations will apply to institutions using credit hours with or without academic terms.

Under the provisions of § 668.8(c), an institution offering an undergraduate vocational training program described in § 668.8(a)(2) (iii), (iv), or (v) in credit hours must calculate the number of clock hours of instruction provided in that program using the definition of clock hour set forth in § 668.2. Next, the institution must divide that number of clock hours by 37.5 to determine the number of semester or trimester hours, or by 25 to determine the number of quarter hours in that program. Under § 668.9, an institution must use the number of credit hours calculated under § 668.8(c) when determining a student's enrollment status, cost of attendance, and amounts of assistance, under the title IV, HEA programs.

Impact of These Proposed Regulations on an Eligible Program

The recalculation of credit hours required by these sections may turn a currently eligible program into an ineligible program, may appear to reduce the quantity of education provided in an eligible program, and may consequently affect the amount of Title IV, HEA program assistance students enrolled in that program may receive. For example, if the recalculated number of semester hours in an educational program is less than 16, the educational program would not be considered by the Secretary to be a six-month training program under the definition in § 668.2 or as an eligible program under § 668.8(a)(2)(iv). Thus, the recalculation would result in a loss of eligibility for the educational program for the Pell Grant and campus-based programs, and students enrolled in that program will no longer be eligible for assistance under the Pell Grant and campus-based programs. The Secretary views that the most likely changes of program eligibility will include the following:

A one-year program (at least 24 semester or trimester hours or 36 quarter hours) after recalculation becomes a program of less than six months (16 semester or trimester hours or 24 quarter hours) but more than 8 semester or trimester hours of 12 quarter hours. The program loses its eligibility for the Pell Grant, campus-based, SSIG, and Byrd Scholarship programs. The program remains eligible to participate in the Guaranteed Student Loan programs.

A six-month program after recalculation becomes a program of less than 8 semester or trimester hours or 12 quarter hours. The program loses its eligibility for all Title IV, HEA programs.

Proposed Effective Date For These Regulations

Subject to public comment, the Secretary anticipates that these proposed regulations, as amended in the final regulations, will become effective beginning with the 1991–92 award year and for periods of enrollment beginning on or after July 1, 1991 for the Guaranteed Student Loan Programs. However, for purposes of the Pell Grant Program, if a student is enrolled in a credit hour program that has a payment period that falls within the 1990–91 and 1991–92 award years, and the institution considers that payment period to be part of the 1990–91 award year, the institution is not required to recalculate for that payment period. The Secretary has made this determination to ensure that, for Pell Grant Program purposes, students who are enrolled in educational programs affected by these provisions during the payment period when these regulations become effective will not be adversely affected during that payment period.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in that order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a serious economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small institutions of postsecondary education. Since some of these small institutions that will be affected by these regulations have received a "windfall profit" by participating in the types of abuse that these proposed regulations will prevent, some institutions will be denied that "windfall profit" and thus be affected economically.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays. To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

The Secretary requests comments on whether institutions should use the formula proposed in § 668.8(c) for other Title IV, HEA program purposes, such as whether students qualify for deferments under the Guaranteed Student Loan and Perkins Loan programs.

Additionally, the Secretary is interested in receiving comments from institutions on specific problems that institutions anticipate they may have in implementing the proposed regulations, or specific objections commenters have with these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; Supplemental Loans for Students Program, 84.032; College Work-Study Program, 84.033; Perkins Loan Program, 84.038; Income Contingent Loan Program, 84.226; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069; Robert C. Byrd Honors Scholarship Program, 84.185)

Dated: July 19, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. In § 668.8, paragraph (c) is added, to read as follows:

§ 668.8 Eligible program.

* * * * *

(c) For the purposes of determining whether an undergraduate educational program satisfies the requirements contained in paragraphs (a)(2) (iii), (iv), or (v) of this section in credit hours, and the number of credit hours in that educational program—

(1) A semester hour must include at least 37.5 clock hours of instruction;

(2) A trimester hour must include at least 37.5 clock hours of instruction; and

(3) A quarter hour must include at least 25 clock hours of instruction.

(Authority: 20 U.S.C. 1082, 1085, 1088, 1091, 1141)

3. Section 668.9 is added to subpart A, to read as follows:

§ 668.9 Relationship between clock hours and semester, trimester, or quarter hours in calculating awards.

