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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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WHERE: Room 305A,
26 Federal Plaza,
New York, NY.
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center.
212–264–4810.

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 54, No. 187
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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 316

Roster of Dispute Resolution Neutrals

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: These regulations establish Administrative Conference policies and procedures for creating and operating a Roster containing information on mediators and other "neutrals" available to assist in resolving disputes under Federal administrative programs. The Roster will be operated by the Conference for the primary benefit of other Federal agencies and parties to disputes involving administrative programs. The Roster is intended to increase agencies' ability expeditiously to locate and retain mediators, trainers, and other apt neutrals across the country by creating a clearinghouse of basic data and increasing agency officials' awareness of the availability of alternative means of dispute resolution.

EFFECTIVE DATE: October 30, 1989.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., 202–254–7020.

SUPPLEMENTARY INFORMATION:

A. General Background

The Roster will contain basic data on neutrals, so as to increase agencies' access to mediation services. The Roster has its origins in a series of Conference recommendations and studies on acquiring the services of persons to assist agencies in using alternative means of dispute resolution. The Roster will further the Conference's statutory mission to serve as a clearinghouse for interchange of information potentially useful in improving administrative procedure.

As described in the notice of proposed rulemaking ("NPR") dated May 22, 1989 (54 FR 21957), the Conference generally would not try to match neutrals to particular disputes. Rather, it would generally provide a list of likely candidates from the Roster, taking into account the specifications of parties to disputes. All neutrals who supply the basic data will be listed. The rules make it clear to parties that the Conference will not guarantee the accuracy of information in its files.

To avoid conflicts of interest for neutrals, the rules require neutrals on the Roster to abide by the Society of Professionals in Dispute Resolution code of conduct that details what a neutral should disclose and how to handle potential conflicts of interest, as well as any other code to which the neutral is subject. While the Conference reserves the right to remove neutrals who have falsified information or otherwise clearly violated accepted ethical standards, it would not ordinarily evaluate the quality of work by neutrals on the Roster.

B. Comments Received

Comments on the proposed rules were received from:

Donald P. Arnavas, Piper & Marbury, Washington, DC
Howard S. Bellman, Madison, WI
Paul D. Carrington, The Private Adjudication Center, Inc., Duke University School of Law, Durham, NC
Theodore M. Chaskelson, Federal Mediation and Conciliation Service, Washington, DC
Sophie Eilperin, Bureau of National Affairs, Washington, DC
Neil R. Eisner, Department of Transportation, Washington, DC
Michael S. Gillie, United States Arbitration and Mediation, Seattle, WA
Stephen B. Goldberg, Northwestern University School of Law, Chicago, IL
Philip J. Harter, Washington, DC
Christopher Honeyman, Madison, WI
William J. Jones, AT&T, Berkeley Heights, NJ
J. Michael Keating, Jr., Tillinghast Collins & Graham, Providence, RI
Peter B. Kelsey, Edison Electric Institute, Washington, DC
Chris Kirtz, Environmental Protection Agency, Washington, DC
Kit R. Krickenberger, The MITRE Corporation, McLean, VA
Nancy W. Newkirk and Daniel P. Dozier, Clean Sites Inc., Alexandria, VA
Richard H. Robinson, Environmental Protection Agency, Washington, DC
David A. Swankin, Regulatory Alternatives Development Corp., Washington, DC
Roger Strelow, General Electric Company, Fairfield, CT

1. General

All commenters except Carrington expressed support for a Conference Roster; Jones of AT&T, typically, thought it "would be of great assistance in promoting both agency and private party use of ADR." Newkirk and Dozier of Clean Sites wrote that the Conferences's proposal would encourage use of mediation and make the task of finding experienced and qualified neutrals easier for potential users. Carrington was dubious because of the Roster's lack of standards, discussed below.

2. Qualification for Neutrals

Under § 316.200, the Roster includes persons who provide all information required. Most of the commenters supported the proposed "disclosure" approach. Newkirk and Dozier, for example, said.

> We agree with the Conference's decision to allow the potential users of the service to determine the appropriate qualifications of a neutral, rather than have that decision made by the list keeper. At this point, at least, mediation and other ADR techniques are still evolving. To have too rigid a barrier to entry may not serve the needs of the potential users of the roster. The parties to a dispute should have the right to choose whomever they find acceptable. The roster function should merely be an efficient mechanism for the dissemination of information about potential neutrals.

These and other commenters also pointed out that the proposed rules seem to follow *The Report of the Society of Professionals in Dispute Resolution Commission on Qualifications.* That report, by a specially-appointed panel of dispute resolvers and other experts, addressed the issue of how best to qualify neutrals.

Like the SPIDR Commission, the Conference membership has spoken to the principles for agency use of neutrals. In Recommendation 86–8, it stated,

> While skill or experience in the process of resolving disputes, such as that possessed by mediators and arbitrators, is usually an important criterion in the selection of neutrals, and knowledge of the applicable statutory and regulatory schemes may at times be important, other specific qualifications should be required only when necessary for resolution of the dispute. For example:

(a) Agencies should not necessarily disqualify persons who have mediation, arbitration or judicial experience but no specific experience in the particular ADR process being pursued * * *.

(c) Agencies should insist upon technical expertise in the substantive issues underlying the dispute or negotiated rulemaking only when the technical issues are so complex that the neutral could not effectively understand and communicate the parties' positions without it.

The Office of the Chairman has considered the various possible approaches to qualifications for listing, and their legal, practical, and other consequences; in developing the proposed rules it worked with EPA to obtain a report from ICF Incorporated on the pros and cons of each. It has also read with interest the thoughtful and persuasive report of SPIDR's Commission on Qualifications, and is mindful in particular of its advice that "[n]o standards or qualifications should be required that would prevent any person from providing dispute resolution services, when parties have free choice of the process, program, *and* individual neutral," provided that the parties are given access to certain specified information about the neutral.

Theoretically, major sources of ADR neutrals include ex-judges, BCA members, ALJs, other active judges, academics, current government employees, retired government employees, private practitioners, and mediators or other ADR experts. Dipping into any of these potential pools has ramifications, many obvious and others fairly subtle. A variety of approaches to selecting and evaluating these persons have been put forward. Many experts in ADR processes maintain that neutrals need no legal or other special training; rather, they say, the critical determinant is the neutral's acceptibility. They point out that many cases turn on engineering, accounting, or other technical or scientific questions. Some suggest that mediation training, is useful, or even necessary, allowing the neutral to respond perceptively to the principals' wishes and help further negotiations if asked. A few go so far as to suggest that *only* mediators (or similar experts) can serve effectively as neutrals or make credentials decisions. Others maintain legal expertise to be a *sine qua non*. They note that the principals and their staffs will likely have the background to weigh technical issues, but would frequently benefit from independent legal advice, on often-arcane matters, that will let them better assess risks, reach a decision, and "sell" or defend a settlement within their organizations. Some agencies, like the Corps of Engineers and the Navy, have required government contracting and litigation experience for neutrals in contract cases.

While mindful of concerns over the Roster's credibility, the Conference's—indeed, anyone's—present ability to fix and fairly enforce meaningful, consistent qualifications criteria which would be relevant to every situation is doubtful. Many questions would need to be answered. What standards of education, or experience, or performance, or third-party recommendations, should be used? Is hands-on evaluation of individual neutrals practicable, or desirable? If so, by whom? What criteria and scoring system should apply? Should the Roster be limited to a small, elite group, on the theory that this will enhance the credibility of the nascent process and tend to cause those on the list to view their role as a public service? If so, what should the review and appeals processes be? Should any particular groups, such as government personnel or private attorneys, be wholly excluded on grounds that one side or the other likely will strike them for possible bias or conflict of interest?

A disclosure approach avoids having the Conference set itself up, or sponsor private (and possibly partial) groups, to exclude possibly less qualified neutrals. Consistent with the SPIDR report and Recommendation 86–8, the Conference's approach should broaden the base of qualified neutrals, avoid needless exclusivity, and encourage thoughtful selection by parties.

Two comments cautioned that this approach could cause an adverse effect among potential users due to a lack of listing standards. Goldberg thought it could lower the Roster's credibility among users, and advocated a central body "that potential users could communicate with that would describe and recommend particular neutrals."

Carrington also advocated selectivity. He stated, "There is little doubt that it matters who the neutral is." He would be surprised, he said,

> * * * to learn that the government has the manpower and contacts to do an effective job of identifying appropriate neutrals for the whole spectrum of government agencies. There is, moreover, a significant political problem in keeping underqualified persons off your certified list.
>
> My suggestion would be that in lieu of a central roster of neutrals, the government put its good housekeeping seal on private institutions that exhibit the appropriate level of care in the selection of neutrals for particular kinds of cases.

Private institutions, said Carrington, could exercise judgment to screen applicants for temperament and competence in specific areas (e.g., construction disputes). He concluded,

> If the United States is not comfortable with certifying providers of neutrals, but wants its own list, then I would urge that you consider contracting out the development of that list. This Center could perhaps develop such a list, and there may be other institutions that could do it. At least we could think about the burdens and consider what we might learn from undertaking to do it.

There is certainly a place for private groups or other government agencies to develop selective, specialized lists of arbitrators, mediators, or others. Presumably, if such groups were interested in broader government use of their services they would register with the Conference (and, if they wished, register individually the persons on their lists). There is also a place for a nonjudgmental information clearinghouse that makes available to potential users extensive data on prospective neutrals. Agencies desiring greater selectivity (such as the Farmers Home Administration) remain free to develop their own qualifications and listings, or contract to have it done.

Some persons with marginal professional credentials now call themselves mediators, and will register. Some of these registrants will prove talented and effective; a few will not. Agencies can examine potential neutrals' various qualifications and select according to their needs. Given that under present GAO doctrine agencies will almost always employ Roster neutrals as mediators in aid of parties' settlement negotiations—and *not* as arbitrators with authority to render binding decisions—we see little reason to exclude arbitrarily any potential registrants. Of course, the Conference plans to review its policy and Roster operations periodically to determine if changes in this, or other, areas would improve performance.

For these reasons, the Conference intends to pursue a policy of disclosure by, rather than pre-qualification of, neutrals.

3. Operating the Roster

(a) *Listing data* (§ 316.200). The Conference's May NPR indicated that neutrals wishing to be listed must provide fee data. Krickenberger cautioned that neutral's fee data could be misleading, that requiring it could disadvantage certain "federal funded research and development centers," and that such data might be viewed as sensitive, proprietary information, not "FOIAable." She advocated deleting any prerequisite for disclosing fee

schedules. Keating cautioned against suggesting that users might,

> * * * expect some of the listed mediators and other neutrals to provide their services *gratis*. Competent, experienced professional mediators do not give away their services; conversely, inexperienced and unprofessional mediators are frequently willing to donate their services in order to gain experience. Were this a listing for medical, legal, therapeutic or virtually any other type of professional service, it would never contain the suggestions of the availability of *pro bono* work. The Roster is a positive step in the direction of professionalizing the provision of neutral services; it should not undermine that positive impact with a counterproductive suggestion of the ready availability of free neutral services.

These concerns are real. However, several experienced neutrals and organizations have expressed interest in making *pro bono* contributions to encourage agency interest and establish mediation in new areas. Many lawyers already contribute *pro bono* time to public interest causes. The Conference does not wish to force general disclosure of sensitive data, or to encourage users to seek free, or second-rate, services. Conversely, it does not wish artificially to restrict available data. The final rule makes voluntary, rather than mandatory, the provision of the fee schedules and related information (e.g., willingness to provide *pro bono* services). Moreover, request forms will not encourage users to focus heavily on these issues. Any user wishing to receive these data, however, will be provided with them, and can use them in requesting and evaluating panels of neutrals.

(b) *Registration decisions* (§ 316.203). Kelsey suggested revising part of subsection 203(b) as follows: "A prospective registrant shall be notified in writing of a decision that an application is *accepted*, incomplete or inaccurate *within 30 days of receipt by the Chairman*." He explained, "These additions, rather than leaving a registrant in a state of limbo, inform the registrant within a time certain of the definite status of the application."

The Conference will promptly dealing with neutrals' registration, and all other Roster processes. A specific deadline does not seem necessary. This is especially so given that in the Roster's early operation the Conference may be dealing with a large volume of registrations during any period. Conference recommendations encourage agencies to use flexible time guidelines, as opposed to rigid deadlines. The final rule requires that neutrals be *promptly* advised of the adequacy of their registration data.

(c) *Roster fees policy* (§ 316.203(e)). Subsection (e) reserves the right to charge fees for obtaining or renewing listing or for using the Roster. Kelsey cautioned,

> If the Conference decides to establish fees for listing and renewals, potential registrants need to be advised of that in advance of registering. At a minimum, the fees need to be set out in the registration and renewal forms, if not set forth in the regulations themselves. Because all but the most modest registration or renewal fees may discourage potential neutrals from applying for listing on the roster, I would encourage the Conference to consider absorbing all the administrative costs of the Roster in the use fee charged to the federal agencies.

At present, the Conference does not intend to assess fees for a neutral's listing on the Roster, or for use of the Roster in disputes regarding federal administrative programs. The Conference certainly would give prior notice were it to charge for using the Roster, renewal of listings, or for initial listing in the future. As stated below, the Conference retains the right to charge fees for parties' use of the Roster services in disputes *other* than those related to Federal programs. The Conference would so notify parties at the time the request is received.

(d) *Provision of panels* (§ 316.301(a)). This section states, "The Chairman may establish for the purpose the parties with a list of names of neutrals." Kelsey asked, "How will the Chairman select names from the roster to refer to parties requesting a list of neutrals? In evaluating the qualification of neutrals on the roster to fulfill a particular request, how will "process experience" be weighted compared to "case experience?" Will those on the roster with the most hours of experience or training or the most cases under their belts always be referred ahead of those with less experience? * * * Whatever selection process is used, to be successful it must treat all neutrals equitably. If the selection process is perceived by any neutrals to discriminate unfairly against their experience and training, the whole program will suffer."

The Office of the Chairman agrees, and wishes to ensure that the process is, and is seen to be, fair. However, flexibility needs suggest that the Conference should not, for now, bind itself by an inflexible regulation to follow a formulaic, unvarying process. In the main, the expressed wishes of requesting parties will govern panel selection, and we have developed detailed forms to further their process of specifying desired characteristics. If more neutrals "match" the characteristics than the parties seek, a random process would generally be used to select approximately the number specified by the parties. The Conference may occasionally expand its search to include additional categories besides those specifically requested by users, or to add to the list a few names that the Conference, or knowledgeable dispute resolvers, believes might be effective. The great bulk of referrals, however, will be made by a basically random selection according to users' requests.

4. Other Users Listees

(a) *Listees.* Several commenters pointed out that the Roster should make provision for mediation trainers, mediation systems design experts, and special masters. Keating in particular advocated making the Roster facilities available to federal judges throughout the country, for selection of special masters. These suggestions are adopted in the rules and in day-to-day use.

Swankin of RADC, and several others, suggested that the Roster rules be amended to deal with organizations, as well as individual neutrals. He stated.

> For example, suppose an agency wanted a roster that indicated prior experience in dealing with state governments *and* in dealing with labor unions. In the case of our firm, one associate has extensive experience as a labor arbitrator, and another has spent most of her time on issues at the state and local level, but never in situtations or on issues involving organized labor. As a firm, we meet both criteria; individually, both associates would come up short.
>
> I'm not certain of the solution. One that comes to mind, and which we offer for your consideration, is to develop a second roster of firms, and cross-reference individuals to firms with which they are associated. While in most cases an agency will be contracting with an individual to act as negotiator, the fact that an individual is connected to a firm might be a factor the requesting agency would want to take into account in deciding whom to interview. Since the ACUS rosters are clearly not endorsements, I don't think a separate, cross-referenced roster of firms would raise any credibility issues not already raised in the proposed rule.

The final rule provides for listing of neutrals organizations. We shall develop a complementary registration form for these groups.

(b) *Users.* Aside from the helpful suggestion regarding judges, a number of commenters thought that a variety of additional groups might find the Roster useful. Newkirk & Dozier said,

> Since the proposed rules do not limit the right to request names and otherwise use the roster to Federal entities, it is likely that the roster will serve other potential users as well. In Clean Sites' experience, other users, such as states, may find the roster a convenient

source of mediators and other ADR professionals.

The final rule gives the Conference discretion to make Roster services available in cases besides those involving federal administrative programs. The Conference retains the right to assess a fee for making the Roster available in cases not involving federal programs.

5. Other Comments

Jones and Keating suggested that the Conference work to develop standard contracts to expedite acquisition of neutrals' services. Jones also thought that the Conference should encourage agencies to adopt pledges to explore ADR usage prior to instituting litigation. These are valuable ideas, and the Conference may well follow up on them. For now, they are not necessary to begin operation of the Roster, nor would these rules be an apt place for dealing with these matters.

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. I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) 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 5 CFR Part 316

Administrative practice and procedure, Claims, Intergovernmental relations.

Dated: September 6, 1989.

William J. Olmstead,

Executive Director.

Part 316 is added to title 1, chapter III, to read as follows:

PART 316—ROSTER OF DISPUTE RESOLUTION NEUTRALS

Subpart A—Conference Roster; Responsibilities

Sec.

Subpart B—Roster; Registration and Removal

Subpart C—Procedures for Obtaining Names of Neutrals

Authority: Pub. L. 88–499, 78 Stat. 615, 5 U.S.C. 571 through 575; 31 U.S.C. 9701.

Subpart A—Conference Roster; Responsibilities

§ 316.100 Scope and purpose.

These rules are issued pursuant to the Administrative Conference Act, 5 U.S.C. 571–575, providing authority to arrange for interchange among Federal administrative agencies of information potentially useful in improving administrative procedure, and to assist agencies to carry out regulatory activities and other Federal responsibilities expeditiously in the public interest. This part applies to all neutrals listed or seeking to be listed on the Roster, and to all persons or parties seeking to obtain from the Conference the names of neutrals listed on the Roster in connection with disputes involving Federal administrative programs and, within the Conference's discretion, other disputes.

§ 316.101 Definitions.

(a) "*Administrative program*" means any program administered by a Federal agency and includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rulemaking, adjudication, licensing, or investigation, as such terms are used in section 551 of title 5, U.S. Code.

(b) "*Chairman*" means the Chairman of the Administrative Conference of the United States or his designee.

(c) "*Dispute*" means any question material to a decision concerning an administrative program, or, within the Conference's discretion, any other decision, about which persons who would be substantially affected by the decision or the agency disagree.

(d) "*Neutral*" means an individual who or organization which serves as a conciliator, facilitator, mediator, fact-finder, trainer, special master, or arbitrator, or otherwise functions specifically to aid the parties in resolving a dispute or portions thereof.

(e) "*Party*" means

(1) For proceedings with designated parties, the same as in section 551(3) of title 5, U.S. Code;

(2) For proceedings without designated parties, a person who will be significantly affected by the decision and who participates in the proceeding; and

(3) The authorized representative of any agency charged with decisionmaking authority.

(f) "*Roster*" means a list maintained by the Chairman of persons qualified to provide services as neutrals in disputes.

§ 316.102 Administrative responsibilities.

The Chairman may establish and maintain a Roster of persons to serve as neutrals in assisting parties in resolving disputes involving administrative programs and, within his discretion, other disputes. The Chairman shall have final responsibility for creation and maintenance of the Roster. The Chairman may review the status of all persons whose continued eligibility for listing on the Roster has been questioned and make determinations about such eligibility according to the criteria set forth in § 316.205(a).

Subpart B—Roster; Registration and Removal

§ 316.200 The roster.

(a) The Roster shall consist of a listing of persons who provide all information required by the neutral registration form, and whose names have not been removed from the Roster in accordance with § 316.205(b).

(b) Neither the Chairman nor the Conference will warrant the accuracy of the information furnished by persons listed on the Roster.

§ 316.201 Adherence to standards.

Persons listed on the Roster shall have committed in writing to comply with all provisions of part 316 and subsequent amendments hereto as from time to time may be issued by the Conference.

§ 316.202 Status of neutrals.

Persons listed on the Roster are not employees of the Conference or Federal Government by virtue of their listing.

§ 316.203 Registration.

(a) Persons wishing to be listed on the Roster will obtain and complete a current neutral registration form and have it notarized or otherwise attested.

(b) Upon receipt of a completed registration form, the Chairman will review the form to assure that all required information has been provided. The Chairman reserves the right to review and to verify data submitted, but any such attempts to verify submitted data will not constitute a warranty of accuracy. A prospective registrant shall be notified promptly in writing of a

decision that an application is accepted, incomplete or inaccurate. The Conference may require persons wishing to be listed to provide additional information from time to time. All decisions by the Chairman about whether a registration form is sufficiently complete and accurate are final.

(c) At least once every two years, a person listed on the Roster will either (1) submit a new registration form, or (2) send the Chairman a short letter verifying the continuing accuracy of the person's current listing.

(d) Persons wishing to be listed on the Roster must agree that the Chairman may provide the names, addresses and telephone numbers of parties in cases handled, including all cases to which the neutral was referred as a result of listing on the Roster. They shall also certify that all data supplied are accurate and agree to abide by ethical standards that may be promulgated by the Society of Professionals in Dispute Resolution and such other standards as may be applicable to them.

(e) The Chairman reserves the right to charge fees for obtaining or renewing listing or for using the Roster.

§ 316.204 Rights of persons listed on the Roster.

(a) No person shall have any right to be listed, to remain listed, nor to be referred or selected for any dispute.

(b) A person listed on the Roster may request placement on inactive status, return to active status, or removal from the Roster.

(c) Neutrals may request revision of data supplied on the neutral evaluation form, or any summaries thereof.

§ 316.205 Removal.

(a) Any person may be removed from the Roster by the Chairman whenever the neutral:

(1) Is found to have submitted materially false data in connection with registration on the Roster;

(2) Fails or refuses to provide information required to obtain or maintain registration or to make reasonable and prompt reports, as required by Conference procedures;

(3) Fails to disclose any information required by section 302(a);

(4) Has been the subject of complaints of significant unethical or illegal behavior by parties who use the neutral's services as a result of referral from the Roster and the Chairman after appropriate inquiry finds just cause for removal; or

(5) Is found by the Chairman to have improperly disclosed any record or communication arising from a proceeding without the parties' consent unless such record or communication is properly ordered to be disclosed under the agency's applicable procedural rule or by a Court of competent jurisdiction.

(b) Prior to removal under subsection (a), the Chairman shall offer the neutral 45 days in which to submit arguments and evidence relevant to the decision. Any decision to remove a neutral's name from the Roster shall be accompanied by a brief statement of reasons.

Subpart C—Procedure for Obtaining Names of Neutrals

§ 316.300 Request.

Any party or parties to a dispute may file with the Chairman a written request for a list of neutrals. Telephone requests may be accepted at the Chairman's discretion. A request for the names of neutrals shall contain a brief statement of the nature of the dispute and the names, addresses and telephone numbers of all parties to the dispute. A request form has been prepared for parties' use. Requests should be addressed to: Manager of Roster Services, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. The initiating party shall also file a copy of the request with every other party to the dispute. Neither the request for, nor the furnishing of, a list of names constitutes a determination that an agreement to mediate or enter into any other dispute resolution procedure exists, nor does such action constitute any finding about the obligations of the parties.

§ 316.301 Submission of names of neutrals.

(a) Upon receipt of a request for names involving a Federal administrative program, the Chairman shall ordinarily send the requester approximately the requested number of names of listed neutrals who appear to be qualified and a biographical statement for each name so provided. The Chairman may in his discretion respond to requests regarding other disputes, and may establish procedures or guidance for the purpose of providing the parties with a list of names of neutrals. If the parties cannot agree on a neutral after the receipt of these names, the Chairman may, on the request of the parties and in his discretion, select an individual either named or not named in the list sent to the parties.

(b) The Chairman reserves the right to decline to submit names if the request is unduly burdensome or otherwise impracticable.

(c) If jointly requested by all parties, the Chairman may furnish a second, or third, list of names to the parties. Requests for further lists in that dispute will not be honored.

(d) The parties shall notify the Chairman of their selection of a neutral and of the identity of the neutral selected, or of the decision not to use the services of a neutral whose name was furnished by the Conference.

§ 316.302 Conflict of interest; complaints.

(a) Any person listed on the Roster, who is contacted by a party to a dispute as a result of that listing, must disclose to all parties to that dispute, prior to beginning dispute resolution efforts, the following interests or relationships:

(1) Any existing or past financial, business, professional, family, social or other relationships with any of the parties to the dispute, their employees, or their attorneys;

(2) Previous or current involvement in the dispute at hand;

(3) Past or prospective employment, including employment as a neutral in previous disputes, by any of the parties;

(4) Past or present receipt of a significant portion of the neutral's general operating funds or grants to the neutral or the organization by which the neutral is employed from one or more of the parties to the dispute; or

(5) Any other circumstances likely to create a presumption of bias or the appearance of bias.

