listed below. Compliance with the tolerance levels specified below is to be determined by measuring only isopyrazam, 3-difluoromethyl-1-methyl-1H-pyrazole-4-carboxylic acid (9-isopropyl-1,2,3,4-tetrahydro-1,4-methano-naphthalen-5-yl)-amide, in or on the following commodity.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banana¹</td>
<td>0.05</td>
</tr>
</tbody>
</table>

¹ There is no U.S. registration for use of isopyrazam on banana.

(b) Section 18 emergency exemptions. [Reserved]

c) Tolerances with regional registrations. [Reserved]

d) Indirect or inadvertent residues. [Reserved]

[FR Doc. 2011–25707 Filed 10–4–11; 8:45 am] BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION
Office of the Secretary
49 CFR Parts 18 and 19
RIN 2105–AD60
Grants and Cooperative Agreements to State and Local Governments: DOT Amendments on Regulations on Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT) is adopting a public proposal on Grants and Cooperative Agreements to State and Local Governments; Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations. The rule amends Department of Transportation regulations on uniform administrative requirements for grants and agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations. Specifically, the DOT is making requirements for these grants and agreements consistent with the uniform administrative requirements for grants and cooperative agreements to State and Local Governments. In addition, this rule updates references to applicable cost principles for grants and cooperative agreements with State and Local Governments that appear in current Department of Transportation regulations.

DATES: This rule is effective November 4, 2011.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Office of the Senior Procurement Executive, Office of Administration (M–41), (202) 366–4268, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

Background

Regulations governing two types of U.S. Department of Transportation grant and cooperative agreements recipients are found in Parts 18 and 19 of Title 49 of the Code of Federal Regulations: 1. 49 CFR part 18: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 2. 49 CFR part 19: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

Both of these parts contain a provision that governs allowable costs. However, 49 CFR 18.22 imposes specific limitations on the use of grant funds while 49 CFR 19.27 merely lists cost principles applicable to each kind of grant and agreement recipient.

Specifically, under 49 CFR 18.22(a), grant funds may only be used for:

(1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and

(2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

Public comments on this matter were solicited in a Federal Register notice dated May 2, 2008. Only one comment was received, from Robert Taylor, regarding the Office of Management and Budget (OMB) cost principle circulars as well as revising the payment of profit or fee to grantees and subgrantees covered by 49 CFR part 19. This comment did not pertain to the content of the proposed rule. Therefore, we are adopting the proposed rule without change.

This rule imposes the same limitation on the use of funds used for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations as there are on the use of funds used for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

In addition, this rule updates references to applicable cost principles for grants and cooperative agreements with State and Local Governments that appear in 49 CFR 18.22(b) and include comparable updates references in 49 CFR 19.27(b). These updated references are necessary in light of the establishment of title 2 of the Code of Federal Regulations in 2004. Subtitle A of title 2 of the Code of Federal Regulations consists of government-wide guidance from the Office of Management and Budget (OMB) to Federal agencies for grants and other financial assistance and nonprocurement agreements that previously had been contained in seven separate OMB circulars and other OMB policy documents. Currently, 49 CFR 18.22(b) references three specific OMB circulars that are now codified in several Parts in chapter II, subtitle A of title 2 of the Code of Federal Regulations and would reflect these same changes in 49 CFR 19.27(b).

The rule also makes minor referencing revisions to the Office of Management and Budget (OMB) cost principle circulars and, consistent with OMB materials, revises prohibitions on payment of profit or fee to grantees and subgrantees covered by 49 CFR part 19. The revised referencing is needed as the OMB cost circulars have been published in Title II of the Code of Federal Regulations since August 2005. However, these OMB circulars are only published as guidance (see 2 CFR 1.105(a)). Also, the OMB circular number has been retained in the title of each circular, for example, 2 CFR part 225, Cost Principles for State and Local Governments (OMB Circular A–87).

The rule for the CFR part 19, which includes the OMB Circular number in the title, is included in the reference for all three cost principles. In addition, this makes the formatting of all titles in 49 CFR sections 18.22 and 18.27 consistent.

Rulemaking Analyses and Notices

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

The DOT has determined that this document does not constitute a significant rule within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. DOT anticipates that the
economic impact of this rule will be minimal because the effect of the rule is simply to make similar provisions consistent with each other. These changes do not adversely affect, in a material way, any sector of the economy. In addition, the change does not interfere with any action taken or planned by another agency and does not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) the Department has evaluated the effects of this proposed action on small entities. This rule does not have any economic effects, let alone significant effects, on anyone. This rulemaking establishes the same limitation on the use of funds for both Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. The amendment does not change or limit the potential eligibility of any small entity. For these reasons, the DOT certifies that this action would not have a significant economic impact on a substantial number of small entities.