In determining the amount of Title IV, HEA program assistance that a student enrolled or accepted for enrollment in an undergraduate educational program described in § 668.8(a)(2) (iii), (iv), or (v) is eligible to receive, the institution shall apply the formula contained in § 668.8(c) to determine the number of semester, trimester, or quarter hours in that program, if the institution measures academic progress in that program in semester, trimester, or quarter hours.

(Authority: 20 U.S.C. 1082, 1085, 1088, 1091, 1141)

[FR Doc. 90-23203 Filed 9-28-90; 8:45 am]

BILLING CODE 4000-01-M

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in **today's List of Public Laws.**

Last List September 28, 1990.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
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§§ 1.301-1.400	17.00	Apr. 1, 1990
§§ 1.401-1.500	29.00	Apr. 1, 1990
§§ 1.501-1.640	16.00	[3] Apr. 1, 1989
§§ 1.641-1.850	19.00	Apr. 1, 1990
§§ 1.851-1.907	20.00	Apr. 1, 1990
§§ 1.908-1.1000	22.00	Apr. 1, 1990
§§ 1.1001-1.1400	18.00	Apr. 1,1990
§§ 1.1401-End	24.00	Apr. 1, 1990
2-29	21.00	Apr. 1, 1990
30-39	15.00	Apr. 1, 1990
40-49	13.00	[3] Apr. 1, 1989
50-299	16.00	[3] Apr. 1, 1989
300-499	17.00	Apr. 1, 1990
500-599	6.00	Apr. 1, 1990
600-End	6.50	Apr. 1, 1990
27 Parts:		
1-199	24.00	Apr. 1, 1990
200-End	14.00	Apr. 1, 1990
28	27.00	July 1, 1989