All scheduling conflicts which may prevent prompt meetings shall also be disclosed. Upon receipt of such information which results in the disqualification of a neutral either by the Chairman or upon the request of any party, the Chairman may supply to the requesting party one or more additional names from the Roster.

(b) The Chairman may inquire into complaints alleging violations of legal or ethical standards by a neutral in a case handled pursuant to Roster listing. If such allegations are confirmed, the Chairman may remove the neutral's name from the Roster and retain the complaint in the neutral's file. The Chairman retains the right to notify legal or other authorities if there is reason to believe illegal or unethical activity has occurred.

[FR Doc. 89-22913 Filed 9-27-89; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1823, 1902, 1941, 1942, 1943, 1944, and 1945

Implementation of Wholesale Lockbox System

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to reflect changes in the internal processing of collections. This action is necessary because of the implementation of the Wholesale Lockbox System. FmHA offices not using the Concentration Banking System (approximately 2 percent of all field offices) must use this system for collections. The intended effect of these amendments is to implement the Wholesale Lockbox System, thereby enabling the Government to realize savings through a more expeditious processing of collections.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Financial Specialist, Cash Management Staff, FmHA, USDA, Finance Office, 1520 Market Street, St. Louis, MO 63103, telephone (314) 539-6664.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it has no impact on FmHA borrowers or other members of the public and it involves only internal Agency management. While these amendments do change the techniques used by FmHA for processing collections, these changes concern only processing after the collections are recieved by FmHA. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rule making since it involves only internal Agency management and publication for comment is unnecessary.

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

This action requires no increase in cost to the Government. There is no impact on proposed budget levels and funding allocations will not be affected because of this action. There will be no increase in the reporting requirements of the public. The Agency has determined that this regulation maximizes net benefit to society at the lowest net cost. For the reasons set forth in the final Rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 1983), and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this activity is related to the following programs that are subject to intergovernmental consultations with State and local officials:

10.405—Farm Labor Housing Loan and Grants
10.411—Rural Housing Site Loans (sections 523 and 524 Site Loans)
10.414—Resource Conservation and Development Loans
10.415—Rural Rental Housing Loans
10.416—Soil and Water Loans
10.418—Water and Waste Disposal System for Rural Communities
10.419—Watershed Protection and Flood Prevention Loans
10.420—Rural Self-Help Housing Technical Assistance (section 523 Technical Assistance)
10.422—Business and Industrial Loans
10.423—Community Facilities Loans
10.427—Rural Rental Assistance Payment (Rental Assistance)

In turn, the following programs to which this activity is also related, are not subject to Executive Order 12372:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans (section 502 Rural Housing Loans)
10.417—Very Low-Income Housing Repair Loans and Grants (section 504 Rural Housing Loans and Grants)
10.421—Indian Tribes and Tribal Corporation Loans
10.428—Economic Emergency Loans

List of Subjects

7 CFR Part 1823

Credit.

7 CFR Part 1902

Accounting, Banks, Banking, Grant programs—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1944

Aged, Administrative practice and procedure, Handicapped, Farm labor housing, Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Migrant labor, Mobile homes, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing.

7 CFR Part 1945

Agriculture, Disaster assistance, Livestock, Loan programs—Agriculture.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

1. The authority citation for part 1823 is revised to read as follows:

Authority: 7 U.S.C. 1989, 5 U.S.C. 301, 7 CFR 2.23; 7 CFR 2.70.

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

2. Section 1825.275(b)(1)(ii) is revised to read as follows:

§ 1823.275 Applications not receiving favorable consideration and loan cancellation.

* * * * *

(b) * * *

(1) * * *

(ii) In a direct loan or a loan made from the ACIF, if the check has been received or is received subsequently in the County Office, the County Supervisor will return it as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

PART 1902—SUPERVISED BANK ACCOUNTS

3. The authority citation for part 1902 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

4. Section 1902.3(a) is revised to read as follows:

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to be processed through the ADPS system.

* * * * *

PART 1941—OPERATING LOANS

5. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989, 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

6. Section 1941.35(b) is revised to read as follows:

§ 1941.35 Actions after loan approval.

* * * * *

(b) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check or obligation will be canceled, the County Supervisor will notify the State Office and the Finance Office of loan cancellation by using Form 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be canceled, the check will be returned as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

PART 1942—ASSOCIATIONS

7. The authority citation for part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989, 5 U.S.C. 301; 7 CFR 2.23, 7 CFR 2.70, unless otherwise noted.

Subpart A—Community Facility Loans

8. Section 1942.12(a) is revised to read as follows:

§ 1942.12 Loan cancellation.

* * * * *

(a) Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The District Director or State Director may prepare and execute Form FmHA 1940–10 in accordance with the Forms Manual Insert (FMI). If the check has been received or is subsequently received in the District Office, the District Director will return it as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

9. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989, 7 CFR 2.23; 7 CFR 2.70, unless otherwise noted.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

10. In § 1943.35, paragraph (a) is amended by changing in the first and second sentences, the words "State Office" to read "field office," and paragraph (a)(2) is amended by changing in the first sentence, the words "State Office" to read "field office."

11. Section 1943.35 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.35 Action after loan approval.

* * * * *

(c) * * *

(1) The County Supervisor will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The County Office will send a copy of Form FmHA 1940–10 to the designated attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been canceled. If a check received in the County Office is to be canceled, the check will be returned as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

12. In § 1943.85, paragraph (a) is amended by changing in the first and second sentences, the words "State Office" to read "field office," and paragraph (a)(2) is amended by changing in the first sentence, the words "State Office" to read "field office."

13. Section 1943.85 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.85 Action after loan approval.

* * * * *

(c) * * *

(1) The County Supervisor will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." The County Office will send a copy of Form FmHA 1940–10 to the designated attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate the loan has been canceled. If a check received in the County Office is to be canceled, the check will be returned as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

PART 1944—HOUSING

14. 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 A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

15. Section 1944.32 is amended by revising paragraphs (a)(1) and (c) to read as follows:

§ 1944.32 Actions subsequent to loan approval.

(a) * * *

(1) A loan check may be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. All check requests will be requested through the field office terminal system.

* * * * *

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the use of Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," prepared in accordance with the FMI for the form. Checks received in the County Office will be returned as prescribed in FmHA Instruction 102.1 (available in any FmHA office). Interested parties will be notified of the cancellation as provided in part 1807 of this chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6(b) of subpart A of part 1910 of this chapter.

* * * * *

16. Section 1944.33(f) is revised to read as follows:

§ 1944.33 Loan closing.

* * * * *

(f) *Direct payments.* Direct payment coupons for all new borrowers, including transferees, will be retained in

the County Office until the borrower has made at least six monthly payments on time. The coupons may then be delivered to the borrower and payments mailed to the retail lockbox. The County Supervisor may retain the payment coupons for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be processed as prescribed in FmHA Instruction 102.1 (available in any FmHA office). Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with subpart B of part 1951 of this chapter.

* * * * *

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

17. Section 1944.175(e)(2) is revised to read as follows:

§ 1944.175 Actions subsequent to loan and/or grant approval.

* * * * *

(e) * * *

(2) If the loan or grant check is received in the District Office, the District Director will return the check as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

* * * * *

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorities

18. Section 1944.235(f)(1) is revised to read as follows:

§ 1944.235 Actions subsequent to loan approval.

* * * * *

(f) * * *

(1) If the loan check is received in the District Office, the District Director will return the check as prescribed in FmHA Instuction 102.1 (available in any FmHA office), except if the check was issued by the National Finance Center (NFC). If the check was issued by NFC, cancel under FmHA Instruction 2024–P (available in any FmHA office).

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

19. Section 1944.469(g)(1) is revised to read as follows:

§ 1944.469 Loan closing or grant settlement.

* * * * *

(g) * * *

(1) When all planned development has been completed, remaining funds may be used for any additional authorized purposes, as agreed upon by the recipient and FmHA. If no such agreement can be reached, the funds will be returned to FmHA as prescribed in FmHA Instruction 1951–B.

* * * * *

PART 1945—EMERGENCY

20. The authority citation for part 1945 continues to read as follows:

Authority: U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Economic Emergency Loans

21. Section 1945.126(b)(3) is revised to read as follows:

§ 1945.126 Cancellation of loan checks and advances.

* * * * *

(b) * * *

(3) Transmit to the Finance Office an original of Form FmHA 1940–10 and Form FmHA 440–57 reflecting the revised repayment schedule. The advance will be cancelled as prescribed in FmHA Instruction 102.1 (available in any FmHA office).

22. Section 1945.128(b) is amended by changing in the second, fourth, and fifth sentences, the words "State Office terminals" to read "the field office terminal system."

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

23. Section 1945.185(a) is revised to read as follows:

§ 1945.185 Actions after loan approval.

* * * * *

(a) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check and obligation will be cancelled, the County Supervisory will notify the State Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be cancelled, the check will be returned as prescribed in FmHA Instruction 102.1 (a copy of which is available in any FmHA office).

* * * * *

Dated August 24, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–22925 Filed 9–27–89; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AC22, 3150–AA–05

Rules of Practice for Domestic Licensing Proceedings—Procedural Changes in the Hearing Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published on August 11, 1989 (54 FR 33168), that amends the Commission's Rules of Practice to improve the hearing process with due regard for the rights of the parties. The action is necessary to correct an error in an amendatory instruction.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Acting Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7758.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 11, 1989, in the center column of page 33180, make the following correction:

§ 2.714 [Corrected]

1. The first sentence of amendatory instruction number 2 should read as follows:

"2. In § 2.714, paragraphs (e) through (i) are designated as paragraphs (f) through (j)."

* * * * *

Dated at Bethesda, Maryland, this 22nd day of September 1989.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 89–22928 Filed 9–27–89; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 955

[No. FHFB 89–9]

Resolution Funding Corporation; Federal Home Loan Banks; Bank Assistance Authority

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board ("Board") is adopting regulations to implement the authority for personnel of the Federal home loan banks ("banks") to perform certain functions on behalf of the Resolution Funding Corporation ("Funding Corporation"), and to allow the banks to assist in the collection of the Funding Corporation's assessment of Savings Association Insurance Fund members ("SAIF members") through the use of a direct debit system.

EFFECTIVE DATE: These regulations are effective September 20, 1989.

FOR FURTHER INFORMATION CONTACT: K. Diane Boyle, Manager, Special Projects Division, (202) 272–4978, Office of Finance, Federal Home Loan Bank System, 655 15th Street, NW., Washington, DC 20005; James H. Gray, Jr. Esq., (202) 906–6161, Federal Housing Finance Board Task Force.

SUPPLEMENTARY INFORMATION:

A. General

On August 9, 1989, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") was enacted into law. Among other things, the FIRREA added section 21B to the Federal Home Loan Bank Act (the "Act") which established a corporation known as the Resolution Funding Corporation ("Funding Corporation") to provide funds necessary for the Resolution Trust Corporation ("RTC") to carry out its purpose under FIRREA.

B. Staff

Section 21B(c)(6)(A) of the Act provides that the Funding Corporation shall have no paid employees. However, the Act authorizes the Funding Corporation Directorate, with the approval of the Board, to authorize the officers, employees, or agents of the banks to act for and on behalf of the Funding Corporation. Section 21B(c)(6)(B). The regulations adopted today provide the Board's approval for the officers, employees, or agents of the banks to act for and on behalf of the Funding Corporation.

C. Industry Assessments

Section 21B(e)(7) of the Act authorizes the Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC"), to collect assessments from SAIF members. The Oversight Board, established pursuant to section 21A(a)(1) of the Act, is promulgating regulations implementing the Funding Corporation's assessment authority, and the FDIC has adopted regulations setting forth the manner in which such assessments shall be collected. *See* 12 CFR part 327 and 12 CFR part 1510. The FDIC's and the Oversight Board's regulations adopted today merely provide that the banks shall allow SAIF members to establish and maintain a demand deposit account at the appropriate bank in order to assist in the collection of the Funding Corporation's assessment of SAIF members through a direct debit system.

D. Administrative Procedure Act

The Board is adopting this regulation as a final rule September 20, 1989. The Board finds that, for its adoption of these rules, observance of the notice and comment procedures, prescribed by the Administrative Procedures Act, 5 U.S.C. 553 (1982) and 12 CFR 508.11 and 508.12 (1987), may be waived pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3).

The Board for good cause finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest for its adoption of these bank assistance rules (12 CFR part 955). The reasons in support of this finding are as follows.

First, the Board is of the view that notice and comment procedures are unnecessary because the rules set forth in part 955, as added today, generally only permit employees of the banks to assist the Funding Corporation as provided by FIRREA. The new rules impose no new legal burdens; they merely permit the officers or employees of the banks or the banks' joint office to assist the Funding Corporation. The rules also permit the banks to assist in the collection of the Funding Corporation's assessment of SAIF members. Providing notice and comment procedures and delayed effective date would be contrary to the public interest because the Board could not immediately permit these employees to assist the Funding Corporation, which must assess the banks for $1.2 billion by September 30, 1989.

Secondly, the Board believes that it is contrary to the public interest to have the adoption of the rules delayed in order to provide for such notice and comment procedures. The Board finds that it is in the public interest for the Funding Corporation to commence its operations at the earliest possible opportunity. Successful operation of the Funding Corporation is necessary to restore public confidence in the nation's depository institutions and will enable the Oversight Board and the RTC to meet their obligations under FIRREA.

Finally, the Board finds that these regulations relate to agency management within the meaning of 5 U.S.C. 553, and are therefore exempt from the notice and comment provisions set forth therein.

E. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 12 CFR Part 955

Federal home loan banks, Resolution Funding Corporation, Savings associations.

Accordingly, the Board hereby amends title 12, chapter IX, Code of Federal Regulations by adding part 955 in subchapter D, as set forth below

SUBCHAPTER D—RESOLUTION FUNDING CORPORATION

PART 955—AUTHORITY FOR BANK ASSISTANCE

Sec.

955.1 Bank employees

955.2 Demand deposit accounts

Authority: Sec. 702, Pub. L. 101–73, 103 Stat. 413, 414 (1989) (12 U.S.C. 1422a, 1422b).

§ 955.1 Bank employees.

Upon the request of the Directorate of the Resolution Funding Corporation, established pursuant to section 21B(b) of the Act, officers, employees, or agents of the Federal home loan banks are authorized to act for and on behalf of the Resolution Funding Corporation in such manner as may be necessary to carry out the functions of the Resolution Funding Corporation as provided in section 21B(c)(6)(B) of the Act.

§ 955.2 Demand deposit accounts.

Each bank shall allow any Savings Association Insurance Fund member ("SAIF member") whose principal place of business is in its district to establish and maintain at least one demand deposit account for the purpose of facilitating the Resolution Funding Corporation's assessments pursuant to section 21B(e)(7) of the Act.

Dated: September 20, 1989.

By the Federal Housing Finance Board.

Jack Kemp,

Acting Chairperson.

[FR Doc. 89–22860 Filed 9–27–89; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-89-81]

Special Local Regulations for Marine Events; Diet Pepsi Triathlon, Wrightsville Channel, Wrightsville Beach, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Permanent special local regulations are being adopted for the swim portion of the Diet Pepsi Triathlon held annually in Wrightsville Channel between daybeacon 18 (LLNR 28050) and daybeacon 23 (LLNR 28065), Wrightsville Beach, North Carolina. These regulations restrict vessel navigation in the regulated area during the event. Notice of the precise date and times these regulations are effective will be published in the Local Notice to Mariners and by **Federal Register** Notice. These special local regulations are considered necessary to control vessel traffic and to provide for safety of life and property on the navigable waters in the immediate vicinity of this event.

EFFECTIVE DATE: This rule is effective September 28, 1989. Compliance with these regulations will be required on different dates and times. The Fifth Coast Guard District Commander will publish notices in the Local Notice to Mariners and **Federal Register** announcing the date and times when these regulations are in effect.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking concerning these regulations in the **Federal Register** on August 28, 1989 (54 FR 35506). Interested persons were requested to submit comments. No comments were received.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Comments and Final Rule

No comments were received in response to the notice of proposed rulemaking. The Diet Pepsi Triathlon has been an annual event for the past ten years, but has not been regulated in the past. The swim portion of the triathlon will consist of approximately 800 swimmers racing in a section of Wrightsville Channel. The participants are to swim one and one-tenth miles as the first leg of the triathlon, starting at the Blockade Runner Hotel beach, located east of Wrightsville Channel Daybeacon 18 (LLNR 28050) and swim westward past the Sea Path Boatominium Marina finishing at Atlantic Marina located north of Wrightsville Channel Daybeacon 23 (LLNR 28065). It is necessary to close a portion of Wrightsville Channel to all traffic except participants for the safety of those competing in the swim and their attending personnel.

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. Because of this minimal impact, 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 it has been determined that the rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and has been determined to be 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 has been placed in the 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:

PART 100—[AMENDED]

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 new § 100.513 is added to read as follows:

§ 100.513 Wrightsville Channel, Wrightsville Beach, North Carolina.

(a) *Definitions*—(1) *Regulated area.* The waters of, and adjacent to, Wrightsville Channel, from Wrightsville Channel Daybeacon 14 (LLNR 28040), located at 34°12'18.0" N., longitude 77°48'10.0" W., to Wrightsville Channel Daybeacon 25 (LLNR 28080), located at 34°12'51.0" N., longitude 77°48'53.0" W.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, 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 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 spectator vessel may anchor outside the regulated area specified in paragraph (a)(1) of this section but may not block a navigable channel.

(c) *Effective Period.* The Commander, Fifth Coast Guard District will publish a Notice in the **Federal Register** and in the Fifth Coast Guard District Local Notice to Mariners announcing the date and times this section is in effect.

Dated: September 20, 1989.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 89-22909 Filed 9-27-89; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 05-89-93]

Special Local Regulations for Marine Events; Diet Pepsi Triathlon, Wrightsville Channel, Wrightsville Beach, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.513 for the Diet Pepsi Triathlon. The swim portion of the event will be held in Wrightsville Channel between daybeacon 18 (LLNR 28050) and daybeacon 23 (LLNR 28065). These regulations restrict vessel navigation in the regulated area during the event. These special local regulations are considered necessary to control vessel traffic and to provide for safety for the participants in the event.

EFFECTIVE DATE: The regulations in 33 CFR 100.513 are effective from 6:00 a.m. to 9:45 a.m., October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804) 398–6204.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard Legal Staff.

Discussion of Regulations

The Wilmington Family YMCA submitted an application on July 15, 1989 to hold the swim portion of the Diet Pepsi Triathlon on October 1, 1989. The swim portion of the triathlon will consist of approximately 800 swimmers racing in a section of Wrightsville Channel. The regulations in 33 CFR 100.513 govern the activities of the swim portion of the Diet Pepsi Triathlon in Wrightsville Channel between Wrightsville Channel Daybeacon 14 (LLNR 28040) and Wrightsville Channel Daybeacon 25 (LLNR 28080). The waterway will be closed during the event. Since the waterway will not be closed for an extended period, commercial traffic should not be severely disrupted. Since these regulations were specifically established to enhance the safety of the participants of the swim portion of the Diet Pepsi Triathlon the regulations are hereby implemented. This notice also will appear in the Fifth District Local Notice to Mariners.

Dated: September 20, 1989.

P.A. Welling,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 89–22910 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD1–89–110]

Temporary Drawbridge Operation Regulations; Piscataqua River, Maine/New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: At the request of the Maine-New Hampshire Interstate Bridge Authority (M–NHIBA), the Coast Guard is issuing temporary regulations governing the Memorial (US 1) and Sarah M. Long (Route 1 Bypass) drawbridges over the Piscataqua River, at miles 3.5 and 4.0, between Kittery, Maine and Portsmouth, New Hampshire. The temporary regulations provide openings for commercial vessels less than 100 gross tons and recreational vessels between 7 a.m. and 7 p.m. on half-hour intervals. The Memorial (US 1) bridge shall open on the hour and half-hour and the Sarah M. Long (Route 1 Bypass) bridge shall open at 15 minutes before and 15 minutes after the hour. The regulations will be in effect for 46 days from 15 September through 31 October 1989 except for a 5-day and a 10-day closure of the main ship channel draw of the Sarah M. Long (Route 1 Bypass) Bridge. The temporary regulation is being made to examine the effect on vehicular and marine traffic during the above period. This action should accommodate the needs of vehicular traffic, and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This temporary regulation is effective for the period September 15, 1989 through October 31, 1989.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION: This temporary deviation from the regulations is issued under 33 CFR 117.43 to evaluate suggested changes to the drawbridge regulations to reduce vehicular traffic congestion caused by the opening of the bridge. Statistics provided by the M–NHIBA indicate that bridge openings normally take three to five minutes per opening, however back to back bridge openings on numerous occasions have interrupted vehicular traffic for up to 30 minutes. In 1988, M–NHIBA unofficially instituted an hourly bridge opening test from May to October. This schedule, while reducing openings and facilitating traffic, reportedly created safety problems for recreational vessels that had to hold or maneuver between the bridges. As a result, the proposed temporary regulation was requested to evaluate the benefits and problems to both vehicular and marine traffic. Marine transit time between the Memorial (US 1) and Sarah M. Long (Route 1 Bypass) bridges is dependent upon the direction of the current and the type and speed of each vessel but generally varies from 6 to 12 minutes.

A Notice of Proposed Rulemaking and Public Hearing on the proposed permanent regulations appear in the proposed rulemaking section of this **Federal Register**. Additionally, although the temporary regulation is in effect for only 46 days, the regulation is presented in total for clarity and public comment on the entire regulation. Persons affected by these temporary regulations may comment on their impact on both marine and vehicular traffic, including observed effects (beneficial and detrimental), and any suggestions for changes. Persons submitting comments should include their name and address, identify the bridge, and give reasons for support or opposition to these temporary regulations. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Since the bridges lie between Kittery, Maine and Portsmouth, New Hampshire, and subpart B of title 33 part 117 of the Code of Federal Regulations is arranged alphabetically by state and by waterway the regulations appear under both Maine and New Hampshire listings.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, New York 10004–5073. The comments and other materials referenced in this notice will be available for inspection and copying at that address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr., Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

Discussion of Comments

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a Notice of Proposed Rulemaking and delaying its

effective date would be contrary to the public interest since implementation of these temporary regulations is necessary to evaluate their effect during months when both boating and vehicular traffic are in conflict.

Economic Assessment and Certification

These temporary regulations are considered to be non-major 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 of this temporary regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The intent of this temporary regulation is to collect information to assess how the regulations accommodate vehicular and marine traffic. The draw will continue to open on signal for commercial vessels of more than 100 gross tons. For all other vessels, the regulations will not prevent their movement but just require a little planning or a slight adjustment of their scheduled movements to permit both vehicular and marine traffic to utilize the bridge with minimum disruption to the other mode of transportation. Since the economic 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 Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

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 1.05–1(g); 33 CFR 117.43.

2. For the period September 15, 1989, through October 31, 1989, § 117.531 is revised and a center heading added preceeding it and § 117.700 and a center heading preceeding it are added to read as follows:

Maine

§ 117.531 Piscataqua River.

(a) The following requirements apply to all bridges across the Piscataqua River:

(1) Public vessels of the United States, state and local vessels used for public safety, commercial vessels over 100 gross tons and vessels in distress shall be passed through the draws of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 18 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(4) Except as provided in paragraphs (b) through (c) of this section, the draws shall open on signal.

(b) The draw of the Memorial (US 1) bridge, mile 3.5, shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only on the hour and half hour for recreational vessels and commercial vessels less than 100 gross tons.

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) The main ship channel draw shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only at quarter of and quarter after the hour for recreational vessels and commercial vessels less than 100 gross tons.

(2) The secondary recreation draw shall be left in the fully open position from Memorial Day through 31 October except for the crossing of a train in accordance with (a)(3) above.

New Hampshire

§ 117.700 Piscataqua River.

(a) The following requirements apply to all bridges across the Piscataqua River:

(1) Public vessels of the United States, state and local vessels used for public safety, commercial vessels over 100 gross tons and vessels in distress shall be passed through the draws of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 18 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(4) Except as provided in paragraphs (b) through (c) of this section, the draws shall open on signal.

(b) The draw of the Memorial (US 1) bridge, mile 3.5, shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only on the hour and half hour for recreational vessels and commercial vessels less than 100 gross tons.

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) The main ship channel draw shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only at quarter of and quarter after the hour for recreational vessels and commercial vessels less than 100 gross tons.

(2) The secondary recreation draw shall be left in the fully open position from Memorial Day through 31 October except for the crossing of a train in accordance with (a)(3) of this section.