**Unfunded Mandates Reform Act of 1995**


Indeed, it does not impose any mandates. This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532).

**Executive Order 13132 (Federalism Assessment)**

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the DOT has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The DOT has also determined that this rule does not preempt any State law or State regulation or affect the States’ ability to discharge traditional State governmental functions.

**Executive Order 12372 (Intergovernmental Review)**

Catalog of Domestic Assistance Program Number [Insert number], [Insert Program Name]. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities [apply/ do not apply] to this program.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this rule does not impose any collection of information requirements for the purposes of the PRA.

**National Environmental Policy Act**

The agency has analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this rule does not have any effect on the quality of the environment.

**List of Subjects in 49 CFR Parts 18 and 29**

Administrative practice and procedure, Grant programs, Allowable costs, Cooperative agreements.

Issued this 21st day of September 2011, at Washington, DC.

Ray LaHood,
Secretary of Transportation.

In consideration of the foregoing, the DOT amends, title 49, Code of Federal Regulations, Parts 18 and 19, as set forth below:

**PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS**

1. The authority citation for 49 CFR part 18 continues to read as follows.

   **Authority:** 49 U.S.C. 322(a).

2. In § 18.22, revise the table in paragraph (b) to read as follows:

   § 18.22 Allowable costs.
   * * * * * *
   (b) * * *

For the costs of a

<table>
<thead>
<tr>
<th>State, local or federal-recognized Indian tribal government</th>
<th>2 CFR part 225.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in 2 CFR part 230, Appendix C, as not subject to that part.</td>
<td>2 CFR part 230.</td>
</tr>
<tr>
<td>Institutions of Higher Education</td>
<td>2 CFR part 220.</td>
</tr>
<tr>
<td>For-profit organizations other than a hospital, commercial organization or a non-profit organization listed in 2 CFR part 230, Appendix C, as not subject to that part.</td>
<td>48 CFR part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.</td>
</tr>
</tbody>
</table>

**PART 19—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS**

3. The authority citation for 49 CFR part 19 continues to read as follows:

   **Authority:** 49 U.S.C. 322(a).

4. Revise § 19.27 to read as follows:

   § 19.27 Allowable Costs.
   
   (a) Limitation on use of funds. Grant funds may be used only for:
   
   (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
   
   (2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.
SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising designated critical habitat for marbled murrelet (Brachyramphus marmoratus marmoratus) pursuant to the Endangered Species Act of 1973, as amended (Act). On May 24, 1996, we designated 3,887,800 ac (1,573,340 hectares) as critical habitat for the marbled murrelet in Washington, Oregon, and California. We are revising the designated critical habitat for the marbled murrelet by removing approximately 189,671 ac (76,757 ha) in northern California and southern Oregon from the 1996 designation, based on new information indicating that these areas do not meet the definition of critical habitat. The areas being removed from the 1996 designation in northern California are within Inland Zone 2, where we have no historical or current survey records documenting marbled murrelet presence. Intensive surveys in southern Oregon indicate the inland distribution of the marbled murrelet is strongly associated with the hemlock/tanoak habitat zone, rather than distance from the coast. Accordingly, the areas being removed in southern Oregon are limited to those areas not associated with the hemlock/tanoak zone. The areas being removed are not considered essential for the conservation of the species.

Approximately 3,698,100 ac (1,497,000 ha) of critical habitat is now designated for the marbled murrelet. In this rule, we are also finalizing the taxonomic revision of the scientific name of the marbled murrelet from Brachyramphus marmoratus marmoratus to Brachyramphus marmoratus. DATES: This rule becomes effective on November 4, 2011.


SUPPLEMENTARY INFORMATION:

Background

A final rule designating critical habitat for the marbled murrelet was published in the Federal Register on May 24, 1996 (61 FR 26256), and is available under the “Supporting Documents’’ section for this docket in the Federal eRulemaking Portal: http://www.regulations.gov.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17


RID 1018–AW84

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Marbled Murrelet

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

For the costs of a use the principles in—

| For-profits other than a hospital, commercial organization | 2 CFR part 225. |
| Private nonprofit organization other than an (1) institution of higher education, (2) hospital, or (3) organization named in 2 CFR part 230, Appendix C, as not subject to that circular. Institutions of Higher Education | 2 CFR part 230. |
| Hospitals | 2 CFR part 220. |
| For-profit organizations other than a hospital, commercial organization or a non-profit organization listed in 2 CFR part 230, Appendix C, as not subject to that part. | 45 CFR part 74, Appendix E, “Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals.” |