Title	Price	Revision Date
29 Parts:		
0–99	17.00	July 1, 1989
100–499	8.00	July 1, 1990
500–899	26.00	July 1, 1989
900–1899	12.00	July 1, 1990
1900–1910 (§§ 1901.1 to 1910.441)	24.00	July 1, 1989
1910 (§§ 1910.1000 to end)	13.00	July 1, 1989
1911–1925	9.00	[4] July 1, 1989
1926	11.00	July 1, 1989
1927–End	29.00	July 1, 1990
30 Parts:		
0–199	22.00	July 1, 1990
200–699	14.00	July 1, 1990
700–End	20.00	July 1, 1989
31 Parts:		
0–199	15.00	July 1, 1990
200–End	18.00	July 1, 1989
32 Parts:		
1–39, Vol. I	15.00	[5] July 1, 1984
1–39, Vol. II	19.00	[5] July 1, 1984
1–39, Vol. III	18.00	[5] July 1, 1984
1–189	23.00	July 1, 1989
190–399	28.00	July 1, 1989
400–629	22.00	July 1, 1989
630–699	13.00	[4] July 1, 1989
700–799	17.00	July 1, 1990
800–End	19.00	July 1, 1990
33 Parts:		
1–199	30.00	July 1, 1989
200–End	20.00	July 1, 1989
34 Parts:		
1–299	22.00	Nov. 1, 1989
300–399	14.00	July 1, 1990
400–End	27.00	Nov. 1, 1989
35	10.00	July 1, 1990
36 Parts:		
1–199	12.00	July 1, 1989
200–End	21.00	July 1, 1989
37	14.00	July 1, 1989
38 Parts:		
0–17	24.00	Sept. 1, 1989
18–End	21.00	Sept. 1, 1989
39	14.00	July 1, 1989
40 Parts:		
1–51	25.00	July 1, 1989
52	25.00	July 1, 1989
53–60	29.00	July 1, 1989
61–80	11.00	July 1, 1989
81–85	11.00	July 1, 1990
86–99	25.00	July 1, 1989
*100–149	27.00	July 1, 1990
150–189	21.00	July 1, 1989
190–299	29.00	July 1, 1989
300–399	10.00	July 1, 1989
400–424	23.00	July 1, 1990
425–699	23.00	[4] July 1, 1989
700–789	15.00	July 1, 1989
790–End	21.00	July 1, 1989
41 Chapters:		
1, 1–1 to 1–10	13.00	[6] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[6] July 1, 1984
3–6	14.00	[6] July 1, 1984
7	6.00	[6] July 1, 1984
8	4.50	[6] July 1, 1984
9	13.00	[6] July 1, 1984
10–17	9.50	[6] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[6] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[6] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[6] July 1, 1984
19–100	13.00	[6] July 1, 1984
1–100	8.00	July 1, 1989
101	24.00	July 1, 1990
102–200	11.00	July 1, 1990
201–End	13.00	July 1, 1990
42 Parts:		
1–60	16.00	Oct. 1, 1989
61–399	6.50	Oct. 1, 1989
400–429	22.00	Oct. 1, 1989
430–End	24.00	Oct. 1, 1989
43 Parts:		
1–999	19.00	Oct. 1, 1989
1000–3999	26.00	Oct. 1, 1989
4000–End	12.00	Oct. 1, 1989
44	22.00	Oct. 1, 1989
45 Parts:		
1–199	16.00	Oct. 1, 1989
200–499	12.00	Oct. 1, 1989
500–1199	24.00	Oct. 1, 1989
1200–End	18.00	Oct. 1, 1989
46 Parts:		
1–40	14.00	Oct. 1, 1989
41–69	15.00	Oct. 1, 1989
70–89	7.50	Oct. 1, 1989
90–139	12.00	Oct. 1, 1989
140–155	13.00	Oct. 1, 1989
156–165	13.00	Oct. 1, 1989
166–199	14.00	Oct. 1, 1989
200–499	20.00	Oct. 1, 1989
500–End	11.00	Oct. 1, 1989
47 Parts:		
0–19	18.00	Oct. 1, 1989
20–39	18.00	Oct. 1, 1989
40–69	9.50	Oct. 1, 1989
70–79	18.00	Oct. 1, 1989
80–End	20.00	Oct. 1, 1989
48 Chapters:		
1 (Parts 1–51)	29.00	Oct. 1, 1989
1 (Parts 52–99)	18.00	Oct. 1, 1989
2 (Parts 201–251)	19.00	Oct. 1, 1989
2 (Parts 252–299)	17.00	Oct. 1, 1989
3–6	19.00	Oct. 1, 1989
7–14	25.00	Oct. 1, 1989
15–End	27.00	Oct. 1, 1989
49 Parts:		
1–99	14.00	Oct. 1, 1989
100–177	28.00	Oct. 1, 1989
178–199	22.00	Oct. 1, 1989
200–399	20.00	Oct. 1, 1989
400–999	25.00	Oct. 1, 1989
1000–1199	18.00	Oct. 1, 1989
1200–End	19.00	Oct. 1, 1989
50 Parts:		
1–199	18.00	Oct. 1, 1989
200–599	15.00	Oct. 1, 1989
600–End	14.00	Oct. 1, 1989
CFR Index and Findings Aids	30.00	Jan. 1, 1990
Complete 1990 CFR set	620.00	1990
Microfiche CFR Edition:		
Complete set (one-time mailing)	115.00	1985
Complete set (one-time mailing)	185.00	1986
Complete set (one-time mailing)	185.00	1987
Subscription (mailed as issued)	185.00	1988
Subscription (mailed as issued)	188.00	1989

Title	Price	Revision Date
Individual copies	2.00	1990

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

CFR ISSUANCES 1990
January—July 1990 Editions and Projected October, 1990 Editions

This list sets out the CFR issuances for the January—July 1990 editions and projects the publication plans for the **October, 1990** quarter. A projected schedule that will include the **January, 1991** quarter will appear in the first **Federal Register** issue of January.

For pricing information on available 1989—1990 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1—16—January 1
Titles 17—27—April 1
Titles 28—41—July 1
Titles 42—50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

Titles revised as of January 1, 1990 editions:

Title

CFR Index

1-2

3 (Compilation)

4

5 Parts:
1-699
700-1199
1200-End

6 [Reserved]

7 Parts:
0-26
27-45
46-51
52
53-209
210-299
300-399
400-699
700-899
900-999
1000-1059
1060-1119
1120-1199
1200-1499
1500-1899
1900-1939
1940-1949
1950-1999
2000-End