Dated: September 19, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–22855 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Exclusion of "Plus" Issues From Second-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts implementing regulations for a mail classification change concerning the eligibility of "Plus" issues for second-class mail privileges. These regulations provide that an issue of a publication that is published more frequently than once a month and that meets the nonsubscriber copy distribution criteria of the classification provision must separately qualify for second-class mail eligibility whether or not it is distributed on the same day as another regular issue of the parent publication.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: On June 17, 1988, pursuant to 39 U.S.C. 3623, the United States Postal Service filed a request with the Postal Rate Commission for a change in section 200.0123 of the Domestic Mail Classification Schedule concerning the mailing of "Plus" issues of second-class publications. Pursuant to 39 U.S.C. 3641(e), the Postal Service implemented the proposed classification change, on a temporary basis, on October 9, 1988. At the same time, after notice-and-comment rulemaking, the Postal Service added an implementing regulation to the Domestic Mail Manual. 53 FR 38006 (September 29, 1968). This implementing regulation, Domestic Mail Manual 425.227, was subsequently renumbered 428.227 incident to a complete revision of chapter 4 of the Domestic Mail Manual, 54 FR 9210 (March 6, 1989). By operation of law, 428.227 became ineffective on July 23, 1989. 54 FR 32071 (August 4, 1989).

On September 11, 1989, the Governors of the Postal Service, pursuant to their authority under 39 U.S.C. 3625, approved a Recommended Decision of the Postal Rate Commission to amend the Domestic Mail Classification Schedule to provide that certain issues of second-class publications, whether or not published on the same day as another regular issue of the publication, are separate publications for purposes of qualifying for entry as second-class mail. As noticed elsewhere in this issue, that decision amends section 200.0123 of the Domestic Mail Classification Schedule to make it clear that the limitations on nonsubscriber copy distribution of second-class publications contained in that provision also apply to issues of a publication that are not distributed on the same day as another regular issue of the publication. That decision also amends section 200.0123 to provide that it only applies when the issue in question is published at a regular frequency more often than once a month.

The Postal Service hereby adopts amendments to Domestic Mail Manual 428.225 and 428.226 to implement the classification change. Section 428.225 is amended to incorporate the "more than once a month" frequency criteria. Section 428.226 is amended to incorporate the frequency criteria and to adopt the classification change language that specifies the period of time that is considered in determining whether another issue of the publication had fewer than half as many nonsubscriber copies distributed as did the issue in question.

The Postal Service is also adopting certain conforming amendments to the Domestic Mail Manual. Sections 423.141, 423.431 and 427.1 are amended to clarify when documentation showing compliance with the requirements of section 428.225 or section 428.226 must be submitted to the Postal Service by a publisher with an application for original second-class entry or an application for reentry. A new section 425.9 expands the provisions of and replaces current section 465 to provide that the Postal Service may request documentation from a publisher when the Postal Service needs to determine whether an issue of a second-class publication complies with section 428.225 or section 428.226. In addition, the forms used for obtaining this documentation, Postal Service Forms 3541–CX and 3541–EX, have been revised to reflect these changes and will be republished as exhibits to sections 428.225 and 428.226, respectively.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 423—REQUIREMENTS FOR SPECIFIC CATEGORIES

2. In 423.14, revise the last sentence of 423.141 to read as follows:

423.14 How to Apply for General Publication Authorization

423.141 Original Entry Application

* * * Form 3501 must be accompanied by either Form 3541–CX, *Second-Class Certification for Multiple Issues (On the Same Day)*, if the publication's frequency includes more than one regular issue on any day, or Form 3541–EX, *Second-Class Certification for Multiple Issues (Not on the Same Day)*, if the publication's frequency includes more than one regular issue per month, but not on the same day.

3. In 423.43, revise the last sentence of 423.431 to read as follows:

423.43 How to Apply for Second-Class

423.431 Original Entry Application.

* * * Form 3511 must be accompanied by either Form 3541–CX, *Second-Class Certification for Multiple Issues (On the Same Day)*, if the publication's frequency includes more than one regular issue on any day, or Form 3541–EX, *Second-Class Certification for Multiple Issues (Not on the Same Day)*, if the publication's frequency includes more than one regular issue per month, but not on the same day.

PART 425—MAINTENANCE AND VERIFICATION OF PUBLISHER RECORDS

4. In part 425, add a new 425.9 to read as follows:

425.9 Documentation of Compliance With Nonsubscriber/Nonrequester Copy Distribution Requirements

425.91 Publications with More than One Regular Issue on the Same Day. The Postal Service may require the publisher to submit Form 3541–CX, *Second-Class Certification for Multiple Issues (On the Same Day)* (see Exhibit 428.225), whenever an issue is regularly published on the same day as another issue of the same publication under the second-class authorization of the parent publication. Form 3541–CX will be used in determining whether either issue is a separate publication under 428.225 that must independently establish eligibility for second-class mail privileges. When requested, Form 3541–CX must be completed and attached to the mailing statements submitted to the entry post office with the corresponding mailings.

425.92 Publications with More than One Regular Issue in a Month, But Not on the Same Day. The Postal Service may require the publisher to submit Form 3541 EX, *Second-Class Certification for Multiple Issues (Not on the Same Day)* (see Exhibit 428.226), whenever an issue is regularly published during the same month as another issue of the same publication under the second-class authorization of the parent publication. Form 3541–EX will be used in determining if the issue is a separate publication under 428.226 that must independently establish eligibility for second-class mail privileges. When requested, Form 3541–EX must be

completed and attached to the mailing statements submitted to the entry post office with the corresponding mailings.

PART 427—REENTRY—HOW TO CHANGE THE TITLE, FREQUENCY, OFFICE OF PUBLICATION, OR QUALIFICATION CATEGORY

5. In 427.1, revise the fourth sentence of 427.11 to read as follows:

427.1 Changing Title, Frequency, or Office of Publication

427.11 Application for Reentry—Required

* * * When the frequency is being changed to one that includes more than one regular issue per month, but not on the same day, Form 3541–EX (See Exhibit 428.226) must be completed by the publisher and submitted with Form 3510.

* * * * *

PART 428—WHAT MAY BE MAILED AT SECOND-CLASS RATES

6. In 428.22, revise 428.225 and 428.226 to read as follows:

428.22 Issues

* * * * *

428.225 For purposes of determining second-class eligibility and postage, an issue of a newspaper or other periodical shall be deemed to be a separate publication that must independently meet the applicable requirements for second-class mail privileges in 422 and 423 when all the following conditions exist:

a. The issue is published at a regular frequency, more often than once a month, on the same day as another regular issue of the same publication; and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to nonsubscribers or nonrequesters; and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of nonsubscribers or non-requester copies of the other issue distributed on the same day.

Note: Sections 423.141, 423.431, 425.9, and 427.11 contain requirements for filing Form 3541–CX (see Exhibit 428.225) to establish eligibility of an issue under this section.

428.226 For purposes of determining second-class eligibility and postage, an issue of a newspaper or other periodical shall be deemed to be a separate publication that must independently meet the applicable requirements for second-class mail privileges in 422 and 423 when all the following conditions exits:

a. The issue is published at a regular frequency, more often than once a month, but not on the same day as another regular issue of the same publication; and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to nonsubscribers or nonrequesters; and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of nonsubscriber or nonrequester copies of any other issue distributed during the period of time ensuing between the distribution of each of the issues whose eligibility is being examined.

Note: Sections 423.141, 423.431, 425.9, and 427.11 contain requirements for filing Form 3541–EX (see Exhibit 422.226) to establish eligibility of an issue under this section.

* * * * *

PART 465 [REMOVED]

7. Part 465 is removed.

Chapter 4—Exhibits

8. Forms 3541–CX and 3541–EX, labeled Exhibits 428.225 and 428.226, respectively, are added to the Domestic Mail Manual following revised 428.225 and 428.226.

9. Pages 3, 4, and 5 of current Exhibit 423.141, pages 2 and 3 of Exhibit 427.11, and both pages of Exhibit 465 are removed. Exhibit 427.22 (page 1) is retitled Exhibit 427.11.

As noticed elsewhere in this issue, the change in the Domestic Mail Classification Schedule becomes effective at 12:01 a.m. on October 1, 1989. For consistency, the foregoing amendments to the Domestic Mail Manual also become effective on that date.

Paul Kemp,

Supervisory Attorney, Legislative Division.

BILLING CODE 7710-12-M

U S POSTAL SERVICE
SECOND-CLASS CERTIFICATION FOR MULTIPLE ISSUES (NOT ON THE SAME DAY)

INSTRUCTIONS

1. This form must be submitted with Form 3510, *Application for Additional Entry, Reentry, or Special Rate Request for Second-Class Publication*, when the frequency of a second-class publication is being changed to one that includes more than one issue during a month, but not on the same day as another issue of the same publication.
2. This form must also be submitted with Form 3501, *Application for Second-Class Mail Privileges* or Form 3511, *Application for Second-Class (Requester) Mail Privileges*, as appropriate, if the frequency of the publication will include more than one issue during a month, but not on the same day as another issue of the same publication.
3. This form must also be submitted, at the request of the Postal Service, for any issue which the Postal Service believes may be in violation of 428.226.
4. The data on this form is to be used in making a determination under 428.226 whether an issue is a separate publication that may not be mailed at second-class rates under the authorization granted to the publication named in Part A.

PART A — TO BE COMPLETED BY PUBLISHER/AGENT

Title of Publication	USPS Number	Date of Issue (Issue with greatest nonsubscriber/ nonrequester distribution during the month— report the figures in 1 & 2 below.)

1. Total number of copies of issue of above date distributed by all means. 1. _____
2. Total number of copies of above issue distributed to nonsubscribers/nonrequesters (See DMM 423.121 or 423.42, as applicable) 2. _____
3. Greatest number of copies of any other single regular issue of the parent publication distributed to nonsubscribers/nonrequesters during the period of time ensuing between the distribution of the issue of the above date and the preceding comparable issue. 3. _____

I certify that the information furnished on this form is correct.

(Signature of Publisher/Agent required)

PART B — TO BE COMPLETED BY ENTRY POST OFFICE
(Use the figures furnished by the publisher in PART A)

Post Office and State of Mailing

4. Line 2 divided by line 1 = _____ X 100 = 4. _____%
5. Line 3 X 2 = 5. _____

For purposes of determining eligibility to mail at second-class rates, if line 4 is more than 10% AND line 2 is more than line 5, then a determination must be made under 428.226 whether the issue represented by the figures in PART A, lines 1 and 2, must qualify as a separate publication.

PS Form 3541-E, October 1989 **Exhibit 428.226**

[FR Doc. 89–22842 Filed 9–27–89; 8:45 am]

BILLING CODE 7710–12–C

U. S. POSTAL SERVICE
SECOND-CLASS CERTIFICATION FOR MULTIPLE ISSUES (ON THE SAME DAY)

1. This form must be submitted with Form 3510, *Application for Additional Entry, Reentry or Special Rate Request for Second-Class Publication*, when the frequency of a second-class publication is being changed to include more than one "issue" on any day.
2. This form must also be submitted to each office of mailing with all Forms 3541 and 3541-A for each "issue" of the same publication that is published on the same day.
3. This form must also be submitted with Form 3501, *Application for Second-Class Mail Privileges* or Form 3511, *Application for Second-Class (Requester) Mail Privileges*, as appropriate, if the frequency of the publication will include more than one "issue" on the same day.
4. The data on this form is to be used in making a determination under 428.225 whether an issue is a separate publication that may not be mailed at second-class rates under the authorization granted to the publication named in Part A.

PART A – TO BE COMPLETED BY PUBLISHER/AGENT

Title of Publication	USPS Number	Date of Issue

ISSUE No. 1 (The issue distributed to the smaller number of nonsubscribers/nonrequesters.)	Volume/Issue Number
1a. Total number of copies of issue distributed by all means.	1a.
1b. Total number of copies of issue distributed to nonsubscribers/nonrequesters (see DMM 423.121 or 423.42, as applicable).	1b.
1c. Percent of copies distributed to nonsubscribers/nonrequesters (decimal format) (1b. divided by 1a.)	1c.
1d. Convert 1c. to percent format (i.e., .17 X 100 = 17%) (1c. X 100)	1d. %

ISSUE No. 2 (The other issue published on the same day as issue 1.)	Volume/Issue Number
2a. Total number of copies of issue distributed by all means.	2a.
2b. Total number of copies of issue distributed to nonsubscribers/nonrequesters (see DMM 423.121 or 423.42, as applicable).	2b.
2c. Percent of copies distributed to nonsubscribers/nonrequesters (decimal format) (2b. divided by 2a.)	2c.
2d. Convert 2c. to percent format (i.e., .17 X 100 = 17%) (2c. X 100)	2d. %

I certify that the information furnished on this form is correct.
Signature of Publisher/Agent required

PART B – TO BE COMPLETED BY ENTRY POST OFFICE
(Use the figures furnished by the publisher in PART A)

Post Office and State of Mailing

3. Line 1b. X 2 =

For purposes of determining eligibility to mail at second-class rates, if line 2d. is more than 10% AND line 2b. is more than Line 3, then a determination must be made under 428.225 whether Issue No. 2 must separately qualify to mail at second-class rates.

PS Form 3541-C, October 1989 **Exhibit 428.225**

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 89-1052]

Broadcast Service; Editorial Updating of Rules References to International Agreements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has amended rules in 47 CFR part 73 that refer to international agreements which affect AM, FM and TV broadcasting. The amendments are necessitated by changes in international agreements to which the United States is a signatory. The amendments update the rules, but are editorial in nature, and do not change established FCC practices or procedures.

EFFECTIVE DATE: September 28, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Larry Olson, FCC International Staff, (202) 254-3394.

SUPPLEMENTARY INFORMATION:

In the matter of: Editorial updating of part 73 of the FCC rules to conform them with current practice in implementing international commitments of the United States relating to AM, FM, and TV broadcasting.

Order

Adopted: August 30, 1989.
Released: September 8, 1989.

By the Chief, Mass Media Bureau:

1. This order updates portions of part 73 of the Commission's Rules, 47 CFR part 73, by editorial changes that bring them into conformity with the current texts of treaties, conventions, and other international agreements, arrangements and understandings affecting AM, FM and TV broadcasting. The rule amendments adopted herein embody current FCC practice in carrying out international commitments of the United States, principally under:

The Constitution of the International Telecommunication Union;

The ITU Convention, Nice, 1989;

The ITU Radio Regulations;

The Final Acts of the Regional Administrative MF Broadcasting Conference (Region 2) Rio de Janeiro, 1981;

Bi-lateral Agreements of the United States with Canada and Mexico relating to AM, FM and TV Broadcasting.

2. The rule amendments adopted by this Order pursuant to authority delegated to the Chief, Mass Media Bureau, are ministerial only. They impose no new burdens, and change no established procedures or practices of the FCC. They merely update, clarify and correct the provisions of rules that provide for compliance by the United States with international commitments. Consequently, the rules revisions set out in Appendix 1 come within the exception in section 553(a)(1) of the Administrative Procedure Act, 5 U.S.C. 553(a)(1), and are, accordingly, adopted without notice and opportunity for comment in a rule making proceeding. Also, in view of the fact that the rule changes are merely ministerial amendments that bring the rules into conformity with obligations of the United States under treaties and international agreements to which it is a Signatory, good cause is found for excepting the present amendments, pursuant to section 553(d)(3) of the Administrative Procedure Act, 5 U.S.C. 553(d)(3), from the generally applicable requirement of publication at least 30 days before their effective date.

3. Because a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

4. Accordingly, pursuant to section 4(d) of the Communications Act of 1934, as amended, 47 U.S.C. 154(d), and §§ 0.61(b), and 0.283, of the FCC Rules, 47 CFR 0.61(b) and 0.283, *It is ordered*, That, effective upon publication in the **Federal Register**, part 73 of the FCC Rules, 47 CFR part 73, *is amended* as stated below.

List of Subjects in 47 CFR Part 73

Radio broadcasting, TV broadcasting.

Alex D. Felker,

Chief, Mass Media Bureau.

Rules Changes

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

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

Authority: 47 U.S.C. 154 and 303.

2. Section 73.21 is amended by revising paragraph (b)(2), by removing Notes 1 and 2 after paragraph (c) and redesignating Notes 3 and 4 as Notes 1 and 2, to read as follows:

§ 73.21 Classes of AM broadcast channels and stations.

* * * * *

(b) * * *

(2) Class III stations in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands are permitted a maximum power of 50 kW day or night. Until the North American Regional Broadcasting Agreement (NARBA) is terminated with respect to the Bahama Islands and the Dominican Republic, radiation toward those countries, respectively, from a Class III station in Puerto Rico or the Virgin Islands may not exceed the level that would be produced by an omni-directional antenna with a transmitter power of 5 kW, or such lower level as will comply with NARBA requirements for protection of stations in the Bahama Islands and the Dominican Republic against objectionable interference.

* * * * *

§ 73.25 [Amended]

3. Section 73.25 is amended by removing Notes 1 and 2 after paragraph (a)(2)(iii) and Note 1 after paragraph (c).

4. Section 73.28 is amended by revising paragraph (b), and by removing Notes (a) and (b), to read as follows:

§ 73.28 Assignment of stations to channels.

* * * * *

(b) The Commission will not make an AM station assignment that does not conform with international requirements and restrictions on spectrum use that the United States has accepted as a signatory to treaties, conventions, and other international agreements. See § 73.1650 for a list of pertinent treaties, conventions and agreements, and § 73.3570 for procedural provisions relating to compliance with them.

* * * * *

5. Section 73.183 is amended by revising the first sentence of the Note following paragraph (b), and revising paragraph (c), to read as follows:

§ 73.183 Groundwave signals.

* * * * *

(b) * * *

Note: International standards have not been established for determining ground conductivity by field strength measurements. * * *

(c)(1) In all cases where measurements taken in accordance with the requirements are not available, the groundwave strength must be determined by means of the pertinent map of ground conductivity and the groundwave curves of field strength versus distance. The conductivity of a given terrain may be determined by measurements of any broadcast signal traversing the terrain involved. Figure M3 (See Note 1) shows the conductivity throughout the United States by general areas of reasonably uniform conductivity. When it is clear that only one conductivity value is involved, Figure R3 of § 73.190, may be used. It is

a replica of Figure M3, and is contained in these standards. In all other situations Figure M3 must be employed. It is recognized that in areas of limited size or over a particular path, the conductivity may vary widely from the values given; therefore, these maps are to be used only when accurate and acceptable measurements have not been made.

(2) For determinations of interference and service requiring a knowledge of ground conductivities in other countries, the ground conductivity maps comprising Appendix 1 to Annex 2 of each of the following international agreements may be used:

(i) For Canada, the U.S.-Canada AM Agreement, 1984;

(ii) For Mexico, the U.S.-Mexico AM Agreement, 1986; and

(iii) For other Western Hemisphere countries, the Regional Agreement for the Medium Frequency Broadcasting Service in Region 2.

Where different conductivities appear in the maps of two countries on opposite sides of the border, such differences are to be considered as real, even if they are not explained by geophysical cleavages.

* * * * *

6. Section 73.1650 is revised to read as follows:

§ 73.1650 International agreements.

(a) The rules in this part 73, and authorizations for which they provide, are subject to compliance with the international obligations and undertakings of the United States. Accordingly, all provisions in this part 73 are subject to compliance with applicable requirements, restrictions, and procedures accepted by the United States that have been established by or pursuant to treaties or other international agreements, arrangements, or understandings to which the United States is a signatory, including applicable annexes, protocols, resolutions, recommendations and other supplementing documents associated with such international instruments.

(b) The United States is a signatory to the following treaties and other international agreements that relate, in whole or in part, to AM, FM or TV broadcasting:

(1) The following instruments of the International Telecommunication Union:

(i) Constitution.

(ii) Convention.

(iii) Radio Regulations.

(2) Regional Agreement for the MF Broadcasting Service in Region 2 (Rio de Janeiro, 1981).

(3) Bi-lateral Agreements between the United States and Canada relating to:

(i) AM Broadcasting.

(ii) FM Broadcasting.

(iii) TV Broadcasting.

(4) Bi-lateral Agreements between the United States and Mexico relating to:

(i) AM Broadcasting.

(ii) FM Broadcasting.

(iii) TV Broadcasting.

(5) Bi-lateral Agreement between the United States and the Bahama Islands relating to presunrise operations by AM stations.

(6) North American Regional Broadcasting Agreement (NARBA), which, for the United States, remains in effect with respect to the Dominican Republic and the Bahama Islands.

The documents listed in this paragraph are available for inspection in the office of the Chief, Policy and Rules Division, Mass Media Bureau, FCC, Washington, DC. Copies may be purchased from the FCC Copy Contractor, whose name may be obtained from the FCC Consumer Assistance Office.

7. Section 73.3570 is amended by revising the heading, and paragraphs (a), (b), and (d) to read as follows:

§ 73.3570 AM broadcast station applications affected by international agreements.

(a) Except as provided in paragraph (b) of this section, no application for an AM station will be accepted for filing if authorization of the facilities requested would be inconsistent with international commitments of the United States under treaties and other international agreements, arrangements and understandings. (See list of such international instruments in § 73.1650(b).) Any such application that is inadvertently accepted for filing will be dismissed.

(b) AM applications that involve conflicts only with the North American Regional Broadcasting Agreement (NARBA), but that are in conformity with the remaining treaties and other international agreements listed in § 73.1650(b) and with the other requirements of this part 73, will be granted subject to such modifications as the FCC may subsequently find appropriate, taking international considerations into account.

* * * * *

(d) In some circumstances, special international considerations may require that the FCC, in acting on applications, follow procedures different from those established for general use. In such cases, affected applicants will be informed of the procedures to be followed:

[FR Doc. 89-22874 Filed 9-27-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[DA 89-1202]

Private Land Mobile Radio Services, Part 90 Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending part 90 concerning the Private Land Mobile Radio Services to correct typographical errors and omissions, to remove references to superceded rules, and to revise wording to clarify the affected sections.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson or F. Ronald Netro, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau Chief's Order, DA 89-1202, adopted September 20, 1989, and released September 22, 1989. The full text of this Bureau Chief 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 may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140 Washington, DC 20037, (202) 857-3800.

Summary of Order

On September 22, 1989, the FCC released an Order, DA 89-1202, amending part 90 of the Commission's Rules to incorporate editorial corrections and clarifications. By this Order, the FCC corrected typographical errors and omissions, removed references to superceded rules, and revised wording to clarify the affected sections.

Ordering Clauses

Accordingly, *it is ordered*, That, under the authority contained in sections 4(i), 5(c)(1) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(c)(1) and 303(r) and in § 0.331(a)(1) of the Commission's Rules, 47 CFR 0.331(a)(1), part 90 is amended as set forth below.

It is further ordered, That because these amendments clarify existing rules, this Order is effective September 20, 1989.

List of Subjects in 47 CFR Part 90

Private land mobile radio services.

Amendatory Text

1. Part 90 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

§ 90.25 [Amended]

2. Section 90.25(f)(2) is amended by changing "(A9 or F9 emission)" to "(A1D, A2D, F1D, or F2D emission)".

3. Section 90.63(c) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.63 Power radio service.

* * * * *

(c) * * *

POWER RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	17
* * * * *		
935 to 940	Base or mobile	17
* * * * *		

4. Section 90.65(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.65 Petroleum radio service.

* * * * *

(b) * * *

PETROLEUM RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	30
* * * * *		
935 to 940	Base or mobile	30
* * * * *		

5. Section 90.67(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.67 Forest products radio service.

* * * * *

(b) * * *

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	20
* * * * *		
935 to 940	Base or mobile	20
* * * * *		

6. Section 90.69(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.69 Motion picture radio service.

* * * * *

(b) * * *

MOTION PICTURE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	5
* * * * *		
935 to 940	Base or mobile	5
* * * * *		

7. Section 90.71(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.71 Relay press radio service.

* * * * *

(b) * * *

RELAY PRESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	3
* * * * *		
935 to 940	Base or mobile	3
* * * * *		

8. Section 90.73(c) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.73 Special industrial radio service.

* * * * *

(b) * * *

SPECIAL INDUSTRIAL RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	21
* * * * *		
935 to 940	Base or mobile	21
* * * * *		

9. Section 90.75(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.75 Business radio service.

* * * * *

(b) * * *

BUSINESS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	33
* * * * *		
935 to 940	Base or mobile	33
* * * * *		

10. Section 90.79(c) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.79 Manufacturers radio service

* * * * *

(c) * * *

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	15
* * * * *		
935 to 940	Base or mobile	15
* * * * *		

11. Section 90.81(c) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.81 Telephone maintenance radio service.

* * * * *

(c) * * *

TELEPHONE MAINTENANCE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	7
* * * * *		
935 to 940	Base or mobile	7
* * * * *		

12. Section 90.89(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.89 Motor carrier radio service.

* * * * *

(b) * * *

MOTOR CARRIER RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	12
* * * * *		
935 to 940	Base or mobile	12
* * * * *		

13. Section 90.91(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.91 Railroad radio service.

* * * * *

(b) * * *

RAILROAD RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	13
* * * * *		
935 to 940	Base or mobile	13
* * * * *		

14. Section 90.93(b) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.93 Taxicab radio service.

* * * * *

(b) * * *

TAXICAB RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	5
* * * * *		
935 to 940	Base or mobile	5
* * * * *		

15. Section 90.95(c) is amended by adding the bands 896 to 901 MHz and 935 to 940 MHz to the Frequency Table under MHz numerically to read as follows:

§ 90.95 Automobile emergency radio service.

* * * * *

(c) * * *

AUTOMOBILE EMERGENCY RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
896 to 901	Mobile	10
* * * * *		
935 to 940	Base or mobile	10
* * * * *		

§§ 90.63, 90.65, 90.67, 90.69, 90.71, 90.73, 90.75, 90.79, 90.81, 90.89, 90.91, 90.93 and 90.95 [Amended]

16. Sections 90.63(d)(17), 90.65(c)(30), 90.67(c)(20), 90.69(c)(5), 90.71(c)(3), 90.73(d)(21), 90.75(c)(33), 90.79(d)(15), 90.81(d)(7), 90.89(c)(12), 90.91(c)(13), 90.93(c)(5), and 90.95(d)(10) are amended by revising each pertinent paragraph to read: "Subpart S contains rules for assignment of frequencies in the 806–821/851–866 and 896–901/935–940 MHz bands."

§ 90.63 [Amended]

17. Section 90.63(d)(5) is amended by changing the word "petroleum" to "Petroleum".

§ 90.69 [Amended]

18. Section 90.69(b) is amended by adding an asterisk in the first column to the frequency band 10,550 to 10,680 MHz in the Motion Picture Radio Service Frequency Table and the following footnote immediately below the Table. "* The frequencies in the band 10.55–10.68 GHz are available for Digital Termination Systems and for associated internodal links in the Point-to-Point Microwave Radio Service. No new licenses will be issued under this subpart but current licenses will be renewed."

§ 90.79 [Amended]

19. Section 90.79(d)(11) is amended by removing the extra phrase "in this service".

§ 90.81 [Amended]

20. Section 90.81(d)(4) is amended by changing the word "assigns" in the fourth sentence to "assignees".

§ 90.85 [Amended]

21. Section 90.85 is amended by changing, in the first sentence, the words "motor carrier" to "Motor Carrier".

§ 90.95 [Amended]

22. Section 90.95(c) is amended by adding an asterisk in the first column to the frequency band 10,550 to 10,680 MHz in the Automobile Emergency Radio Service Frequency Table and the following footnote immediately below the Table. "* The frequencies in the band 10.55–10.68 GHz are available for Digital Termination Systems and for associated internodal links in the Point-to-Point Microwave Radio Service. No new licensees will be issued under this subpart but current licenses will be renewed."

§ 90.103 [Amended]

23. Section 90.103(c)(22) is amended by changing "(AO)" to "(NON)" and ".2 percent" to "0.2 percent".

§ 90.103 [Amended]

24. Sections 90.103(c)(23) and (c)(24) are amended by removing the words "Subpart F of".

25. Section 90.119(b) is revised to read as follows:

§ 90.119 Application forms.

* * * * *

(b) With respect to the 806–824/851–869 and 896–901/935–940 MHz bands, all applications required by this section to be filed on Form 574 shall be accompanied by Form 574–A.

* * * * *

§ 90.127 [Amended]

26. Section 90.127(a)(1) is amended by adding the word "the" prior to "Federal Communications Commission, Gettysburg, PA 17326."

§ 90.127 [Amended]

27. Section 90.127(c)(4) is amended by changing the words "806–821 and 851–866" to read "806–824/851–869 and 896–901/935–940".

§ 90.173 [Amended]

28. Section 90.173(i) is amended by adding the word "being" before "5.26 MHz." in the third sentence.

§ 90.175 [Amended]

29. Section 90.175(f)(7) is removed and reserved.

§ 90.176 [Amended]

30. Section 90.176(b) is amended by removing the words "(except for the Radiolocation Service)".

§ 90.177 [Amended]

31. Section 90.177(c) is amended by revising the right column heading in the Table to read as follows: "Power flux density [1] (dBW per square meter) in authorized bandwidth of service."

32. Section 90.242(a) is amended by revising the heading and the introductory text to read as follows:

§ 90.242 Travelers' information stations.

(a) 530 and 1610 kHz. The frequencies 530 and 1610 kHz may be assigned in the Local Government Radio Service for the operation of Travelers' Information Stations subject to the following conditions and limitations:

* * * * *

§ 90.243 [Amended]

33. Section 90.243(b)(1) is amended by changing the words "Medical Services" to "medical services".

34. Section 90.251 is revised to read as follows:

§ 90.251 Scope.

This subpart sets forth special requirements applicable to the use of certain frequencies or frequency bands.

§ 90.271 [Amended]

35. Section 90.271(b)(4) is amended by changing the words "mobile for control" to "mobile or control".

§ 90.405 [Amended]

36. Section 90.405(b) is amended by changing the words "in the 470–512 MHz or 800 MHz frequency band." to "above 470 MHz under this part."

§ 90.425 [Amended]

37. Section 90.425(c)(2) is amended by changing the words "radiolocation service" to "Radiolocation Service".

§ 90.463 [Amended]

38. Section 90.463(a) is amended by removing the word "himself" in the third sentence.

§ 90.465 [Amended]

39. Section 90.465(a) is amended by changing "SF" in the second sentence to "single frequency".

§ 90.555 [Amended]

40. Section 90.555(b) is amended by removing the following entries in the table the first time they appear: 173.20375, 173.2100, 173.225, 173.250, 173.275, 173.300, 173.325, 173.350, and 173.375, and also removing the first 173.375 that follows 173.3625.

41. Section 90.613 is amended by revising the title of the Table of 806–821/851–866 MHz Channel Designations and the entry for Channel 829 to read as follows:

§ 90.613 Frequencies available.

* * * * *

TABLE OF 806–824/851–869 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
* * *	* *
829	.9750
* * *	* *

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 89–22873 Filed 9–27–89; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

[Ex Parte No. 55; Sub-No. 78]

Delegation of Authority To Issue Exemptions Under 49 U.S.C. 11343(e) for Finance Transactions Involving Non-Rail Intermodal Parties

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a final rule, at 49 CFR 1011.8(c)(7), that delegates authority to the Director of the Office of Proceedings to issue notices of exemption under 49 U.S.C. 11343(e) for finance transactions processed under *Exemptions—Finance Transactions—Non-Rail Parties*, 5 I.C.C.2d 726 (1989), involving non-rail intermodal parties. The Commission is delegating this authority initially to decide these cases for purposes of administrative efficiency. The final rule is set forth below.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT:
Paul W. Schach, (202) 275–7885
or
Richard B. Felder, (202) 275–7691.
[TDD for hearing impaired: (202) 275–1721.]

SUPPLEMENTARY INFORMATION: The Commission recently adopted new procedures for processing petitions for exemption under 49 U.S.C. 11343(e) for finance transactions involving non-rail intermodal parties. *See Exemptions, supra.* The Commission now has decided to delegate authority to the Director of the Office of Proceedings to consider such petitions in the first instance and issue notices of exemption. Absent a protest, the Director's notice will become the final action of the Commission. If a notice is protested, however, the proceeding then will be reconsidered by the entire Commission.

This decision requires a minor change to 49 CFR part 1011, specifically the addition of a new subsection to the delegations of authority to the Office of Proceedings appearing at 49 CFR 1011.8(c). This rule change, however, does not require public notice and opportunity for comment prior to implementation. Under 5 U.S.C. 553(b)(A), rules of agency procedure or practice are specifically exempted from the notice and comment requirements of the Administrative Procedure Act. The delegation of authority announced here relates solely to Commission processing methods. The parties' rights are not adversely affected.

Environmental and Energy Considerations

We conclude that the delegation of authority announced here will not significantly affect either the quality of the human environment or the conservation of energy resources.

Index

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10305 and 10321.

Decided: September 20, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips. Vice Chairman Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1011 of the Code of Federal Regulations is amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for 49 CFR part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Section 1011.8 is amended by adding a new paragraph (c)(7) to read as follows:

§ 1011.8 Delegations of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.

* * * * *

(c) * * *

(7) In all exemption proceedings under 49 U.S.C. 11343(e) involving non-rail intermodal parties, to make such findings as necessary and to issue notices of exemption.

[FR Doc. 89-22865 Filed 9-27-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure rescissions.

SUMMARY: The Secretary of Commerce (Secretary) has determined that amounts specified as total allowable catch (TAC) for sablefish in the Bering Sea and Aleutian Islands are more than sufficient to provide for bycatch in other fisheries and, therefore, is allowing further directed fishing for sablefish by U.S. vessels delivering to U.S. processors. This action is necessary to promote fuller harvests of the sablefish TACs. It is intended to carry out management objectives contained in the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

DATES: Effective from October 20, 1989 through December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The 1989 TACs for sablefish were specified for the Bering Sea and Aleutian Islands subareas, defined at 50 CFR 675.2, to equal 2,380 metric tons (mt) and 2,890 mt, respectively (54 FR 3605, January 25, 1989). The entire sablefish TAC in the Bering Sea subarea was set aside as bycatch to support other target groundfish fisheries on February 3, 1989 (54 FR 6134, February 8, 1989). Sablefish directed fishing was allowed in the Aleutian Islands subarea until July 30, 1989 (54 FR 31842, August 2, 1989), at which time directed fishing was terminated to provide adequate bycatch amounts to support other directed groundfish fisheries.

Total sablefish catches in the Bering Sea subarea through August 26, 1989, total 456 mt, which is 19 percent of the TAC. Total sablefish catches in the Aleutian Islands subarea through the same period total 2,590 mt, which is 90 percent of the TAC.

Only minimal amounts are expected to be needed to support other directed fisheries during the remainder of the fishing year. Substantial shortfalls in harvesting the sablefish TACs are expected, unless directed fishing is allowed. To allow fuller opportunity to harvest the sablefish TACs, the Secretary is rescinding the previously issued notices of closure issued at 54 FR 6134, February 8, 1989, and 54 FR 31842, August 2, 1989, thereby allowing directed fishing for sablefish in the Bering Sea and Aleutian Islands by vessels delivering to U.S. processors to resume. Rescission takes effect on October 20, 1989 and authority to engage in directed fishing for delivery to U.S. processors remains in effect through December 31, 1989, unless closure occurs prior to that date. Directed fishing for sablefish in the Aleutian Islands subarea and Bering Sea subarea is subject to closure under 50 CFR 675.20(a)(8).

Classification

This action is taken under the authority of 50 CFR 675.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries.

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

Dated: September 21, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-22859 Filed 9-27-89; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 187
Thursday, September 28, 1989

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 1806, 1807, 1900, 1944, 1951, 1955, 1956, and 1965

Servicing and Collections; Providing Real Estate Tax and Property Insurance Escrow Services for Monthly Payment Rural Housing Borrowers

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Single Family Housing servicing and collections regulation to be consistent with the Agency's current definition of "delinquency." The intended effect of this action is to provide uniformity within FmHA when servicing a delinquent account. This action will also amend administrative instructions to several CFR parts. This action is necessary to enable FmHA to provide the capability to escrow for real estate taxes and property insurance for monthly payment rural housing borrowers. A 1987 amendment to the Housing Act of 1949 requires FmHA to escrow for real estate taxes and property insurance. Escrow services would enhance the prospects of FmHA rural housing borrowers becoming successful homeowners.

DATE: Comments must be submitted on or before November 27, 1989.

ADDRESSES: Submit written comments in duplicate to the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington DC 20250. All written comments made pursuant to this publication will be available for public inspection during work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jean F. Leavitt, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, South Agriculture Building, room 5309, Washington, DC 20250, telephone: (202) 382–1452.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been classified as "nonmajor." It will not result in an annual effect on the economy of $100 million or more. There will be no significant increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Furthermore, there will be no 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.

Background/Information

Farmers Home Administration (FmHA) was mandated by Congress under the 1987 Amendment to the Housing Act of 1949 to provide escrow services to pay taxes and insurance for SFH borrowers. In an effort to implement escrow services, FmHA initiated a pilot project for the State of Wisconsin. A private sector contractor was selected to develop the billing, escrow, and accounting services for Wisconsin's SFH loan portfolio. The term "escrow servicer" will be used when referring to the party who will be providing the escrow. The pilot project in Wisconsin will allow the Agency to evaluate the escrow system which has been established, with consideration being given to implementation nationwide.

The following are the proposed major revisions, pertaining to escrow, incorporated in this rulemaking action:

1. Section 1806.6 will allow the escrow servicer to obtain property insurance for borrowers required to escrow, if the borrower fails to provide acceptable insurance. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for insurance. Borrowers being phased into escrow will be given 30 days to obtain coverage.

2. Section 1806.25(c)(4) is revised to state existing borrowers required to escrow will be notified by letter 90 days prior to initiating escrowing for flood insurance.

3. Section 1806.28 is revised to state that for borrowers required to escrow for flood insurance, the premium will be paid through an advance if the escrow account contains insufficient funds.

4. Section 1807.2(f)(3) is revised to provide that escrow funds will be prorated between buyer and seller at the time of closing. Also, when an assumption is closed, an amount equal to the transferor's share of the prorated taxes will be transferred to the transferee's escrow account, if the transferee is required to escrow.

5. Section 1951.313(f)(3) is revised to provide that FmHA will pay the property taxes and insurance, if they become due, and charge it to the loan account for a borrower on a moratorium, who is required to escrow. FmHA can pay the property taxes and insurance of borrowers on a moratorium who are not required to escrow, if the borrower is unable to pay the taxes and insurance premium. At the end of the moratorium period, not to exceed 2 years, the account (including taxes and insurance costs which were paid by FmHA), can be reamortized for the remainder of the term of the loan. This provides the borrower with the maximum opportunity to become successful.

6. Section 1951.314(a)(6) is revised to allow the account to be reamortized when real estate taxes for one or more years and/or an insurance premium for one year is vouchered and the borrower is not able to repay the advance within the number of years represented by the taxes of insurance, as applicable, when initially establishing a borrower on escrow. Nonprogram (NP) accounts will only be reamortized in this instance if the borrower is an owner/occupant. FmHA will pay the taxes and/or insurance of an NP borrower who is an investor/nonoccupant only if the borrower is unwilling or unable to pay the taxes and/or insurance. If paid by FmHA, it will be charged to the loan account as an unamortized cost.

7. Section 1955.5(e) is revised to provide that any funds in a borrower's escrow account will not be refunded if the account is liquidated by voluntary conveyance or foreclosure.

8. Section 1965.105 is revised to provide that if a borrower becomes delinquent on his/her real estate taxes, FmHA will notify the borrower using FmHA Guide Letter 1965–C–1. If the taxes are not paid within 30 days FmHA will voucher for the taxes and charge the expense to the borrower's account. Because the guide letter is not published in the **Federal Register**, anyone desiring a copy should contact FmHA at the address and phone number shown under the heading "For Further Information Contact". Existing borrowers required to escrow will be notified by letter 90 days prior to initiating escrowing for taxes.

Other major issues which are incorporated in this rulemaking are as follows:

1. Section 1951.301 is revised to clarify that the requirements of subpart G of part 1951 do not apply if the decision has been made to liquidate the farmer program loan(s) of a borrower who also has an RH loan(s), if the dwelling was used as security for the farm loan(s). Except that, the RH loan account will be considered for interest credit and/or moratorium at the time servicing options are being considered for the FP loan(s) prior to acceleration.

2. Section 1951.312 is revised to provide that when foreclosure is recommended on borrowers with a monthly payment plan, including annual payment borrowers converted to monthly, for failure to make scheduled FmHA payments, the account will not be accelerated unless at least 3 payments are past due; except that, if during the past 24 months an account was accelerated for being at least 3 payments past due and after reinstatement the borrower remains unable or unwilling to bring and keep the account current foreclosure can be recommended when the account becomes 2 payments past due. For annual payment borrowers, the account will not be accelerated until at least one annual payment is 90 days past due and arrangements have not been made to bring the account current. Forced liquidation of a 504 loan should be avoided, if possible. If liquidation action must be taken consideration should be given to releasing it as a valueless lien in accordance with § 1965.118 of subpart C of part 1965 of this chapter. This section is also revised to provide that when a borrower becomes 30 days or more past due, under the terms or conditions of an additional payment agreement (APA), the agreement becomes null and void. A borrower who misses a scheduled payment and has made payments as agreed for less than 3 months will be advised that if the account is not brought current, action may be taken to liquidate the account without further servicing actions. A borrower who misses a scheduled payment and has made payments as agreed for more than 3 months will be serviced as though it is an initial delinquency.

3. Section 1951.314(a)(8) is clarified so that the account of an RH borrower may be reamortized in connection with a farmer program servicing option if the borrower is indebted for an RH and farmer program loan.

4. Section 1951.314(a)(9) is added to allow the reamortization of an account which has been reinstated after being accelerated.

5. Section 1951.314(a)(10) is added to provide for reamortization of an unsatisfied account balance which is rescheduled after the sale of security property.

6. Exhibit A to part 1951, subpart S, attachments 3, 5, 7 and 9 are revised to clarify that the housing loan could also be accelerated even if the housing account is current, if the dwelling was used to secure the farm loan(s).

7. Exhibit A to part 1951, subpart S, attachments 2 and 3 are revised to add that if the borrower is indebted for an SFH loan, in some cases, interest credits may be granted to reduce the house payment or the payments may be suspended for a period of time (moratorium) and made up later.

8. Section 1955.15(d)(2)(iv) is revised to provide that if the borrower is in default on his farm loan(s), the SFH account must have been considered for interest credit and/or moratorium at the time servicing options are being considered for the FP loan(s) prior to acceleration.

9. Section 1956.58(a)(2)(i) permits County Supervisors to approve the cancellation and charge off of SFH debts regardless of the amount. Approval authority for any type of debt settlement action has not previously been given to staff below the level of State Director. County Supervisors have, however, for many years been authorized to make determinations on whether Single Family Housing (SFH) borrowers who conveyed their property to FmHA or sold it for less than their FmHA debt are to be released from liability; and if so, to execute the release from liability. Until passage of the Housing and Community Development Act of 1987, the Housing Act of 1949, as amended, required that borrowers be released from liability for any difference between security value and indebtedness upon liquidation if they had cooperated in good faith, satisfactorily maintained the security, and fulfilled the loan covenants to the best of their ability. Since the 1987 amendment, section 510(c) of the Housing Act permits the Secretary to "compromise, adjust, reduce or charge-off claims * * * as circumstances may require * * *", which allows FmHA to exact greater financial accountability from the borrower toward their loan obligation, and where a financial statement shows the borrower has sufficient assets, to pursue collection of any deficiency resulting from the difference in security value and indebtedness.

Since there may be more situations where borrowers will not be released from liability and potentially more cases involving chargeoffs, the Agency is electing to give County Supervisors authority to approve SFH chargeoffs and cancellations to avoid increasing State Office workload. Settlements through compromise or adjustment must still be approved by the State Director.

10. Section 1965.26(c)(2) is clarified to state how SFH loans on nonfarm tracts should be handled if the farmer program loan(s) are being liquidated and the nonfarm property secures only the SFH loan.

11. Section 1965.125(a)(2) is revised to restrict the payment of a broker's commission on a sale when the FmHA debt and authorized expenses exceed market value and the sale is to the broker, broker's salesperson(s), persons living in his/her or salesperson(s) immediate household or to legal entities in which the broker or salesperson(s) have an interest if the sale involves FmHA credit. If credit is not being extended in these instances (a cash sale), a commission will be allowed or paid.

12. Section 1965.26(c)(2) has been revised to clarify that if the nonfarm property secures only an SFH loan(s) it will not be liquidated unless the appropriate provisions of subpart G of part 1951 of this chapter have been met, including the offering of interest credit assistance and/or moratorium, if eligible.

Programs Affected

The programs are listed in the Catalog of Federal Domestic Assistance (CFDA) under:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low-Income Housing Loans
10.411 Rural Housing Site Loans
10.417 Very Low-Income Housing Repair Loans and Grants

Intergovernmental Consultation

For the reasons set forth in the final rule related Notice(s) to 7 CFR part 3015, subpart V, the programs contained in 10.404 Emergency Loans, 10.406 Farm Operating Loans, 10.407 Farm Ownership Loans, 10.410 Low Income Housing Loans and 10.417 Very Low-Income Housing Repair Loans and Grants are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. CFDA number 10.411 is subject to the provisions of Executive Order 12372.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "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 environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

List of Subjects

7 CFR Part 1806

Buildings, Community development, Disaster assistance, Flood plains, Loan programs—agriculture, Loan programs—housing and community development, Real property insurance, Rural areas, National Flood Insurance.

7 CFR Part 1807

Loan programs—agriculture, Loan programs—housing and community development, Mortgages.

7 CFR Part 1900

Authority delegations (Government agencies), Loan programs—agriculture.

7 CFR Part 1944

Home improvement, Loan programs—housing and community development, Low and moderate income housing, manufactured homes, Mortgages, Rent subsidies, Rural housing.

7 CFR Part 1951

Accounting, Housing, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1955

Foreclosure, Government property, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1956

Accounting, Loan programs—housing and community development, Rural areas.

7 CFR Part 1965

Accounting, Administrative practice and procedure, Foreclosure, Loan programs—housing and community development, Low and moderate income housing, Mortgages, Rural areas.

Therefore as proposed, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1806—INSURANCE

1. The authority citation for part 1806 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Real Property Insurance

2. In § 1806.2, paragraph (b)(5) is revised to read as follows:

§ 1806.2 Companies and policies.

* * * * *

(b) * * *

(5) *Submission of policies.* (i) For Farmer Program (FP) loans secured by a first lien the original policy or declaration page must be delivered to the County Supervisor. The original policy or declaration page will be returned to the borrower after one year using Form FmHA 426-3, "Notice of Expiration of Insurance."

(ii) For Single Family Housing (SFH) loans secured by a first lien the original policy or declaration page must be delivered to the closing agent.

(iii) In cases where an FP or SFH loan is secured by other than a first lien and the mortgage clauses include the names of the prior mortgagees, a certificate of insurance, copy of the policy, or other evidence of insurance is acceptable.

(iv) The County Supervisor will process an advance to pay for insurance only in strict compliance with provisions of § 1806.6 of this subpart.

* * * * *

3. Section 1806.6 is amended by revising the introductory text to read as follows:

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain property insurance which meets the requirements set forth in § 1806.2 of this subpart, every effort will be made to have the borrower provide coverage acceptable to FmHA. It will be emphasized that under the terms of the security instrument, it is the borrower's responsibility to provide and maintain proper insurance coverage. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for insurance. Failure to provide insurance is a default and will be a consideration in determining if the loan is to be continued. For FP or section 502 RH borrowers not required to escrow, the County Supervisor will obtain insurance coverage and voucher for the insurance premium only in cases where: (1) An unusual and severe hazard, such as recurring fires or unstable ground conditions, exists, or, (2) a Single Family Housing borrower on a moratorium is unable to pay the insurance premium and the borrower requests that FmHA pay the premium. For Single Family Housing borrowers required to escrow, the escrow servicer will obtain insurance coverage if the borrower fails to provide acceptable insurance. Borrowers being phased into escrow will be given at least 30 days to obtain coverage, after which the escrow servicer will provide the coverage. If the escrow account contains insufficient funds to pay the insurance when due, the County Supervisor will request the borrower to pay an amount equal to the difference between the premium due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower' account as a recoverable cost. The amortization period for an advance due to an escrow shortage will be one year. Insurance coverage shall be provided continuously unless the property is acquired by FmHA. The cost of obtaining such a policy shall be advanced and charged to the borrower's account as a recoverable cost. Amortization of the charge will be handled in accordance with § 1951.310 of subpart G of part 1951 of this chapter. If a borrower indebted for other than an FP or section 502 RH loan fails to provide acceptable insurance, the servicing official will take the following action:

* * * * *

Subpart B—National Flood Insurance

4. Section 1806.25(c)(4) is added to read as follows:

§ 1806.25 Conditions.

* * * * *

(c) * * *

(4) It will be emphasized that under the terms of the security instrument, it is the borrower's responsibility to provide and maintain proper flood insurance coverage. If flood insurance is not

provided on any property for which it is required, the flood insurance premium will be paid to protect the Government's security interest. For borrowers required to escrow for flood insurance, payment of the premium will be handled in accordance with § 1806.28 of this subpart. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for flood insurance. If FmHA pays the flood insurance premium for borrowers not required to escrow, the cost will be charged to the borrower's account as a recoverable cost. Failure to provide flood insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued.

5. Section 1806.28 is added to read as follows:

§ 1806.28 Borrowers required to escrow.

For borrowers required to use escrow accounts for the payment of real estate taxes and insurance, the flood insurance premium will be paid when due from funds contained in the escrow account. If the escrow account contains insufficient funds to pay the flood insurance premium when due, the County Supervisor will request the borrower to pay an amount equal to the difference between the premium due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower's account as a recoverable cost. The amortization period for an advance due to an escrow shortage will be one year. Amortization of the charge will be handled in accordance with § 1951.310 of subpart G of part 1951 of this chapter. When a borrower has more than one loan secured by the real estate on which the flood insurance premium is being paid, the advance will be charged to the initial or lowest numbered loan.