8

9 Parts:
1-199
200-End

10 Parts:
0-50
51-199
200-399 (Cover only)
400-499
500-End

11

12 Parts:
1-199
200-219
220-299
300-499
500-599
600-End

13

14 Parts:
1-59
60-139
140-199
200-1199
1200-End

15 Parts:
0-299
300-799
800-End

16 Parts:
0-149
150-999
1000-End

Titles revised as of April 1, 1990:

Title

17 Parts:
1-199
200-239
240-End

18 Parts:
1-149
150-279
280-399
400-End

19 Parts:
1-199
200-End

20 Parts:
1-399
400-499
500-End

21 Parts:
1-99
100-169
170-199
200-299
300-499
500-599
600-799
800-1299
1300-End

22 Parts:
1-299
300-End

23

24 Parts:
0-199
200-499
500-699
700-1699
1700-End

25

26 Parts:
1 (§§ 1.0-1-1.60)
1 (§§ 1.61-1.169)
1 (§§ 1.170-1.300)
1 (§§ 1.301-1.400)
1 (§§ 1.401-1.500)
1 (§§ 1.501-1.640)
1 (§§ 1.641-1.850)
1 (§§ 1.851-1.907)
1 (§§ 1.908-1.1000)
1 (§§ 1.1001-1.1400)
1 (§ 1.1401-End)
2-29
30-39
40-49
50-299
300-499
500-599
600-End

27 Parts:
1-199
200-End

Titles revised as of July 1, 1990:

Title

28

29 Parts:
0-99
100-499
500-899
900-1899
1900-1910 (§§ 1901.1000-1910.441)
1910 (§§ 1910.1000-End)
1911-1925 (Cover only)
1926
1927-End

30 Parts:
0-199
200-699
700-End

31 Parts:
0-199
200-End

32 Parts:
1-189
190-399
400-629*
630-699
700-799
800-End

33 Parts:
1-124*
125-199*
200-End

34 Parts:
1-299
300-399
400-End

35

36 Parts:
1-199*
200-End*

37*

38 Parts:
0-17*
18-End*

39*

40 Parts:
1-51*
52*
53-60*
61-80*
81-85
86-99*
100-149
150-189*
190-259*
260-299*
300-399
400-424 (Cover only)
425-699 (Cover only)
700-789*
790-End

41 Parts:
Chs. 1-100
Ch. 101
Chs. 102-200
Ch. 201-End

Projected October 1, 1990 editions:

Title

42 Parts:
1–60
61–399
400–429
430–End

43 Parts:
1–999
1000–3999
4000–End

44

45 Parts:
1–199
200–499
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–499
500–End

47 Parts:
0–19
20–39
40–69
70–79
80–End

48 Parts:
Ch. 1 (1–51)
Ch. 1 (52–99)
Ch. 2 (201–251)
Ch. 2 (252–299)
Chs. 3–6
Chs. 7–14
Ch. 15–End

49 Parts:
1–99
100–177
178–199
200–399
400–999
1000–1199
1200–End

50 Parts:
1–199
200–599
600–End

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1990

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	October 31	November 15	November 30	December 31
October 2	October 17	November 1	November 16	December 3	December 31
October 3	October 18	November 2	November 19	December 3	January 2
October 4	October 19	November 5	November 19	December 3	January 2
October 5	October 22	November 5	November 19	December 4	January 3
October 9	October 24	November 8	November 23	December 10	January 7
October 10	October 25	November 9	November 26	December 10	January 8
October 11	October 26	November 13	November 26	December 10	January 9
October 12	October 29	November 13	November 26	December 11	January 10
October 15	October 30	November 14	November 29	December 14	January 14
October 16	October 31	November 15	November 30	December 17	January 14
October 17	November 1	November 16	December 3	December 17	January 15
October 18	November 2	November 19	December 3	December 17	January 16
October 19	November 5	November 19	December 3	December 18	January 17
October 22	November 6	November 21	December 6	December 21	January 21
October 23	November 7	November 23	December 7	December 24	January 21
October 24	November 8	November 23	December 10	December 24	January 22
October 25	November 9	November 26	December 10	December 24	January 23
October 26	November 13	November 26	December 10	December 26	January 24
October 29	November 13	November 28	December 13	December 28	January 28
October 30	November 14	November 29	December 14	December 31	January 28
October 31	November 15	November 30	December 17	December 31	January 29

Public Laws

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