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

6. The authority citation for part 1807 continues to read as follows:

Authority: Secs. 307, 339, 75 Stat. 308, 318, secs. 502, 510, 63 Stat. 433, as amended, 437, sec. 4, 64 Stat. 100; 7 U.S.C. 1927, 1989, 42 U.S.C. 1472, 1480, 40 U.S.C. 442; Orders of Sec. of Agr., 19 FR 74, 26 FR 8403, 27 FR 5005, 9957.

7. In § 1807.2, paragraph (f)(3) is revised to read as follows:

§ 1807.2 Initial loan cases.

* * * * *

(f) * * *

(3) *Taxes and assessments.* The designated attorney or title insurance company will ascertain that all taxes and assessments against the property which are due and payable are paid at or before the time of closing of the transaction. Where the seller (or transferor) and the borrower (or transferee) have agreed to prorate any taxes or assessments which are not yet due and payable for the year in which the closing of the transaction takes place, the seller (or transferor) will pay his/her proportionate share of the taxes and assessments at the time of closing of the transaction. Certificates or receipts should be produced from the taxing authorities to show that taxes or assessments which are due and payable have been paid and, if possible, the certificates or receipts should be kept in the borrower's County Office case file. If any taxes and assessments cannot be paid at the time the transaction is closed, the amount of taxes and assessments to be paid by the seller (or transferor) will be deducted from the seller's sale proceeds. In cases where the taxes or assessments are prorated and the borrower (or transferee) is required to escrow, the funds collected from the seller (or transferor) for the payment of taxes will be forwarded to FmHA for deposit in the borrower's (or transferee's) escrow account. In cases where a transfer with assumption is closed and the transferor was required to escrow for taxes, the transferor's share of the prorated taxes will be transferred from the transferor's escrow account to the transferee's escrow account.

* * * * *

PART 1900—GENERAL

8. The authority citation for part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Delegations of Authority

9. In § 1900.2, paragraph (f) is revised to read as follows:

§ 1900.2 National office staff and state directors.

* * * * *

(f) Compromise, adjust, cancel or charge off indebtedness (except that County Supervisors are delegated authority to approve the cancellation or charge off, but not the compromise or adjustment, of sections 502 and 504 single family housing debt(s).

* * * * *

PART 1944—HOUSING

10. 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 A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

11. In § 1944.33, paragraph (f) is revised to read as follows:

§ 1944.33 Loan closing.

* * * * *

(f) *Direct payments.* Direct payment coupons will be provided to all new borrowers. The coupons will be delivered to the borrower and payments made directly to the address shown on the payment coupon. Direct payments with coupons received in the County Office will be mailed directly to the address shown on the coupon. Payments with coupons should be placed in the return envelope. The field office should then place all return envelopes for a day's business ina larger envelope and forward to the retail lockbox. Payments without coupons, cash payments, refunds, and extra payments will be handled in accordance with subpart B of part 1951 of this chapter.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

12. In § 1944.464, the introductory text has been revised to read as follows:

§ 1944.464 Insurance requirements

All applicants for repairs of more than $7,500, will be required to have adequate hazard insurance and flood insurance, where applicable, unless documentation is provided by a reputable insurance company that coverage is unavailable or FmHA determines it will be an excessive cost to obtain insurance. Applicants will be required to escrow funds for the payment of insurance if requested by FmHA.

* * * * *

13. Section 1944.465 is added to read as follows:

§ 1944.465 Taxes and assessments

All applicants who have recieved financial assistance in situations where FmHA has taken a mortgage on their property will escrow funds for the payment of taxes if requested by FmHA. Servicing real estate taxes will be handled in accordance with § 1965.105 of subpart C of part 1965 of this chapter.

PART 1951—SERVICING AND COLLECTIONS

14. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

15. Subpart G of part 1951 is revised to read as follows:

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

Sec.

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

§ 1951.301 Purpose.

This subpart sets forth policies and procedures of the Farmers Home Administration (FmHA) to ensure that in borrower supervision, servicing and collection of Single Family Housing Loan Accounts, all authorities are considerd and used to assist borrowers to become successful homeowners, thereby reducing the number and amount of borrower delinquencies and borrower failures resulting in liquidation of the account. This subpart pertains to all section 502 and 504 Rural Housing (RH) loans (except RH loans for farm service buildings) herein referred to as Single Family Housing (SFH) borrowers, including those who are also indebted for a Farmer Program loan, i.e. farm ownership (FO), operating (OL), soil and water (SW), recreation (RL), emergency (EM), economic emergency (EE), economic opportunity (EO), special livestock (SL), and softwood timber (ST). Farmer Program loans and RH loans for farm service buildings will be serviced in accordance with applicable farmer program regulations. The requirements of this subpart do not apply if the decision has been made to liquidate the farmer program loan(s) of a borrower who also has an RH loan(s), if the dwelling was used as security for the farm loan(s). In these cases, the RH loan account will be handled in accordance with applicable portions of subpart S of part 1951 and § 1955.15(d)(2)(iv) of subpart A of part 1955 pertaining to acceleration of the RH account. This subpart does not apply to borrowers who assumed RH loans, or have purchased inventory housing by credit sale on nonprogram terms unless refinanced in accordance with § 1951.315 of this subpart. These are nonprogram (NP) loans, not SFH loans, and will be serviced according to subpart A of part 1965 of this chapter, SFH cases where unauthorized loan or other financial assistance has been received will be serviced according to Subpart M of part 1951 of this chapter. In executing the authorities provided in this subpart, FmHA will observe requirements of the Equal Credit Opportunity Act (ECOA) which prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age, or handicap.

§§ 1951.302–1951.303 [Reserved]

§ 1951.304 Definitions

Used in this subpart only:

(a) *Current.* All scheduled payments have been received by FmHA by the due date.

(b) *Past due.* All scheduled payments have not been received by FmHA by the due date.

(c) *Delinquent.* Any scheduled payment 30 days or more past due.

§§ 1951.305–1951.306 [Reserved]

§ 1951.307 Supervision.

Supervision and counseling will be provided when deemed necessary to give borrowers an opportunity to become successful homeowners, thereby accomplishing the objectives of the loan.

(a) *Supervising and counseling borrowers.* When it is known borrowers are experiencing financial difficulties or other problems, or when borrowers request assistance, FmHA may counsel them on use and cost of credit, conserving energy, property maintenance, and applicable FmHA authorities and requirements. When deemed necessary, FmHA will assist in development of a budget to help borrowers make the best use of their resources.

(b) *Use of counselors from other sources.* FmHA may enter into a Cooperative Agreement with a nonprofit corporation, public body, or other agency or organization which has employees with training and experience in counseling services. When an Agreement of this type is in effect, FmHA will refer borrowers for counseling when he/she determines such counseling may be beneficial to the borrower. Trained counselors will be provided at no cost to the borrower or FmHA. FmHA will allow outside counselors 1 month to develop an acceptable repayment agreement with delinquent borrowers normally scheduled to make monthly payments before initiating liquidation action.

(c) *Technical and Supervisory Assistance (TSA) grants.* In counties or areas in which TSA grants have been funded and implemented, FmHA will refer to the grantee FmHA low-income borrowers who need counseling and supervisory assistance as defined in subpart K of part 1944 of this chapter, and recommended their participation.

§ 1951.308 Payment coupons and change in payment plan.

(a) *Issuing payment coupons.* A booklet of 12 payment coupons and envelopes is provided initially for each monthly payment borrower and annual payment borrowers converted to monthly. Payment coupons will be mailed directly to the borrower. A new coupon booklet will be sent to the borrower when the borrower's payments are changed or the old coupon booklet is completed.

(b) [Reserved]

(c) [Reserved]

§ 1951.309 Receiving and applying payments.

(a) *Payments on account.* Borrowers will mail their payments directly to the address shown on the payment coupon in one of the envelopes provided with the coupon packet. Borrowers on an annual payment plan send their payments to the FmHA county office which services their loan, or other address as FmHA directs.

(b) *Application of payment.* (1) *Regular payments.* Regular payments are all payments other than extra payments and refunds and include the items in paragraphs (b)(1)(i) through (b)(1)(v) of this section. All direct payments are considered regular payments. Regular payments will be applied by FmHA in the following order of priority:

(i) Escrow for taxes and/or insurance, if applicable.

(ii) Any fees or charges such as late fees, administrative fees, uncollectible check charges, etc., if applicable.

(iii) Advances for recoverable costs in the amount necessary to keep the

advance accounts current, (applied first to amortized, then unamortized advances). Payments on amortized advances are applied only in full monthly increments.

(iv) Accrued interest on the note account.

(v) Principal on the note account.

(2) *Payments insufficient to pay the amount due.* When a borrower, who has more than one loan of the same type, makes a payment in an amount insufficient to pay the amount then due, the payment shall be applied on a prorata basis to each loan according to the amount then due.

(3) *Extra payments and refunds.* Payments derived from cash proceeds of real property insurance, the sale or refinancing of real estate not mortgaged to the Government, or similar transactions are considered extra payments. Refunds are the return of unused loan or grant funds. Extra payments and refunds will be credited to the borrower's note account(s) when processed by FmHA. Extra payments and refunds do not relieve borrowers from making their next scheduled payment.

(c) [Reserved]

§ 1951.310 Amortization of recoverable cost.

When an advance is made by FmHA to pay recoverable costs, the payments will automatically increase during the amortization period by the amount necessary to repay the advance. The advance will bear interest at the rate which is in effect for the loan to which the advance is charged.

(a) *Monthly payment borrowers.* If there are unpaid amortized cost items already on the account, the charges will be combined and reamortized. The amortization period for the combined advances will be based upon the term of the advance which permits the longer repayment period. If the new installment would be less than the previous installment, the larger installment will be used, thus causing the balance to be paid over a shorter period. Advances for payment of real estate taxes are amortized for the number of months for which the taxes are being paid. For example, an advance for 2 years' taxes is amortized over 2 years. Advances for purposes other than real estate taxes are amortized for 12 months unless FmHA determines, based on the borrower's repayment ability, a longer period is needed. An amortization period of more than 12 months will be used only when the cost is of a nonrecurring type. In no case will the amortization period exceed 8 years.

(b) *Annual payment borrowers.* Recoverable costs will be automatically due and payable for annual payment borrowers on the next payment due date, unless FmHA determines, based on the borrower's repayment ability, that a longer period is needed. In such cases, real estate taxes can be amortized over the number of years the taxes are being paid. Advances for purposes other than real estate taxes can be amortized for a period not to exceed 8 years.

(c) [Reserved]

§ 1951.311 Reporting responsibilities.

(a) [Reserved]

(b) *Annual statement.* At the end of each calendar year, FmHA will provide each borrower with a statement showing the unpaid loan balance and the amount of principal and interest paid during the year. If the borrower received subsidy that is subject to recapture, the cumulative interest credit granted will be shown. For those borrowers required to escrow, the status and disbursements shall be shown. The interest paid and, if appropriate, the escrow disbursements will be reported to IRS.

(c) [Reserved]

§ 1951.312 Servicing monthly and annual payment borrowers.

FmHA will use all authorities available to give borrowers an opportunity to become successful homeowners. Collection of a delinquency from an Internal Revenue Service (IRS) refund will be considered to the extent permitted by law. When foreclosure is recommended on borrowers with a monthly payment plan, including annual payment borrowers converted to monthly, for failure to make scheduled FmHA payments, the account will not be accelerated unless at least 3 payments are past due; except that, if during the past 24 months an account was accelerated for being at least 3 payments past due and after reinstatement the borrower remains unable or unwilling to bring and keep the account current FmHA may recommend foreclosure when the account becomes 2 payments past due. For annual payment borrowers, the account will not be accelerated until at least one annual payment is 90 days past due and arrangements have not been made to bring the account current. Forced liquidation of a 504 loan should be avoided, if possible. If liquidation action must be taken consideration should be given to releasing it as a valueless lien in accordance with § 1965.118 of subpart C of part 1965 of this chapter. Delinquent annual payment borrowers should be requested to convert to monthly payments any time a servicing benefit is provided such as interest credit assistance and moratorium, if the borrower has monthly income. All actions taken, agreements reached and recommendations made in the servicing of a borrower's account are to be documented. Account servicing includes the following:

(a) *Interest credit.* When servicing loan accounts, FmHA will make sure borrowers are receiving all of the interest credit assistance for which they are eligible.

(b) *Moratorium.* When it is known (or if it appears) that circumstances exist which may entitle a borrower to a moratorium, FmHA will inform the borrower this assistance may be available and provide the borrower a form on which to apply for a moratorium.

(c) *Reschedules payment agreement.* Delinquent borrowers are expected to bring their accounts current as soon as possible, based on their ability to repay as determined by completing a budget. Borrowers who are able will pay all or a substantial portion of the delinquent amount in a single payment. Monthly payment borrowers unable to do so will pay their regularly scheduled payment plus an additional amount until the account is current. Annual payment borrowers should pay the delinquent amount during the year in order that they are current prior to their next scheduled payment. The remaining past due balance should usually be paid within 2 years, but in no case will the repayment period exceed the remaining term of the loan. The delinquent borrower's circumstances will be reviewed annually to determine if the remaining past due balance can be paid in full or if the additional payment amount should be increased. For monthly payment borrowers, payments in addition to the regularly scheduled amount to repay a delinquency must be at least $10 per month.

(d) *Systematic method to service accounts of delinquent monthly and annual payment borrowers.* FmHA will promptly and systematically service delinquent accounts to attempt to have the problems resolved so the borrower's homeownership is not jeopardized. Although a sufficient number of servicing letters are needed to document that borrowers have been notified of benefits which may be available to them, FmHA may contact the borrower through personal contact, either by telephone or in person. During a telephone or personal contact, an attempt will be made to reach a firm

agreement with the borrower to resolve the delinquency. All contacts and attempted contacts should be documented in the borrower's servicing record. If the borrower does not qualify for additional benefits (moratorium or subsidy) and the borrower is unable or unwilling to reach a satisfactory agreement to repay the delinquency, FmHA will discuss voluntary liquidation of the account. When a borrower becomes 30 days or more past due, under the terms or conditions of an additional payment agreement (APA), the agreement becomes null and void. A borrower who misses a scheduled payment and has made payments as agreed for less than 3 months will be advised that if the account is not brought current, action may be taken to liquidate the account without further servicing actions. A borrower who misses a scheduled payment and has made payments as agreed for more than 3 months will be serviced as though it is an initial delinquency. If a borrower has not resolved a delinquency and FmHA determines liquidation is necessary, FmHA will attempt to have the borrower meet his/her loan obligation by selling the property to repay the loan account. Voluntary sale by borrowers allows them to realize any equity they have in the property (as adjusted by recapture of subsidy, if applicable). To ensure consistency, a series of Guide Letters (available in any FmHA office) are provided FmHA field staffs for discretionary use in servicing delinquent accounts. At appropriate times during servicing contacts borrowers will be advised about interest credit and moratoriums.

§ 1951.313 Moratoriums.

(a) *Definitions.* As used in this section:

(1) *Moratorium.* A period of up to 2 years during which scheduled payments are deferred for payment at a later date.

(2) *Scheduled payments.* The amount of the monthly or annual installment on a promissory note as modified by an interest credit agreement, additional payment agreement, amortization of an advance by FmHA, or other agreements between FmHA and the borrower.

(3) *Temporary.* A period of time not to exceed 2 years. For example, it would be appropriate to grant a moratorium during each period of unemployment to a borrower with an unstable employment history. In such a case, unemployment could not be considered temporary.

(4) *Unduly impaired standard of living.* An adverse condition, based on circumstances beyond the borrower's control, exceeding a normal or reasonable financial setback, that temporarily prevents a borrower from meeting necessary living expenses and scheduled payments on the FmHA loan.

(b) *Eligibility requirements.* The borrower will be provided a form to complete when FmHA becomes aware of existing circumstances which may entitle a borrower to a moratorium or if the borrower requests a moratorium without filing the form. All of the following conditions must exist before a moratorium can be granted:

(1) The borrower is temporarily unable for one of the following reasons to continue making scheduled payments without unduly impairing his/her standard of living:

(i) Income reduction of at least 30 percent. If the borrower is currently receiving interest credit, the 30 percent reduction will be from the income on which the current interest credit agreement is based. If the borrower is not receiving interest credit, the 30 percent reduction will be from verified income for the past year. A 30 percent reduction by itself, however, does not make a borrower eligible for a moratorium. A budget must be prepared and must indicate that the borrower's standard of living will be unduly impaired if payments with the maximum authorized interest credit are required. FmHA will determine if the borrower qualifies for interest credit or additional interest credit before granting a moratorium.

(ii) The need to pay unexpected and unreimbursed expenses resulting from an accident, illness, injury or death of a family member or damage to the security property if adequate hazard insurance coverage was unavailable.

(2) The borrower must occupy the dwelling unless the dwelling is determined by FmHA to be uninhabitable.

(3) The borrower's account is not currently accelerated.

(4) The borrower agrees to notify FmHA if the circumstances on which the moratorium was based change.

(c) *Granting a moratorium.* A moratorium on scheduled payments will be granted when:

(1) The borrower has made written request on a form provided by FmHA.

(2) FmHA has verified the accuracy of the information provided and determines that the borrower is receiving all authorized interest credit and meets all the moratorium eligibility requirements.

(d) *Approval authority.* FmHA will notify the borrower in writing of the action taken on a moratorium application within 15 days after receipt of the completed written application by FmHA.

(e) *Moratorium period.* A moratorium will be in effect for a period not to exceed 2 years unless earlier cancelled. The borrower's circumstances will be reviewed annually but the moratorium will be cancelled any time the reason for the moratorium no longer exists. A moratorium may be retroactive for up to 90 days prior to the date the request for a moratorium was received by FmHA if the circumstances for which the moratorium is to be granted existed during that time. In situations under § 1944.5(d)(11) of part 1944 of this chapter where the income of a spouse living apart from the borrower family is included, the moratorium may be retroactive for up to 90 days prior to either the date the moratorium request was received or the end of the 6 month period, whichever is later.

(f) *Annual review.* For borrowers receiving interest credit, the borrower's circumstances will be evaluated during the annual interest credit review to determine if a moratorium is still justified. For borrowers not receiving interest credit the borrower's circumstances will be reviewed annually on the anniversary date of the moratorium. If circumstances warrant, the moratorium will continue in effect; otherwise it will be cancelled. If the borrower does not respond to the annual request, the moratorium will be cancelled. There will be no appeal of a cancellation because a borrower failed to respond to the annual request. A moratorium will never continue for a period of more than 2 years. If the moratorium was granted to pay unexpected and unreimbursed expenses, the borrower must show that an amount at least equal to the deferred payments has been applied toward the expenses or the moratorium will be cancelled. Although the borrower is expected to pay the taxes and insurance, if possible, during the moratorium period the real estate taxes and hazard insurance premium can be paid by FmHA and charged to the loan account, if the borrower is unable to pay the premium, as authorized in, § 1806.6 of subpart A of part 1806 of this chapter (paragraph VI of FmHA Instruction 426.1). Borrowers on escrow will be sent a billing statement each month for the taxes and insurance. If unable to pay the taxes when they become due and payable from the taxing authority or insurance, when the premium must be paid, FmHA will pay these expenses by voucher.

(g) *Action at the end of the moratorium period.* At the end of the moratorium period, FmHA will verify

the borrower's annual income and obtain a current budget to determine the borrower's repayment ability. The borrower will be advised by letter of the action taken, the reasons for the action and the new payment schedule.

(1) Borrowers on a monthly payment plan who can bring the account current within 2 years by paying the payments which were deferred, in addition to regularly scheduled payments, will execute an additional payment agreement to establish a new repayment schedule.

(2) When a borrower cannot bring the account current within 2 years through use of an additional payment agreement, the loan will be reamortized within the remaining term of the loan.

(3) When a borrower does not have repayment ability if the loan were reamortized within the remaining term of the loan, the loan may be reamortized for the remaining term plus a period not to exceed the time a moratorium was in effect. If the loan was not originally scheduled for maximum legal term, the loan can be reamortized for the maximum legal term of the loan plus a period not to exceed the time the moratorium was in effect, less the number of years the loan has been outstanding. Fees for title clearance and legal services needed to assure that the Government's lien priority is retained must be paid by the borrower or may be advanced by the Government to be charged to the borrower's account.

(4) Cancellation of interest accrued during the moratorium will be considered for borrowers whose payments with maximum interest credit after the moratorium period exceed 20 percent of their adjusted income. Part or all of the accrued interest will be cancelled when reamortization over the maximum authorized period will not result in payments which are within the borrower's repayment ability. If the determination is made the borrower cannot make scheduled payments without cancellation of part or all of the interest which accrued during the moratorium, FmHA will determine how much interest must be cancelled to enable the borrower to repay the loan during the maximum authorized period. The amount of interest to be cancelled will be deducted from the account balance before reamortizing, in determining the new repayment schedule.

(5) If after 2 consecutive years of being on a moratorium a borrower is still unable to resume making scheduled payments, even if the account were reamortized, all authorized interest credit were granted, and interest accrued during the moratorium were cancelled, the account must be liquidated.

(h) *Cancellation.* A moratorium may be cancelled at any time during the moratorium period if FmHA determines that the reason for the moratorium no longer exists or the borrower is no longer living in the property (unless the property is uninhabitable).

(i) *Interest accrual.* Interest will accrue during the moratorium at the rate shown on the promissory note as modified by any interest credit agreement in effect. Interest credit will be granted and renewed throughout the period a moratorium is in effect for borrowers eligible for interest credit.

(j) [Reserved]

(k) *Appeal rights.* The borrowers will be advised in writing of the right to appeal when a moratorium request is denied, a moratorium is cancelled, or the interest accrued during the moratorium is not cancelled unless one of more of the following applies:

(1) The request of cancellation was based on loss of income and the reduction did not equal at least 30 percent of the borrower's confirmed income.

(2) The moratorium terminated because it was in effect for a total of 2 years.

(3) The accrued interest was not cancelled because the borrower's payments after the moratorium did not exceed 20 percent of income.

(4) The borrower failed to provide information requested during the annual review period.

(l) *Waiting period.* There is no waiting period between moratoriums provided the condition on which the later moratorium is granted differs from the first one.

§ 1951.314 Reamortizations.

Reamortizing section 502 and 504 RH loans extends loan payments to the maximum authorized repayment period, or rearranges the payments within the remaining years of the original repayment period.

(a) *Conditions.* RH loan accounts may be reamortized under any of the following circumstances:

(1) When the borrower has made extra payments or refunded loan funds totaling at least 10 percent of the loan balance and the borrower concurs with the decision to reamortize the account balance.

(2) At the end of the moratorium period.

(3) When an individual farmer program loan for real estate purposes or a section 502 or 504 RH loan is being made to a presently indebted section 502 or 504 RH borrower, and FmHA determines the borrower cannot reasonably be expected to meet installments due unless the account is reamortized.

(4) When the loan was not scheduled for the maximum legal term at the time the loan was made (e.g., a housing loan is scheduled for a 26 year term, although, the maximum legal term is 33 years) and the security life of the property is such that the term can be extended, the loan may be reamortized for the maximum legal term less the number of years the loan has been outstanding provided FmHA determines the borrower's financial condition has changed and the borrower cannot reasonably be expected to meet the obligation unless the account is reamortized. Existing loans scheduled for a 33 year term cannot be extended for 38 years. Fees for title clearance and legal services needed to assure the Government's lien priority is retained will be paid by the borrower or advanced by FmHA to be charged to the borrower's account.

(5) When an unauthorized loan or unauthorized interest credit has been serviced according to subpart M of part 1951 of this chapter, and the reversal and reapplication of payments have resulted in a delinquency which requires more than 2 years for the borrower to repay under an additional payment agreement.

(6) To initially establish a borrower on an escrow system when real estate taxes for one or more years and/or an insurance premium for one year is advanced by FmHA and the borrower is not able to repay the advance within the number of years represented by the taxes or insurance, as applicable. Nonprogram (NP) accounts will only be reamortized in this instance if the borrower is an owner/occupant. FmHA will pay the taxes and/or insurance of an NP borrower who is an investor/nonoccupant only if the borrower is unwilling or unable to pay the taxes and/or insurance. If paid by FmHA, it will be charged to the loan account as an unamortized cost.

(7) To bring a delinquent account current in cases where same-terms assumption is authorized.

(8) When a decision has been made under applicable farmer program regulations to provide servicing benefits on the farmer program loan(s) of a borrower who also has an RH loan.

(9) When reinstating an account which has been accelerated.

(10) When an unsatisfied account balance is rescheduled after sale of security property, as provided in

§ 1965.127 of subpart C of part 1965 of this chapter.

(b) *Required actions.* The borrower must sign a reamortization agreement form provided by FmHA to effect the reamortization. The interest rate on the loan will be unchanged.

§ 1951.315 Refinancing.

Refinancing of section 502 loans is authorized when the property meets program standards and either interest credit would not be available because the loan was approved prior to August 1, 1968, or the loan was made as an above-moderate income or NP loan and the borrower would now be eligible for a loan with interest credit and, through circumstances beyond the borrower's control, the borrower is in danger of losing his/her home. Refinancing will be processed as a subsequent loan in accordance with subpart A of part 1944 of this chapter and will be for the amount of the FmHA debt plus closing costs if necessary.

§ 1951.316 Servicing a note-only loan.

A loan made on a note-only basis will be serviced in a manner which is in the Government's best interest. The following applies:

(a) *Sale of real property improved with note-only loan.* When property which was improved with note-only funds is sold, FmHA will attempt to collect the balance owed on the loan. If collection cannot be made, the debt may be assumed by the purchaser of the property on the terms of the note. If collection or assumption cannot be effected FmHA will determine if the borrower has assets and whether a judgment should be sought.

(b) *Note-only in connection with secured loan(s).* When a borrower owes both secured and RH note-only loans and the security property is transferred to a party who will assume the secured loan(s), the amount to be assumed will be the total of the secured and unsecured loans, not to exceed the market value of the security property. When all of the transferor's debt is not assumed, the balance will be collected. If not collected FmHA will determine if the borrower has assets and whether a judgment should be sought.

(c) *Deceased borrower.* When a note-only borrower dies, FmHA will determine if there are relatives who will repay the loan. If payments are not made, FmHA will determine whether there are assets in the borrower's estate from which a claim may be collected. If there are assets, a claim against the decedent's estate will be pursued.

§ 1951.317 Servicing the account of a borrower who enters active military duty after a loan is closed.

The Soldiers and Sailors Relief Act requires that the effective interest rate charged a borrower who enters active military duty after a loan is closed will not exceed 6 percent. This applies only to full-time active military duty, and does not include military reserve status or National Guard participation. When the borrower or the borrower's dependents are occupying the security property, the borrower may be entitled to interest credit which would result in an effective interest rate lower than 6 percent. Therefore, such a loan will accrue interest at the lesser of the effective interest rate under an interest credit agreement or at 6 percent for as long as the borrower is in active military duty status. It is the borrower's responsibility to inform FmHA of his or her entry into and separation from active military duty. FmHA will, however, grant and terminate this benefit when they become aware of and verify the borrower's military status by any means. This assistance will be granted effective when FmHA has verification the borrower qualifies or the date of last payment, whichever is later. When the borrower no longer qualifies, termination will be effective on the date of the next scheduled payment after FmHA has verification of the borrower's status to support termination. This assistance will not be granted or terminated retroactively.

§ 1951.318 [Reserved]

§ 1951.319 Pilot projects.

From time to time FmHA conducts pilot projects to test concepts related to the management and/or sale of SFH inventory property which may deviate from the provisions of this subpart, but will not be inconsistent with provisions of the Housing Act of 1949, as amended, or other Acts affecting FmHA's SFH program. Prior to initiation of a pilot project, FmHA will publish in the **Federal Register** a Notice outlining the nature, scope, and duration of the pilot. The pilot projects may be handled by FmHA employees and/or under contract with persons, firms, or other entities in the private sector.

§ 1951.320 FmHA Instructions.

Detailed FmHA instructions for administering this subpart are available in any FmHA office [FmHA Instruction 1951–G].

§§ 1951.321–1951.350 [Reserved]

Subpart S—Farmer Program Account Servicing Policies

16. In exhibits to subpart S, exhibit A, attachment 2, a last paragraph is added before the signature line to read as follows:

Attachment 2

* * * * *

Acknowledgement of Notice of Program Availability

* * * * *

I/We understand that if I/we are indebted for a SFH loan, in some cases, interest credits may be granted to reduce my/our house payment or my/our payments may be suspended for a period of time (moratorium) and made up later.

* * * * *

17. In exhibits to subpart S, exhibit A, attachment 3, the paragraph under the heading "FmHA Will Accelerate Your Loans" and the two paragraphs under the heading "Steps You Can Take Before FmHA Accelerates Your Loans" are revised to read as follows:

Attachment 3

* * * * *

Notice to Borrowers With Non-Monetary Defaults, Non-Monetary Defaults and Delinquency, or That a Prior Lienholder or Junior Lienholder is Foreclosing

* * * * *

FmHA Will Accelerate Your Loans

This means FmHA will take legal action to collect the money you owe. They will foreclose on real estate and repossess equipment and other property used to secure your loans. This could include your dwelling, even if your housing account is current, if it was used to secure your farm loan(s). They will also stop the release of money from the sale of crops or other property. They may take, by administrative offset, money you are owed by other Federal agencies.

Steps You Can Take Before FmHA Accelerates Your Loans

You can apply for the loan servicing programs described in Attachment 1. These are called Primary and Preservation Loan Service Programs. If you are indebted for a SFH loan, in some cases, interest credits may be granted to reduce your house payment or your payments may be suspended for a period of time (moratorium) and made up later. You can also ask for a meeting. At this meeting you can explain why you think FmHA's records, as indicated on this Notice, are wrong. You can also suggest things you can do to correct these problems, so as to avoid acceleration and foreclosure. You can request both loan servicing and a meeting at the same time. For example, if this Notice states that you are delinquent, and also have disposed of property without FmHA's written consent, you can request servicing to deal with the delinquency problem and request a

meeting on the question of unauthorized disposition of property.

* * * * *

18. In exhibits to subpart S, exhibit A, attachment 5, paragraph III(2) is revised to read as follows:

Attachment 5

* * * * *

Notice of Intent to Accelerate or to Continue Acceleration and Notice of Borrowers' Rights

* * * * *

III. FmHA Intends to Foreclose

* * * * *

(2) Foreclose and sell your real estate mortgaged to FmHA; this could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s).

* * * * *

19. In exhibits to subpart S, exhibit A, attachment 7, the second paragraph of the letter is revised to read as follows:

Attachment 7

* * * * *

Notification of Continued Acceleration of Loans and Notice of Borrowers' Rights

* * * * *

Dear (Borrower's Name):

* * * * *

FmHA will take legal action to: foreclose on real estate; this could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s).

* * * * *

20. In exhibits to subpart S, exhibit A, attachment 9, the paragraph under the heading "FmHA Will Accelerate Your Loans" is revised to read as follows:

Attachment 9

* * * * *

Notification of Intent to Accelerate or Continue Acceleration of Loans and Notice of Your Rights

* * * * *

Dear (Borrower's Name):

* * * * *

FmHA Will Accelerate Your Loans

This means FmHA will take legal action to collect the money you owe. They will foreclose on real estate and other property used to secure your loans. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s). They may also stop release of money from the sale of crops or other property. They may take, by administrative offset, any money you are owed by other Federal agencies.

* * * * *

PART 1955—PROPERTY MANAGEMENT

21. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

22. In § 1955.5, paragraph (d) is revised and paragraph (e) is added to read as follows:

§ 1955.5 General actions.

* * * * *

(d) *Payment of costs.* Costs related to liquidation of a loan or acquisition of property will be paid according to FmHA Instruction 2024–P (available in any FmHA office) as either a recoverable or nonrecoverable cost as defined in § 1955.53 of this subpart.

(e) *Escrow funds.* Any funds remaining in the borrower's escrow account at the time of liquidation by voluntary conveyance or foreclosure are nonrefundable and will be credited to the borrower's loan account.

23. In § 1955.15, paragraph (d)(2)(iv) introductory text is revised to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

* * * * *

(d) * * *

(2) * * *

(iv) If the decision is made to liquidate the farm loan(s) of a borrower who also has a SFH loan(s), and the dwelling was used as security for the farm loan(s) it will not be necessary to meet the requirements of subpart G of part 1951 of this chapter prior to accelerating the account. Except that, if the borrower is in default on his farm loan(s), the SFH account must have been considered for interest credit and/or moratorium at the time servicing options are being considered for the FP loan(s) prior to acceleration. If it is later determined the FP loan(s) are to receive additional servicing in lieu of liquidation, the RH loan will be reinstated simultaneously with the FP servicing actions and may be reamortized in accordance with § 1951.314 of subpart G of part 1951 of this chapter. Accounts of a borrower who has both Farmer Program and SFH loan(s) may be accelerated as follows:

* * * * *

Subpart C—Disposal of Inventory Property

24. Section 1955.135 is revised to read as follows:

§ 1955.135 Taxes on inventory real property.

Where FmHA owned property is subject to taxation, taxes and assessment installments will be prorated between FmHA and the purchaser as of the date the title is conveyed in accordance with the conditions of Forms FmHA 1955–45 or FmHA 1955–46. The purchaser will be responsible for paying all taxes and assessment installments accruing after the title is conveyed. The County Supervisor or District Director will advise the taxing authority of the sale, the purchaser's name, and the description of the property sold. Only the prorata share of assessment installments for property improvements (water, sewer, curb and gutter, etc.) accrued as of the date property is sold will be paid by FmHA for inventory property. At the closing, payment of taxes and assessment installments due to be paid by FmHA will be paid from cash proceeds FmHA is to receive as a result of the sale or by voucher and will be accompanied by one of the following:

(a) For purchasers receiving FmHA credit and required to escrow, FmHA's share of accrued taxes and assessment installments will be deposited in the purchaser's escrow account.

(b) For purchasers not required to escrow, accrued taxes and assessment installments may be:

(1) Paid to the local taxing authority if they will accept payment at that time; or

(2) Paid to the purchaser. If appropriate, for program purchasers, the funds can be deposited in a Supervised Bank Account until the taxes can be paid.

(c) Except for SFH, deducted from the sales price (which may result in a promissory note less than the sale price), if acceptable to the purchaser.

PART 1956—DEBT SETTLEMENT

25. The authority citation for part 1956 continues to read as follows:

Authority: 7 U.S,C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

26. In § 1956.58, the introductory text and paragraph (a), the introductory text of paragraph (b) and paragraphs (b)(1) and (b)(3) are revised to read as follows:

§ 1956.58 Approval or rejection.

Debt settlement cases not within the approval authority of the County Supervisor will be submitted for review in accordance with Exhibit A of this subpart (available in an FmHA office.)

(a) *Approval authority.* Subject to applicable provisions of this subpart, approval and rejection authority for

compromise, adjustment, cancellation or charge off of debts is as follows:

(1) All settlements of Farmer Programs debts and compromise or adjustment of SFH debts:

(i) Except as provided in paragraphs (a)(1)(ii) and (a)(2)(i) of this section, the State Director may approve or reject proposed debt settlements when the outstanding balance of the indebtedness involved in the settlement less the amount of any compromise or adjustment offer is less than $250,000 (including principal, interest, and other charges).

(ii) The State Director may approve the cancellation of debts discharged in chapter 7 bankruptcy in accordance with § 1956.70(b)(3) of this subpart regardless of the amount of the outstanding indebtedness.

(iii) The Administrator or designee must approve or reject settlements when the outstanding balance of the indebtedness involved in the settlement less the amount of any compromise or adjustment offer is $250,000 or more (including principal, interest, and other charges).

(2) *Cancellation or charge off of Single Family Housing Debts.* (i) The County Supervisor may approve cancellation or charge off of SFH debts regardless of amount.

(ii) The State Director may approve or reject offers for compromise or adjustment of SFH debts regardless of amount.

(b) *Processing and approval.* The approval official will:

(1) Execute completed Form FmHA 1956–1, or Form FmHA 1956–2 when applicable, and process the transaction via terminal.

* * * * *

(3) Not notify debtors of approval of the settlement of their indebtedness when debts are charged off under § 1956.75 of this subpart or cancelled under § 1956.70(b) of this subpart.

* * * * *

PART 1965—REAL PROPERTY

27. The authority citation for part 1965 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 CFR 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

28. In § 1956.26, paragraph (c)(2) introductory text is revised to read as follows:

§ 1965.26 Liquidation action.

* * * * *

(c) * * *

(2) SFH loans on nonfarm tracts should not be routinely liquidated because the borrower could not be successful in the farming operation. If the nonfarm property secures *only* an SFH loan(s) it will not be liquidated unless the appropriate provisions of subpart G of part 1951 of this chapter have been met, including the offering of interest credit assistance and/or moratorium, if eligible. When the nonfarm security is also additional security for a farmer program loan(s), consideration will be given to continuing with the SFH loan after the other security for the farmer program loan is liquidate as provided.

* * * * *

29. Subpart C of part 1965 is revised to read as follows:

Subpart C—Security Servicing for Single Family Rural Housing Loans

Sec.

Subpart C—Security Servicing for Single Family Rural Housing Loans

§ 1965.101 Purpose.

This subpart prescribes policies and procedures for servicing actions related to real estate which secures section 502 and section 504 Rural Housing (RH) loans on nonfarm tracts or on farms when the borrower is indebted to Farmers Home Administration (FmHA) for the RH loan only, herein referred to as Single Family Housing (SFH) loans. Security servicing for RH loans when the borrower is also indebted to FmHA for Farmer Program loans is under subpart A of part 1965 of this chapter.

§ 1965.102 Policy.

Real estate security is serviced under provisions of the security instruments and related agreements, including authorized modifications, in a manner which will assist the borrower in accomplishing the loan objectives and protect the Government's financial interest.

§ 1965.103 Responsibilities.

(a) *Borrower.* The borrower is responsible for:

(1) Making loan payments as agreed.

(2) Paying real estate taxes and/or assessments when due;

(3)(Keeping adequate property insurance (and flood insurance where required) in force; or making scheduled escrow installments for taxes and insurance when required by FmHA.

(4) Maintaining the property in good repair.

(b) *FmHA Officials.* The County Supervisor is authorized to execute, on behalf of the Government, all forms and other documents necessary to complete transactions under this subpart.

§ 1965.104 Preservation of security and protection of liens.

(a) *Inspection of security.* FmHA will inspect real estate security as necessary to protect the Government's interest.

(b) *Actions by FmHA for account of borrower.* When necessary to protect the interest of the Government, FmHA may make a protective advance and charge the advance to the borrower's account for amortized repayment through an increase in scheduled payments. Advances are authorized for:

(1) Payment of real estate taxes and/or assessments.

(2) Property or flood insurance premiums, whether payable by the borrower directly or under an escrow system where applicable.

(3) For care, maintenance, and repairs essential to prevent damage or deterioration of the security when the borrower is occupying the security property but is not adequately maintaining it or when the borrower has abandoned the security property.

(c) *Actions by third parties which affect security property.* When a third party brings suit or takes other action which affects FmHA security property, borrowers are expected to protect their own interests in the property. Examples of these actions are: condemnation proceedings, trespass suits, and actions to quiet title. When FmHA learns of a third-party action which may jeopardize

the Government's interest in the security or when an FmHA employee or the Government is made a party to a court proceeding, FmHA will take steps to protect the Government's interest. Protective advances will be authorized only to protect the Government's interest When foreclosure or other action which would cause the borrower to lose possession of the property is imminent, FmHA may consider making the borrower a subsequent loan if the borrower and property meet current eligibility requirements, the funds would be used for an authorized loan purpose, and the third party agrees to postpone the impeding action while a loan is processed.

(1) *Prior lien foreclosure.* When FmHA learns a prior lienholder is contemplating foreclosure, FmHA may pay off the prior lien before the foreclosure sale with an advance of funds charged to the borrower's account if this action is determined to be advantageous to the Government. The FmHA account, after payment of the prior lien, will be liquidated. When acceptable title evidence has been obtained and it is determined that a net recovery on the Government's investment can be made by acquiring the property, FmHA may bid at the foreclosure sale.

(2) *Junior lien foreclosure.* When a junior lien foreclosure does not result in payment in full of the FmHA debt but the property is sold subject to the FmHA lien, the account may be assumed by the purchaser on program or nonprogram terms if the requirements of § 1965.126 (c) or (d) of this subpart can be met. If the purchaser does not assume the FmHA debt, the loan will be liquidated.

(3) [Reserved]

(4) *Bankruptcy sale.* FmHA may bid at a bankruptcy sale provided title to the security property can be acquired free of liens other than FmHA's lien(s).

§ 1965.105 Servicing real estate taxes.

In this section, "taxes" include assessments which, if not paid, will become a lien on the property. Borrowers are required to pay the taxes on FmHA security property when they become due. Security instruments for FmHA loans provide that the borrower will escrow funds for the payment of taxes if requested by FmHA. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for taxes. Only monthly payment borrowers or those annual borrowers converted to monthly payment will be required to escrow. Failure to pay the taxes is a default of the loan covenants. In credit counseling or assisting program borrowers in budgeting or other financial planning, payment of taxes must be included. Borrowers who have not paid their taxes will be notified by FmHA. FmHA will not allow delinquent taxes to accumulate on the security for SFH Loans. Except as noted in paragraphs (a), (b), and (c) of this section, FmHA will advance funds for the taxes as follows:

(a) *Foreclosure-pending cases*—(1) *Borrowers not required to escrow.* Where State law permits, property will be sold at foreclosure sale subject to outstanding taxes. Where taxes must be paid up to the foreclosure sale date, payment should be deferred until the date of the foreclosure sale is set unless the taxing authority schedules a tax sale sooner. This permits a single advance to be processed and allows flexibility for a management decision if it is later determined, due to such considerations as high tax rate, length of time required to foreclose, and possible vandalism or other loss, there is no recovery to be made. If a tax sale is scheduled while foreclosure is pending, FmHA will either pay the taxes by voucher in accordance with paragraph (d) of this section or allow the property to be sold at the tax sale, as determined to be in the Government's best interest.

(2) *Borrowers required to escrow for taxes.* Taxes will continue to be paid as outlined in paragraph (b) of this section until the property is acquired by FmHA.

(b) *Borrowers required to escrow for taxes.* Taxes will be paid as they become due from the borrower's escrow account. If a borrower's escrow account contains sufficient funds, all discounts will be taken advantage of when it is determined by FmHA to be in the financial interest of the borrower and the Government. If a borrower has insufficient funds in his/her escrow account to pay the taxes when due, the escrow servicer will request the borrower to pay an amount equal to the difference between the taxes due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower's account as a recoverable cost. The amortization period for tax advances processed because of a shortage in escrow funds will be 1 year.

(c) *Nonprogram (NP) cases.* As used in this subpart, NP refers only to NP loans for single family residential property. NP loans include credit sales from inventory on NP terms and assumptions of loans on NP terms. FmHA will not voucher for taxes on NP loans except to protect the Government's security interest. If a tax sale is scheduled, FmHA will pay the taxes and charge to the borrower's account.

(d) *Processing tax advances.* When a borrower's taxes are to be paid by an escrow servicer, and advance will be drawn from FmHA to cover the escrow shortage. When a borrower's taxes are to be paid by FmHA, the advance will be charged to the borrower's account. A tax advance will bear interest at the rate which is in effect on the initial loan or the lowest loan number within the funds code still outstanding, and the amortization period of the tax advance will be the number of months for which the taxes are being vouchered.

§ 1965.106 Subordination of FmHA lien.

A borrower may request FmHA to subordinate its lien by written application on a form provided by FmHA.

(a) *Subordination of lien for purposes other than graduation/refinancing.* Subordination of FmHA's lien to another lender may be granted subject to the following provisions:

(1) The funds obtained from the other lender will be used only for purposes for which an RH loan could be made and subject to the same limitations applicable to RH loan funds.

(2) The prior lien debt plus the FmHA debt will not exceed the market value of the security. (For this purpose, the FmHA debt is the unpaid balance on the loan exclusive of recapture of subsidy.)

(3) The prior lien debt must be on terms and conditions which the borrower can reasonably be expected to meet without jeopardizing repayment of the FmHA indebtedness.

(4) Proposed development, if any, will be planned and performed in accordance with subpart A of part 1924 of this chapter or directed by the other lender in a manner which is consistent with that subpart.

(5) The funds obtained from the other lender for development will be handled through a supervised bank account or under other arrangements approved by FmHA which will assure the funds are used for the planned purposes.

(6) An agreement must be obtained in writing from the prior lienholder providing that at least 30 days advance notice will be given to FmHA before action to foreclose on their prior lien is initiated.

(b) *Subordination of lien for recapture to enable a borrower to graduate or refinance.* When a borrower can graduate to other credit pursuant to subpart F of part 1951 of this chapter, or is refinancing the FmHA debt(s), and elects not to pay recapture at that time.

the FmHA lien may be subordinated to secure the recapture receivable only. The amount to which the FmHA debt will be subordinated will not exceed the amount required to pay the FmHA debt (exclusive of recapture) plus reasonable closing costs and an amount not to exceed one percent for loan servicing costs if required by the lender. Further subordination of a lien securing a recapture receivable only is not authorized.

(c) [Reserved]

(d) [Reserved]

§§ 1965.107–1965.109 [Reserved]

§ 1965.110 Release of security.

(a) *Release or partial release.* A borrower may request release of FmHA's security interest by written application on a form provided by FmHA. FmHA may consent to transactions affecting the security, such as sale or exchange of security or granting of a right-of-way across the security, and grant a release or partial release provided:

(1) The consideration is:

(i) In the sale of property, cash in an amount equal to the value of the security being disposed of or rights granted;

(ii) In exchange of property, another parcel of property acquired in exchange with value equal to or greater than that being disposed of as determined by a current appraisal; or

(iii) In granting an easement or right-of-way, benefits derived which are equal to or greater than the value of the property being disposed of.

(2) The security after the transaction is completed will be an adequate but modest, decent, safe, and sanitary dwelling and related facilities.

(3) Repayment of the FmHA debt will not be jeopardized.

(4) If applicable, the requirements of § 1940.310(e)(2) of subpart G of part 1940 of this chapter (environmental regulations) must be met.

(b) [Reserved]

(c) [Reserved]

(d) *Use of proceeds.* Proceeds from sale of a portion of the security, granting of an easement or right-of-way, damage compensation, and all similar transactions requiring FmHA consent, will be used in the following order:

(1) To pay customary and reasonable costs (as determined by FmHA) related to the transaction which must be paid by the borrower, such as real estate taxes which must be paid to conclude the transaction; cost of title examination, survey, abstract, and reasonable attorney's fees; costs necessary to determine a reasonable price, such as appraisal of minerals, when the necessary appraisal cannot be obtained without cost; and additional income tax the borrower will be required to pay.

(2) To be applied on a prior lien debt, if any; and

(3) To be applied to the FmHA indebtedness as an extra payment or used for improvements to the security property in keeping with purposes and subject to limitations applicable to use of RH loan funds. Proposed development will be planned and performed in accordance with subpart A of part 1924 of this chapter and the proceeds handled through a supervised bank account to assure the proceeds are used as planned.

§ 1965.111 Junior liens.

Within the scope of credit counseling, SFH borrowers will generally be discouraged from giving junior liens on real estate which secures their SFH debt. However, FmHA consent is not required, and the existence of a junior lien may not be treated as a default or used as justification for forced liquidation action. When junior liens exist, the FmHA loan will be serviced in the usual manner as long as the borrower makes payments as scheduled, properly maintains the security, and meets other loan conditions. The existence of a junior lien will not prevent liquidation action if the borrower is in default. Should FmHA be approached by an existing or potential junior lienholder as to the amount of FmHA's debt, the unpaid balance on the FmHA loan for this purpose will be stated as the sum of unpaid principal and interest and, if the loan is subject to recapture of subsidy, total subsidy granted and principal reduction attributed to subsidy. FmHA may consent to a junior lien and enter into an agreement to notify the junior lienholder in the event FmHA initiates foreclosure only when:

(a) The proposed loan is for purposes for which FmHA RH loan funds could be used or for business purposes to enhance earning capacity; and

(b) Repayment of the FmHA loan will not be jeopardized.

§ 1965.112 Lease of security property.

(a) When FmHA is aware a borrower has leased or proposed to lease security property, the borrower will be informed in writing of the limitations on leasing outlined in this subsection. The borrower will be requested to furnish FmHA a copy of the lease or proposed lease. FmHA consent to lease is not required, and if FmHA is unable to obtain a copy of the lease or is advised by the borrower a written lease does not exist, no further action is required by FmHA. When a borrower is leasing security property, FmHA will give full consideration to the possibility of the borrower refinancing the FmHA debt with private credit (graduation). No action to initiate liquidation will be taken by FmHA unless the borrower:

(1) Has entered into a lease for a term of more than 3 years;

(2) Has entered into a lease for any term containing an option to purchase; or

(3) Is in default of one or more of the following loan obligations: keeping the account current, adequately maintaining the property, keeping the property insured, and paying real estate taxes when due. (If required to escrow for taxes and insurance, the last 2 are included in scheduled payments.) or,

(4) Has failed to refinance (graduate) pursuant to provisions of subpart F of part 1951 of this chapter.

(b) If a borrower leases or proposes to lease security property for a term of more than 3 years, or with an option to purchase, FmHA should normally initiate liquidation action, preferably voluntary. However, if FmHA determines it is in the Government's best interest to consent to such a lease arrangement, FmHA may consent.

§ 1965.113 Mineral leases.

(a) *Authority.* A borrower may request consent to lease the mineral rights by completing a written application on a form provided by FmHA. When a borrower requests consent to lease the mineral rights to security property, FmHA may consent provided the proposed use of the leased rights will not result in the property being made unsuitable as a nonfarm residence and the Government's security interest is not adversely affected. If requested, FmHA may subordinate its lien(s) to the lessee's rights and interest in the mineral activity if FmHA determines that this will not be adverse to the Government's interest so that in the event FmHA should foreclose, the mineral lease would not be extinguished by the foreclosure. Such a subordination to a lease interest does not entitle the leaseholder to any proceeds from sale of the security property.

(b) *Income from lease of mineral rights.* (1) The basic rental proceeds from lease of mineral rights will be treated as income.

(2) If the proposed activity is such that it will decrease the security value of the property (such as oil drilling or quarrying), FmHA consent may be given only if the borrower assigns the income from the lease (both damage

compensation and royalty payments) to FmHA to be applied to the FmHA loan(s) as extra payments.

(3) If the proposed activity is not likely to decrease the security value of the property, damage compensation must be used either to repair the damage or be assigned to FmHA for application on the FmHA loan(s) as an extra payment; and royalty payments will be treated as borrower income.

(c) [Reserved]

§§ 1965.114–1965.115 [Reserved]

§ 1965.116 Deceased borrower.

When a SFH borrower dies, FmHA will determine whether or not continuation with the loan will be allowed under one of the provisions of this section, or whether liquidation will be required. Situations under which continuation is authorized are:

(a) *Continue with jointly liable borrower.* If a jointly liable borrower will continue occupying the dwelling and repaying the loan, and fulfills other loan obligations, FmHA will take no action to liquidate the loan.

(b) *Continue with relative, joint tenant, or tenant by the entirety.* When a relative, joint tenant, or tenant by the entirety who inherits title to (or an interest in) the security property by devise, descent, or operation of law upon the death of a borrower makes payments as scheduled in the promissory note (or assumption agreement), FmHA may not take action to liquidate the loan as long as the property is adequately maintained, real estate taxes and assessments are paid when due, and the dwelling is not known to be uninsured. (If funds for taxes and insurance are being escrowed, the escrow is a part of scheduled payments.) Assumption of the indebtedness is not required, and occupancy of the dwelling is subject only to the restrictions on leasing outlined in § 1965.112 of this subpart. Interest credit may be granted only to a borrower (obligor by virtue of a note or assumption agreement); therefore, interest credit may be granted only when at least one borrower is occupying the dwelling except as provided in § 1965.126(c)(2)(ii) of this subpart. The loan remains subject to graduation requirements set forth in subpart F of part 1951 of this chapter only if the debt is assumed. Continuation with a relative, joint tenant, or tenant by the entirety under the provisions of this paragraph applies only to the transfer of title resulting from death of the borrower; it does not apply to any subsequent transfer of title by the inheritor(s) except by devise, descent, or operation of law upon the death of the inheritors or sale of interests among inheritors to consolidate title. Any other subsequent transfer of title will be treated as a sale and is subject to the requirements of § 1965.126 of this subpart.

(c) *Assumption by spouse not liable for the FmHA debt.* The spouse of a deceased borrower who is not liable for the FmHA debt and who wishes to assume the loan may do so.

(d) *Assumption by person, other than the spouse, who is not liable for the FmHA debt.* A person other than the deceased borrower's spouse who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death, without receiving title to the property, may do so in accordance with § 1965.126(c)(2)(ii) of this subpart provided:

(1) The dwelling will continue to be occupied by one or more persons who were dependent on the borrower at the time of death; and

(2) There is reasonable prospect for orderly repayment of the loan and other loan conditions will be met such as payment of taxes, insurance, maintenance, and assessments.

§ 1965.117 Bankruptcy.

This section applies to SFH borrowers who declare bankruptcy under chapter 7 (liquidation) or chapter 13 (adjustment of debts of an individual with regular income) of the Federal Bankruptcy Code. SFH borrowers who declare bankruptcy and are also indebted for a Farmer Program loan(s) will be handled under this section in conjunction with subpart A of part 1962 of this chapter. SFH borrowers who file petitions for bankruptcy under chapter 11 (reorganization) and chapter 12 (farm reorganization) will be handled under a State supplement or on a case-by-case basis.

(a) [Reserved]

(b) *Initial notification of bankruptcy.* After receiving notice a borrower has filed a petition in bankruptcy, FmHA will continue to accept payments made voluntarily by the borrower, but will discontinue collection efforts.

(c) *Chapter 13 cases.* FmHA must continue with a borrower covered under a confirmed chapter 13 plan. If a borrower defaults in payments during the plan, FmHA will use all available remedies to protect the Government's interest.

(d) *Chapter 7 cases.* If FmHA decides to continue with the borrower, an effort will be made to have the borrower execute a new promise to pay to reinstate the obligation to repay the loan. If, however, a new promise to pay is not executed by the borrower, FmHA will send a letter to the borrower after discharge, advising the borrower that FmHA acknowledges that he/she is not personally liable for the debt; the security property will be the only source to which FmHA may look for recovery of the debt, and in the event of foreclosure, FmHA will be barred from seeking a deficiency judgment. The letter will also indicate that as long as the scheduled payments are made and all other covenants contained in the promissory note(s) and security instrument(s) are complied with, FmHA will not foreclose. Servicing in the latter case includes entitlement to all program benefits for which the borrower may be eligible including but not limited to interest credit, moratorium, and appeal rights.

(e) *Not continuing with discharged Chapter 7 borrower.* If FmHA decides not to continue with a secured loan, liquidation action, either voluntary or foreclosure, may be initiated provided the account was serviced in accordance with subpart G of part 1951 of this chapter prior to the borrower filing bankruptcy as soon as one of the following has occurred:

(1) The bankruptcy case is dismissed or closed.

(2) An order lifting the automatic stay is received.

(3) The property is no longer property of the bankruptcy estate and the borrower has received a discharge.

(f) *Servicing prior to discharge or during a Chapter 13 plan.* A petition filed under the Bankruptcy Code operates as an automatic stay. This stay prohibits all collection efforts and foreclosure actions. The receipt of voluntary payments, granting of interest credit and moratoriums, and collection letters for a borrower under a confirmed chapter 13 plan that are sent to the Trustee, however, are allowed.

(g) *Servicing discharged borrowers.* Discharge under chapter 7 of the Bankruptcy Code operates as an injunction against any act to collect a debt which implies personal liability of the debtor. Chapter 13 debtors' discharges will not include the FmHA debt if the final due date is after expiration of the plan. For borrowers who have received discharges under chapter 7, normal servicing procedures will be followed after one of the situations outlined in paragraph (e)(1), (e)(2), or (e)(3) of this section has occurred, provided the borrower has received the letter specified in paragraph (d)(2) of this section or properly executed a new promise to pay.

For borrowers who filed under chapter 13, normal servicing may be resumed when the confirmed plan has expired or been terminated (dismissed).

§ 1965.118 Release of FmHA lien without monetary consideration.

FmHA may release its lien(s) without monetary consideration as follows:

(a) *Additional security.* When a lien on real estate was taken as additional security before the loan is repaid provided the market value of the remaining security is clearly adequate to secure the loan balance. Property considered as "additional security" may not be any part of the tract bought with RH loan funds or part of the minimum-adequate site on which the dwelling is located.

(b) *Mutual mistake.* When property was included in the security instrument through mutual mistake provided FmHA can substantiate that the property was included in the security instrument erroneously.

(c) *Valueless lien.* When FmHA determines a lien has no present or prospective value or enforcement would be ineffectual or uneconomical. This does not include judgment liens or statutory redemption rights except with the consent of OGC. After release of a valueless lien the debt must be settled according to subpart B of part 1956 of this chapter.

(d) *No evidence of indebtedness.* When FmHA can find no evidence of an existing indebtedness secured by the security instrument in the records of FmHA.

§§ 1965.119–1965.124 [Reserved]

§ 1965.125 Liquidation.

(a) *Voluntary liquidation*—(1) *Agreement.* When it is determined the borrower cannot or will not successfully achieve the loan objectives, FmHA will attempt to have the borrower liquidate voluntarily. The exception is: A borrower who has bankruptcy proceedings pending should not be requested to liquidate voluntarily until one of the situations outlined in § 1965.117(e) of this subpart exists. FmHA will advise the borrower if there appears to be any equity in the property. The borrower will be encouraged to sell the property, paying FmHA in full and realizing the equity, if any. If the loan is subject to recapture of subsidy, the borrower should be reminded that a portion of equity will be recaptured. After reaching agreement for voluntary liquidation, FmHA may allow the borrower 120 days to sell the property or otherwise arrange to pay FmHA in full, after which voluntary conveyance should be considered unless a transaction is pending which will likely result in paying the loan in full. At the borrower's request, an extension of time may be allowed to complete a transaction provided the property is listed with a real estate broker for not more than the market value as determined by FmHA; or a sale contract has been entered into and assumption of the FmHA loan, or a loan from another lender, is pending; or the borrower has applied to another lender for a long-term loan to pay FmHA in full.

(2) *Consent to sale when the FmHA debt and authorized expenses exceed market value.* If a borrower proposes to sell the security property for an amount which will be insufficient to pay the FmHA debt, prior lien(s) if any, and authorized selling expenses, an appraisal will be completed and FmHA may consent to the sale if the proposed sale price is not less than the market value. If a current financial statement is not in the case file, a financial statement will be taken to determine whether or not the borrower can pay the unsatisfied account balance (including any expenses FmHA must pay and charge to the account to conclude an assumption) from income, or has other assets from which collection could be made.

(i) *Authorized selling expenses.* Authorized selling expenses are those which the seller customarily or legally must pay to convey title and include but are not limited to: A real estate broker's commission which does not exceed the most typical rate for the sale of similar property in the area, no more than three points to enable the buyer to obtain credit from another lender provided they are not being paid to reduce the purchaser's interest rate, real estate taxes, preparation of the deed, abstract and/or title fees, termite and/or other related inspections, title insurance, surveys, and deed or other revenue stamps. Junior liens may also be settled in the same manner as outlined in § 1955.10(c)(2) of subpart A of part 1955 of this chapter.

(ii) *Restriction on payment of broker's commission.* No commission will be allowed under paragraph (a)(2)(i) or paid under paragraph (a)(2)(iii) of this section when the sale is to the broker, broker's salesperson(s), to persons living in his/her or salesperson(s) immediate household or to legal entities in which the broker or salesperson(s) have an interest if the sale involves FmHA credit. If credit is not being extended in these instances (a cash sale), a commission will be allowed or paid.

(iii) *Closing the transaction.* In no case will the borrower (seller) receive any cash proceeds from the sale. Funds contained in the borrower's (seller's) escrow account will be transferred to the buyer, to be deposited in the buyer's escrow account, if obtaining FmHA credit and required to escrow, as the seller's prorata share of taxes and assessments, at the time of the closing of the transaction. Where there are sufficient cash proceeds available at closing, the entire sale proceeds, minus prior liens, if any, and authorized selling expenses, must be applied to the FmHA debt. Where cash proceeds are not available or are insufficient to pay authorized selling expenses, FmHA may pay said expenses necessary to consummate the transaction when it is determined to be in FmHA's financial interest.

(iv) *Release from liability.* When consent under this paragraph is given, FmHA will release its security instrument(s). Release of the borrower from liability is covered in § 1965.127 of this subpart.

(3) [Reserved]

(b) *Forced liquidation.* If the borrower will not agree to voluntarily liquidate or fails to accomplish it within the time agreed to be FmHA, foreclosure will be initiated.

§ 1965.126 Transfer of property with assumption of indebtedness.

When a borrower proposes to sell real estate security, assumption of the loan(s) may be approved on program or nonprogram (NP) terms, as applicable, subject to provisions of paragraphs (c) and (d) of this section. Assumptions under paragraphs (b)(12) and (c)(2) of this section only are authorized on existing terms without considering the assuming party's eligibility for program assistance. When security property is sold (or title is otherwise conveyed), whether by full conveyance or by land contract-for-deed, or other similar instrument, and the FmHA account is not assumed by the purchaser (or new owner), the loan must be liquidated except as provided in paragraph (b)(12) of this section or § 1965.116 of this subpart.

(a) [Reserved]

(b) *General.* The following policies apply to all transfers and assumptions under this subpart:

(1) *Loan classification and/or changes.* A loan may be assumed as outlined in this subparagraph, after which the loan will be classified according to the terms on which it was assumed. Assumption on program terms is authorized ONLY when both the assuming party meets eligibility requirements AND the property is suited for the housing program.

(2) [Reserved]

(3) *Dwelling situated on more than a minumum-adequate site.* If the property to be transferred with assumption consists of a dwelling on more than a minimum-adequate site as defined in subpart A of part 1944 of this chapter, a determination must be made by FmHA as to whether the excess land can serve as a minimum-adequate site for another dwelling. It is not intended to exclude a property currently in the program from being transferred to a program applicant simply because it is situated on more than a minimum-adequate site. If it is determined the excess property cannot be sold separately as a minimum-adequate site for another dwelling, the property may be retained in the SFH program provided the entire property is modest in cost compared to a similar house on a minimum-adequate site in the area. When all of the security property is not being transferred to the party assuming the FmHA debt and the balance of the FmHA debt is not paid in full when the assumption is closed, the remaining debt of the transferor will be reamortized over a period not to exceed 10 years at the interest rate of the transferor's loan(s) which remains outstanding. FmHA will retain its security position on the portion of property retained by the transferor until the balance not assumed is repaid.

(4) *Suitability of property for retention in program.* (i) A single family dwelling presently financed by FmHA may be transferred to a program applicant on program terms provided it meets FmHA program requirements and policies. These properties are not being brought into the RH program in the same sense as existing properties not already financed by FmHA. They are properties in which FmHA already has a long-term lending commitment and security interest. Therefore, such properties may be retained in the program although they contain more square feet of living area and/or design features which would not be permitted when making an initial loan for an existing dwelling according to Subpart A of Part 1944 of this chapter. It must, however, be typical of modest homes in the area.

(ii) In some instances, a property presently financed under the section 502 RH program may not be suited for retention in the program. In those instances, assumption may be on NP terms only, according to paragraph (d) of this section. Situations of this type include, but are not limited to, a dwelling which has been enlarged or improved to the point it is clearly above modest in size, design and/or cost; a dwelling which should not have been financed originally (as determined by FmHA); a dwelling brought into the program as an existing dwelling which met program standards at the time it was originally financed by FmHA, but which does not conform to current policies. This includes older and/or larger houses of a type that have been proven to create excessive energy and/or maintenance costs to very-low and low-income borrowers; a dwelling which is obsolete due to location, design, construction or age.

(5) *Amount of assumption.* Except for transfers covered in paragraphs (b)(12) and (c)(2) of this section, the transferee will assume the entire FmHA indebtedness unless the indebtedness plus prior liens exceeds the "as is" market value of the property, in which case the transferee will assume an amount equal to the "as is" market value of the property, less the amount of prior liens, if any. In the situations outlined in paragraph (b)(12) or (c)(2) of this section, the amount of the debt will not be changed. When the buyer and seller have agreed upon transfer for "amount of debt," recapture of subsidy due based on "as-is" market value of the security property must be calculated and included as part of the total indebtedness.

(6) *Recapture of subsidy.* Recapture of subsidy in connection with assumptions will be as provided in subpart I of part 1951 of this chapter.

(7) *Consent of prior lienholder.* If there is a prior lien and if required by security instruments or other agreement, written consent of the prior lienholder will be obtained before approval of a transfer with assumption.

(8) *Junior liens.* When the full amount of the FmHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to the FmHA lien(s) being assumed unless FmHA has determined those liens will not adversely affect the Government's security interest and that the transferee's ability to repay the FmHA debt will not be impaired. When less than the full indebtedness is being assumed, there must be no liens against the security which are junior to the FmHA lien(s).

(9) *Loan in connection with assumption.* A loan for which the assuming party is eligible may be made according to subpart A of part 1944 of this chapter in connection with the assumption.

(10) *Withdrawal of jointly liable borrower.* When a jointly liable borrower withdraws, such as in a divorce case, the remaining borrower will not execute an assumption agreement. FmHA's accounting records will be changed to reflect the name of the person with whom the account will be continued if the account is not already in the name of that person.

(11) *Change in rural area designation.* Where security property is located in an area which has been redesignated from rural to nonrural, a loan may be assumed without considering the nonrural designation.

(12) *Conveyance of security property by borrower to spouse or child.* When a borrower conveys security property to his/her spouse or child (children), assumption of the indebtedness is not required and FmHA may not take action to liquidate the loan as long as payments are made as scheduled and other loan conditions are met. Interest credit may be granted only to a qualified borrower; therefore, if the house if not occupied by the borrower, interest credit may not be granted. In the event the transferee(s) wishes to assume the indebtedness, it may be assumed on the terms outlined in paragraph (c)(2)(i) of this section as applicable to the circumstances. The loan remains subject to the graduation requirements set forth in subpart F of part 1951 of this chapter.

(13) *Repairs.* When a loan is to be assumed on program terms, repairs necessary to bring the property to program standards will be accomplished with a subsequent loan in accordance with subpart A of part 1944 of this chapter, unless the transferee has sufficient funds to make the repairs with his/her own resources. In no case will FmHA suggest, encourage, or require that the transferor (seller) make necessary repairs as a condition for approving a transfer with assumption.

(c) *Assumption on program terms.* A loan may be assumed on program terms when the transferee meets eligibility requirements in the loan making regulation for the type loan involved, except that a Section 504 transferee may have only an ownership interest in the property and must occupy the dwelling as his/her residence after the assumption is closed. Interest rates and amortization periods are as follows:

(1) Except as provided in paragraphs (b)(12) and (c)(2) of this section, the applicant may request the interest rate charged by FmHA to be the lower of the rate in effect at either the time the assumption is approved or closed. If the applicant does not indicate a choice, the assumption will be closed at the rate in effect at the time of approval. Interest rates change from time to time, and the current rate of interest will be quoted upon request by any FmHA office. The repayment period may be up to the

maximum legal limit for the type loan involved. If the assuming party is to receive interest credit, the term must be at least 25 years and should be the maximum legal limit.

(2) In the situations outlined in paragraphs (b)(12) and (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this section only, the assuming party will execute an assumption agreement to assume the indebtedness on the existing terms; unless, due to more favorable terms available at the time, the assuming party desires to assume the loan on new terms. If the assuming party desires to assume the loan on new terms, all eligibility requirements of subpart A of part 1944 of this chapter must be met. If a same-terms assumption is consummated, FmHA's accounting records will be changed to reflect the name and case number of the assuming party. Same-terms assumptions under this paragraph are authorized without considering the assuming party's eligibility for program assistance. The interest rate, final due date, payment date, account status (current, delinquent, ahead of schedule) will not be changed by virtue of the assumption. After assumption, compliance with loan conditions is required. If a same-terms transfer is consummated and the account is delinquent, it may be reamortized in accordance with subpart G of part 1951 of this chapter. Eligibility for interest credit will be considered or re-evaluated at the time of assumption. Situations where these terms are authorized are:

(i) An individual who acquires title to or an interest in the security property by virtue of death, divorce, or deed from a spouse or parent but is not liable for the debt and who wishes to assume the loan may do so. Any subsequent transfer of title, except between inheritors to consolidate title, will be treated as a sale and is not covered by these provisions. Individuals in this category are: A deceased borrower's surviving spouse, a divorced borrower's ex-spouse; a joint tenant with right of survivorship or relative of a deceased borrower; or the spouse or child of a living borrower to whom title to the security property has been conveyed by spouse or parent.

(ii) A person other than the deceased borrower's spouse who wishes to continue with the loan under conditions outlined in § 1965.116(b) or (d) of this subpart may do so. In the type situation outlined in § 1965.116(d) of this subpart, interest credit may be considered based on the income of only the occupants of the security property, whether or not the assuming party is one of the occupants, if the loan is otherwise eligible for interest credit.

(iii) A borrower's spouse, other relative or joint tenant who is not liable for the debt and wishes to assume the debt with an existing borrower may do so.

(d) *Assumption on NP terms.* When a borrower sells or proposes to sell security property and the purchaser does not meet the eligibility requirements for an RH loan, or the property is not suited for retention in the housing program, the debt may be assumed or NP terms if the assuming party has repayment ability, is creditworthy, and it is advantageous to the Government to allow the assumption. If the purchaser does not assume the debt, the loan must be liquidated. After assumption on NP terms, the loan will be classified as a NP loan. The assumption agreement will bear interest at the SFH-NP rate in effect on the date the assumption is approved. The term of the assumption may not exceed the period for which the property will serve as adequate security for the debt. A payment based on a percentage of the debt (including any subsidy due) or the current "as is" market value of the property, whichever is lower, must be made at closing to reduce the amount assumed. This percentage and the interest rate change from time to time, and the current percentage, based on whether or not the buyer intends the occupy the dwelling, and the current interest rate will be quoted upon request by any FmHA office. Other terms are as follows:

(1) When the purchaser does not own an adequate home and intends to occupy the house, the term may be for a period not to exceed 30 years. The downpayment required in such a case is lower than for a purchaser who does not intend to occupy the house.

(2) When the purchaser does not meet the criteria in paragraph (d)(1) of this section, the amortization period will not be for more than 10 years unless FmHA determines more favorable terms are necessary to facilitate the sale. The downpayment required in such a case is higher than for a purchaser who intends to occupy the house.

(e) *Processing and closing transfer with assumption.* (1) [Reserved]

(2) [Reserved]

(3) *Title clearance and loan closing.* Title clearance and closing of the assumption (and subsequent loan, if any) will be under part 1807 of this chapter (FmHA Instruction 427.1) and subpart A of part 1944 of this chapter for a section 502 loan or subpart J of part 1944 of this chapter for a section 504 loan.

(4) *Insurance.* Fire/hazard insurance is required in accordance with subpart A of part 1806 of this chapter (FmHA Instruction 426.1). Flood insurance is required on any house located in an identified flood or mudslide hazard area where flood insurance is available. If the house was built prior to implementation of the flood insurance program and flood insurance has never been available or is no longer available, assumption on program or NP terms may be approved without flood insurance provided the house is determined by FmHA to be safe (that is, any hazard that exists would not likely endanger the safety of dwelling occupants). If not safe, or if water rises inside the living space of the house frequently, the property will be classified as NP and therefore subject to assumption on NP terms only. If the house is located in an identified flood or mudslide hazard area and flood insurance is not available when the assumption is approved, FmHA may approve the transaction subject to the requirement for having flood insurance if it becomes available in the future.

(5) *Escrow Funds.* Taxes will be prorated at the time the assumption is closed. If the escrow account contains sufficient funds, the transferor's prorated share will be paid or transferred to the transferee's escrow account. Any remaining escrow funds not needed at closing will be refunded to the transferor. If there are insufficient funds escrowed to pay the transferor's share of the taxes, the shortage will be deducted from any proceeds payable to the transferor at closing; or if no funds are due the transferor, the amount needed may be vouchered and charged to the transferor's account.

(f) *Release from liability.* Release from liability will be under § 1965.127 of this subpart when authorized.

§ 1965.127 Release from liability and servicing unsatisfied account balances.

The policy on release or nonrelease from liability is as follows:

(a) When the borrower's account is satisfied by assumption of the account in full, the borrower (and co-signer, if any) will be released from liability.

(b) A person who is jointly liable for a loan will be released from liability provided:

(1) A divorce decree of property settlement document did not make the withdrawing party responsible for loan payments;

(2) The withdrawing party's interest in the security is conveyed to the person

with whom the loan will be continued; and

(3) The person with whom the loan will be continued has adequate repayment ability.

(c) When the account is not satisfied by sale proceeds or assumption in full, the borrower (and co-signer, if any) will NOT be released from liability. If the financial statement of the borrower (or co-signer) indicate income or other assets from which collection could be made, one of the following actions, as applicable, will be taken:

(1) The borrower (and co-signer, if any) will be requested to establish a repayment schedule for the account balance by executing a reamortization agreement bearing the same interest rate as the unsatisfied loan and scheduled for repayment over a period determined by FmHA to be reasonable based upon the income available, but not to exceed 5 years.

(2) If the borrower (and/or co-signer, if any) is unable or unwilling to make installment payments from income, the borrower's (and co-signer's) assets will be assessed to determine if collection could likely be made through a judgment. In every case where the borrower (or co-signer) owns other real estate, of if the borrower is known to be in the process of purchasing other real estate (such as another dwelling), (except, if an agreement has been reached for installment payments on the account balance), FmHA will refer the borrower's file for initiation of legal action against the borrower (and co-signer, if any) to obtain a judgment to attach the available assets or secure any repayment agreement.

(3) When the financial statement of the borrower (and co-signer, if any) does not show ability to repay the unsatisfied account balance from income and there are no assets from which collection could be made; or FmHA has exhausted efforts to collect under a voluntary payment schedule; the account balance will be settled pursuant to subpart B of part 1956 of this chapter.

§ 1965.128 Assignment of promissory notes and security instruments.

FmHA may assign the note(s) and security instrument(s) on a nonrecourse basis as outlined in this section. For loans subject to recapture of subsidy, recapture must be calculated based on current market value and any recapture due must be considered as a part of the indebtedness at the time of the assignment. Assignment is authorized in the following instances:

(a) A borrower has requested it in writing when FmHA is being paid in full.

(b) An insurance company is paying FmHA in full following a property loss.

(c) A junior lienholder is foreclosing its lien and is paying FmHA in full.

(d) An account has been accelerated, all appeals have been exhausted, foreclosure is in process, and FmHA is being paid at least the current market value of the security property.

§ 1965.129 Cosigners.

Although a cosigner is personally liable for repayment of the FmHA debt, he/she is not entitled to any interest in the security or the rights of the borrower under the loan or security instruments. If the security is transferred to the cosigner, he/she may assume the FmHA indebtedness on program or nonprogram terms, as applicable.

(a) *Replacement of cosigner.* If it is necessary to replace a cosigner, a person determined by FmHA to have repayment ability may be substituted. The new cosigner will execute an agreement provided by FmHA to guarantee payment of the balance owed on the RH debt. In such a case, the borrower is responsible for producing the replacement cosigner.

(b) *Release of cosigner.* Upon satisfactory substitution of a new cosigner, FmHA will release the previous cosigner of a note from personal liability.

§§ 1965.130–1965.134 [Reserved]

§ 1965.135 Pilot projects.

From time to time FmHA conducts pilot projects to test concepts related to the management and/or sale of SFH inventory property which may deviate from the provisions of this subpart, but will not be inconsistent with provisions of the Housing Act of 1949, as amended, or other Acts affecting FmHA's SFH program. Prior to initiation of a pilot project, FmHA will publish in the **Federal Register** a Notice outlining the nature, scope, and duration of the pilot. The pilot projects may be handled by FmHA employees and/or under contract with persons, firms, or other entities in the private sector.

§§ 1965.136–1965.138 [Reserved]

§ 1965.139 FmHA Instructions.

Detailed FmHA Instructions for administering this subpart are available in any FmHA office [FmHA Instruction 1965–C].

§§ 1965.140–1965.150 [Reserved]

Dated: August 17, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–22686 Filed 9–27–89; 8:45 am]

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Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 89–116]

Llamas and Alpacas Imported From Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the animal import regulations by adding health certification requirements and requirements concerning quarantine upon arrival in the United States for llamas and alpacas from Chile. It appears that this action is necessary to strengthen the protection against the introduction into the United States of communicable livestock diseases in the event Chile is declared free of rinderpest and foot-and-mouth disease.

DATE: Comments must be received on or before November 27, 1989.

ADDRESS: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89–116. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David E. Herrick, Chief Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, Room 765, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8590.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR subchapter D (referred to below as the regulations), among other things, regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various livestock diseases.

A document published in the Federal Register on August 17, 1989 (54 FR 33918–33920, Docket Number 88–216), and captioned "Change in Disease Status of Chile Because of Foot-and-Mouth Disease," proposes to add Chile to the list, in § 94.1(a)(2) of the regulations, of locations free of rinderpest and foot-and-mouth disease (FMD). Adding Chile to the list in § 94.1(a)(2) would remove the FMD restrictions on the importation into the United States, from Chile, of ruminants and swine, and fresh, chilled, and frozen meats of these animals. Chile had been removed from the list only because FMD had existed in that country.

Because Chile is not recognized as being free of hog cholera and swine vesicular disease, swine and pork or pork products offered for importation into the United States from Chile would continue to be subject to the prohibitions and restrictions imposed in part 94 because of those diseases.

The docket captioned "Change in Disease Status of Chile Because of Foot-and-Mouth Disease" also proposes to add Chile to the list, in § 94.11(a) of the regulations, of countries free of rinderpest and FMD which are subject to special restrictions on the importation into the United States of their meat and other animal products.

Additional Criteria Needed for Importing Llamas and Alpacas

Certain requirements in part 92 apply to the importation into the United States of certain animals, including llamas and alpacas from countries declared free of rinderpest and FMD. These requirements concern ports of entry, import permits, health certification, declaration upon arrival, inspection at the port of entry, movement from conveyances at the port of entry to the quarantine station, and quarantine upon arrival in the United States. The regulations currently do not contain all of the criteria concerning the health certification and quarantine upon arrival requirements believed necessary for llamas and alpacas offered for importation into the United States from Chile. This document proposes to add these criteria. The other requirements that are applicable to llamas and alpacas from countries declared free of rinderpest and FMD would also be applicable to llamas and alpacas imported from Chile.

Health Certification Requirements

The certification requirements currently applicable to the importation of llamas and alpacas from FMD-free countries (§ 92.5) provide, in relevant part, that ruminants and swine (with certain exceptions) offered for importation into the United States:

* * * shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that such animals have been kept in said country at least 60 days immediately preceding the date of movement therefrom and that said country during such period has been entirely free from foot-and-mouth disease, rinderpest, contagious pleuropneumonia, and surra * * *.

If ruminants or swine are unaccompanied by the certificate * * *, or if such animals are found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed thereto, they shall be refused entry and shall be handled thereafter in accordance with the provisions of section 8 of the Act of August 30, 1890 (26 Stat. 416; 21 U.S.C. 103), or quarantined, or otherwise disposed of as the Administrator may direct.

This document proposes to amend the health certification requirements applicable to the importation of llamas and alpacas from Chile by adding a new § 92.46 as follows:

Section 92.46 Llamas and alpacas from Chile.

No llama or alpaca from Chile shall be imported or entered into the United States unless in accordance with paragraphs (a) and (b) of this section.

(a) *Health certification requirements.* A llama or alpaca shall not be imported into the United States from Chile unless accompanied by a health certificate either signed by a salaried veterinarian of the national veterinary services of Chile or signed by a veterinarian authorized by the national veterinary services of Chile and endorsed by a salaried veterinarian of the national veterinary services of Chile (the endorsement representing that the veterinarian signing the health certificate was authorized to do so and that, as far as can be determined, the statements on the health certificate are accurate), certifying that:

(1) Chile is free from rinderpest, foot-and-mouth disease, contagious pleuropneumonia, and surra.

(2) The animal and its sire and dam were born in Chile and have never been in any country other than Chile.

(3) The animal was inspected on the premises of origin by the certifying veterinarian and found free of evidence of communicable disease.

(4) The animal came from a premises of origin that, as far as can be determined by the certifying veterinarian, based on information available from the owner of the premises of origin and other sources, had been free of outbreaks of communicable disease for the 6-month period immediately preceding the date of movement of the animal from the premises of origin.

(5) The animal was individually identified using an eartag, tattoo, or brand prior to moving the animal from the premises of origin to the preembarkation quarantine facility.

(6) The animal was moved from the premises of origin to a preembarkation quarantine facility in a means of conveyance which, immediately prior to loading the animal, was cleaned and disinfected with a disinfectant specified in § 71.10 of this chapter and under the supervision of, and in the presence of, a full-time salaried employee of the national veterinary services of Chile.

(7) The animal was kept in isolation from other animals (except animals scheduled for the same shipment) in the preembarkation quarantine facility for a period of at least 60 days immediately prior to export, under the personal supervision of a full-time salaried veterinarian of the national veterinary services of Chile, and has remained free from evidence of communicable diseases and exposure to communicable diseases during the 60-day period immediately prior to export. (For the purposes of this section, "isolation" means that the animal was kept in an area in which animals intended for export are held and have no physical contact with other animals, except those scheduled for the same shipment.) All windows and other openings in the preembarkation quarantine facility were covered with screen, 16 mesh or finer.

(8) All animals which entered the preembarkation quarantine facility were handled on an "all-in, all-out" basis, except for animals removed in accordance with this section. Any animals in the preembarkation quarantine facility with any animal that tested positive for a communicable disease and was removed in accordance with this section were considered exposed to that communicable disease.

(9) Testing. Samples from all animals in the preembarkation quarantine facility were taken by a full-time salaried employee of the national veterinary services of Chile; all samples were tested at a laboratory approved by the national veterinary services of Chile; and testing in the preembarkation quarantine facility was performed as follows:

(i) *Tuberculosis testing:* All animals in the preembarkation quarantine facility tested negative to an intradermal tuberculin test utilizing mammalian Purified Protein Derivative (PPD) tuberculin administered by a full-time salaried veterinarian of the national veterinary services of Chile; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, slaughtered, examined, and found to have no tubercular lesions, and after no less than 60 days, the remainder of the animals in the preembarkation quarantine facility were retested with the same test performed originally and found negative to this test. Negative test results mean that the veterinarian administering the test detected no response using both visual examination and manual palpation techniques at the site of the injection 72 hours after the injection.

(ii) *Brucellosis:* All animals in the preembarkation quarantine facility were subjected to the brucellosis tube agglutination test and received negative test results at a serum dilution of 1:25 or its equivalent in international units (1:30) within 30 days prior to export; *Provided, however,* if

any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the brucellosis tube agglutination test and received negative test results at a serum dilution of 1:25 or its equivalent in international units (1:30).[1]

(iii) *Bluetongue:* All animals in the preembarkation quarantine facility tested negative to the agar gel imunodiffusion (AGID) serological test for bluetongue; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the agar gel immunodiffusion (AGID) serological test for bluetongue and found negative to this test.[1]

(iv) *Vesicular stomatitis:* All animals in the preembarkation quarantine facility tested negative for vesicular stomatitis at a 1:8 dilution utilizing the serum virus neutralization test with both New Jersey and Indiana antigens, and at a 1:10 dilution utilizing the complement fixation test with Cocal, Alagoas and Piry antigens; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested for vesicular stomatitis with the same tests performed originally, and found negative to these tests.[1]

(v) *Trypanosomiasis:* All animals in the preembarkation quarantine facility tested negative to the indirect fluorescent antibody test for *Trypanosoma vivax; Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the indirect fluorescent antibody test for *Trypanosoma vivax and found negative to this test.*[1]

(10) All animals in the preembarkation quarantine facility were examined daily by a full-time salaried veterinarian of the national veterinary services of Chile for clinical signs of communicable disease.

(11) The rectal temperatures of a randomly selected sample of at least 25 percent of the animals in the preembarkation quarantine facility were taken each day by a full-time salaried employee of the national veterinary services of Chile, with any abnormal temperature readings being reported to the full-time salaried veterinarian of the national veterinary services of Chile; and the temperature of each animal in the preembarkation quarantine facility was taken at least 2 times per week by a full-time salaried employee of the national veterinary services of Chile, with any abnormal temperature reading being reported to the full-time salaried veterinarian of the national veterinary services of Chile.

(12) *Leptospirosis.* All animals in the preembarkation quarantine facility were injected twice, by a full-time salaried employee of the national veterinary services of Chile, with 20 milligrams of dihydrostreptomycin per kilogram of body weight, with an intervaal of 14 days between injections.

(13) *Endoparasites.* All animals in the preembarkation quarantine facility were treated twice, by a full-time salaried employee of the national veterinary services of Chile with Ivermectin at a dosage of 200 micrograms per kilogram of body weight, with a 14 to 21-day interval between treatments.

(14) *Ectoparasites.* (i) All animals in the preembarkation quarantine facility were treated twice, by a full-time salaried employee of the national veterinary services of Chile, with a pesticide product with a 10-day interval between treatment (such pesticide and the concentration used must have been approved by the Administrator as adequate to kill ticks, mites, and lice);

(ii) The animals were treated, by a full-time salaried employee of the national veterinary services of Chile, by being thoroughly wetted with a pesticide using either a sprayer with a hand-held nozzle, a spray-dip machine, or a swim vat;

(iii) The health certificate contains the name of the pesticide, the concentration used to treat the animal, and the dates of treatment; and

(iv) The animal was inspected by the veterinarian signing the health certificate and found free of any ectoparasites within 72 hours prior to being loaded on the means of conveyance which transported the animal to the United States.

(15) No animal in the preembarkation quarantine facility was vaccinated with a live or attenuated or inactivated vaccine during the 14 days preceding export to the United States.

(16) Movement from the preembarkation quarantine facility to the port of embarkation. The animal was moved from the preembarkation quarantine facility to the port of embarkation in a means of conveyance which, immediately prior to loading the animal, was cleaned and disinfected under the supervision of, and in the presence of, a full-time salaried employee of the national veterinary services of Chile with a disinfectant specified in § 71.10 of this chapter. Such movement was by the most expeditious route to prevent possible exposure to disease in transit. From the time of cleaning and disinfecting the means of conveyance through the unloading of the llamas and alpacas for export to the United States, there were no other animals aboard the means of conveyance.

These health certificate provisions appear necessary to help Animal and Plant Health Inspection service (APHIS) personnel at the port of entry determine if llamas and alpacas offered for entry into the United States meet the requirements for importation. These provisions concern only llamas and alpacas from Chile. They do not apply to other ruminants from Chile, such as cattle. Since 1980 we have received no requests to import ruminants from Chile, other than llamas and alpacas. We anticipate no immediate demand in the United States for ruminants from Chile, other than llamas and alpacas.

The provision in paragraph (a)(1) above would provide confirmation from within the country of Chile's freedom from certain diseases immediately prior to any shipments of llamas and alpacas. It appears that this certification would help ensure that llamas and alpacas intended for importation into the United States would come from a country free of the listed diseases. Assurances that llamas and alpacas intended for shipment to the United States have not had opportunity for exposure to these diseases appears necessary because of the rapidity of spread of these diseases, the difficulty of diagnosing and treating them, and their potential adverse effects if introduced into the United States. By virtue of their positions, the certifying and endorsing veterinarians would be aware of any outbreaks of these diseases.

The requirement in paragraph (a)(2) above that the llamas or alpacas and their sires or dams have been born in Chile and have never been in any country other than Chile appears necessary as a precautionary measure to help ensure that llamas and alpacas intended for importation into the United States have not been exposed to FMD. Chile has destroyed all animals that were considered to have been exposed to FMD. It is not feasible to allow the importation from Chile of llamas and alpacas that originated in or were moved to and from other countries or that are the offspring of animals that originated in or were moved to and from other countries because of the difficulty in documenting the origin and movements of such animals.

The provisions in paragraph (a)(4) above concerning a determination of freedom from disease on the premises of origin are included as a precautionary measure. A 6-month period of freedom from outbreaks of communicable disease is specified to help ensure that no animals are carriers of communicable disease.

The individual identification requirements in paragraph (a)(5) above appear necessary to provide a mechanism for identifying individual animals. Section 92.4 of the current regulations requires that individual animal identification be recorded on the application for an import permit. This information is also recorded on the import permit prepared by APHIS. Being able to verify the identification recorded on the permit with the identification on the animal itself would help ensure that the animal presented at the port of entry

is, in fact, the animal referred to in the documents accompanying it.

The requirements in paragraphs (a)(6) and (a)(16) above for cleaning and disinfection of the means of conveyance used to transport the llamas and alpacas appear necessary to help ensure that the means of conveyance would not be contaminated with disease agents, and thereby further minimize any risk of the llamas and alpacas being exposed to disease.

The inspection, isolation, handling, testing, and treatment provisions in paragraphs (a)(3), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), and (a)(16) above appear necessary to help ensure that the llamas and alpacas are free from disease when imported into the United States. A preembarkation quarantine period of at least 60 days is proposed. Sixty days should be an adequate time for conducting all of the prescribed tests and treatments, and a reasonable time within which a disease that an animal might be harboring would manifest itself. The isolation provisions are designed to help ensure freedom from exposure to disease agents, including insect vectors. The testing requirements in paragraph (a)(9) above are designed to help ensure the detection of any of the specified diseases which the llamas or alpacas might be harboring. The specified diseases are all considered to be present in Chile.

The precautionary treatment for leptospirosis in paragraph (a)(12) above appears necessary to ensure that the llamas and alpacas would not be infected with leptospirosis. Leptospirosis is considered to be endemic in Chile. It is relatively simple and inexpensive to treat compared with the complexity and expense of testing for it and treating only animals determined to be infected. The treatment is considered adequate to ensure freedom from the infection.

The precautionary treatment for endoparasites in paragraph (a)(13) above appears necessary to reduce the risk of llamas and alpacas imported into the United States from Chile being infected with endoparasites. The prescribed dosage of Ivermectin has been shown to be effective against most endoparasites in ruminants.

The inspection and treatment provisions in paragraph (a)(14) above are intended to help ensure that the llamas and alpacas are free of ectoparasites when they are shipped to the United States. It appears necessary to require that the pesticide and the concentration used must have been approved by the Administrator, Animal and Plant Health Inspection Service, to ensure that the pesticide would be adequate to kill ticks, mites, and lice. These are the types of ectoparasites determined by the Administrator as likely to infest llamas and alpacas in Chile.

The requirement in paragraph (a)(15) above concerning vaccination appears necessary to help ensure the validity of any tests that may be performed during the quarantine period in the United States. If an animal has been vaccinated for a given disease, it is often impossible for a period of time to determine whether an animal's positive response to a test is due to having been vaccinated for that disease or the result of having been exposed to the disease.

It appears that the determinations necessary to issue the certificate could be adequately made by any veterinarian who is authorized by the Government of Chile to do so. However, if the certificate were issued by a veterinarian who is not a salaried veterinarian of the Government of Chile, it would be necessary for the certificate to be endorsed by a salaried veterinarian of the national veterinary services of the Government of Chile in order to ensure that the veterinarian issuing the certificate was authorized to do so. It appears that such certification would be adequate to ensure that such llamas and alpacas were free from communicable diseases and exposure to communicable diseases at the time of the issuance of the certificate without imposing an unwarranted burden on the national veterinary services of the Chilean Government.

Quarantine Upon Arrival Requirements

Currently, the regulations applicable to the arrival in the United States of llamas and alpacas imported from countries free of rinderpest and FMD require, among other things, a quarantine for not less than 15 days, counting from the date of arrival at the port of entry (§ 92.11). We propose to add the following provisions concerning quarantine and testing of llamas and alpacas from Chile upon arrival at the United States port of entry:

(b) *Quarantine upon arrival.* As a condition of entry into the United States, upon arrival at the port of entry, llamas and alpacas from Chile shall be quarantined for not less than 30 days, counting from the date of arrival at the port of entry. In order to qualify for release from quarantine, such llamas and alpacas shall test negative to any test duplicative of the tests required under paragraph (a) of this section and any other tests as may be determined necessary by the Administrator to determine their freedom from communicable diseases. All llamas and alpacas from Chile shall test negative to the virus neutralization and virus infection associated antigen (VIAA) serological tests for foot-and-mouth diseases during quarantine in the United States. The importer shall reimburse the Department for the cost of testing the llamas and alpacas, during quarantine in the United States, for diseases exotic to the United States.

The proposed quarantine and testing requirements in paragraph (b) above are intended as an additional precautionary measure to ensure that the llamas and alpacas have remained negative for the diseases referred to above. A quarantine period of not less than 30 days upon arrival at the United States port of entry is proposed because this appears to be an adequate time for conducting any tests that may be determined necessary for the llamas and alpacas to qualify for release from quarantine. This quarantine period would also provide a reasonable time within which a disease that a llama or alpaca might be harboring would manifest itself.

The proposed requirement in paragraph (b) that llamas and alpacas from Chile test negative to serological tests for FMD while in quarantine in the United States is considered necessary to provide additional protection against the possible introduction of FMD into the United States. This additional precaution is necessary because Chile has a common land border with Peru, Bolivia, and Argentina, which are designated in § 94.1(a)(1) as countries in which rinderpest or foot-and-mouth disease exists. Because of the potential profits from the sale of llamas and alpacas in the United States, a strong incentive may exist to clandestinely bring llamas and alpacas into Chile from one of these bordering countries. This could result in the commingling of uninfected animals with potentially infected ones. These infected animals could conceivably remain undetected prior to exportation from Chile, since Chile does not provide certification that llama and alpacas have been tested for FMD prior to being exported from Chile.

In addition, Chile historically imports live animals, meat, and animal products from countries not recognized as free of rinderpest and foot-and-mouth disease. Thus the meat and animal products in Chile may be commingled with the meat and other animal products from an infected country, thus increasing the risk of introducing rinderpest or foot-and-mouth disease into the United States.

We are including a proposed requirement in paragraph (b) that importers reimburse the Department for certain tests conducted on llamas and alpacas during their quarantine in the United States; specifically, tests for diseases that are exotic to the United

States. These tests are not considered routine and must be performed at the United States Department of Agriculture's high security laboratory on Plum Island, New York.

We are also proposing to add the following provisions concerning the entry of llamas or alpacas into the United States:

(c) *Animals refused entry.* A llama or alpaca imported or offered for entry into the United States that is not accompanied by a health certificate as required by paragraph (a) of this section or that is found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed to a communicable disease, shall be refused entry and shall be handled thereafter in accordance with 21 U.S.C. 103 or quarantined, or otherwise disposed of as the Administrator may direct.

The proposed requirement in paragraph (c) that llamas or alpacas imported or offered for entry into the United States be refused entry if they are not accompanied by a health certificate, is considered necessary to prevent llamas or alpacas affected with a communicable disease from entering the United States. A port veterinarian in the United States would have no way of determining the health status of a llama and alpaca if that animal was not accompanied by a certificate. Additionally, paragraph (c) provides provisions for the disposition of llamas or alpacas that are refused entry into the United States. Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause 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.

Currently, llamas and alpacas imported into the United States from Chile would undergo embarkation quarantine in Chile and would be quarantined only at the Harry S. Truman Animal Import Center (HSTAIC) upon arrival in the United States. The cost of Chilean veterinary supervision of the embarkation quarantine would be approximately $350 per head. The cost of APHIS supervision of the embarkation quarantine and the cost at HSTAIC would range from $5,500 per head for 50 animals to $2,000 per head for 480 animals. We are proposing new health certification requirements and requirements concerning quarantine upon arrival for llamas and alpacas imported into the United States from Chile. We are aware of 228 importers, most of whom are considered to be small entities, who have expressed an interest in importing llamas and alpacas from Chile. The number of llamas and alpacas that can be imported, however, will be limited by three factors.

First, the qurantine space available at various locations in the United States will allow approximately 1,600 llamas and alpacas to be imported from Chile during the first year.

Second, this document proposes a 60-day isolation period—in a preembarkation quarantine facility in Chile—for all llamas and alpacas scheduled for exportation from that country to the United States. We have been informed by officials in Chile that their government will limit the number of llamas and alpacas to be quarantined, at any one time, to 300 animals. This would limit the maximum number of llamas and alpacas that would be available for export to the United States to 1,800 per year.

Third, it is unlikely that 1,800 llamas and alpacas would be imported from Chile into the United States, since a number of other countries are also interested in obtaining these animals. We therefore estimate that no more than 1,200 llamas and alpacas would be available for export from Chile to the United States in any one year.

We estimate that the cost per head of complying with the requirements in this proposal would be approximately $350 in Chile and approximately $375 in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this proposal contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR part 92 would be amended as follows:

1. The authority citation for part 92 would continue to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.5 [Amended]

2. In paragraph (a)(1) of § 92.5, "and 92.44" would be changed to "92.44, and 92.46 of this part".

§ 92.11 [Amended]

3. In the first sentence of paragraph (b)(1) of § 92.11, "other than llamas and alpacas from Chile, and" would be inserted immediately after "Swine and ruminants".

4. In paragraph (b)(2) of § 92.11, the following sentence would be added at the end of the paragraph:

§ 92.11 Quarantine requirements

* * * * *

(b) * * *

(2) * * * Llamas and alpacas imported from Chile shall be subject to § 92.46 of this part.

* * * * *

5. A new § 92.46 would be added to read as follows:

§ 92.46 Llamas and alpacas from Chile.

No llama or alpaca from Chile shall be imported or entered into the United States unless in accordance with paragraphs (a) and (b) of this section.

(a) *Health certification requirements.* A llama or alpaca shall not be imported into the United States from Chile unless accompanied by a health certificate either signed by a salaried veterinarian of the national veterinary services of Chile or signed by a veterinarian authorized by the national veterinary services of Chile and endorsed by a salaried veterinarian of the national veterinary services of Chile (the endorsement representing that the

veterinarian signing the health certificate was authorized to do so and that, as far as can be determined, the statements on the health certificate are accurate), certifying that:

(1) Chile is free from rinderpest, foot-and-mouth disease, contagious pleuropneumonia, and surra.

(2) The animal and its sire and dam were born in Chile and have never been in any country other than Chile.

(3) The animal was inspected on the premises of origin by the certifying veterinarian and found free of evidence of communicable disease.

(4) The animal came from a premises of origin that, as far as can be determined by the certifying veterinarian, based on information available from the owner of the premises of origin and other sources, had been free of outbreaks of communicable disease for the 6-month period immediately preceding the date of movement of the animal from the premises of origin.

(5) The animal was individually identified using an eartag, tattoo, or brand prior to moving the animal from the premises of origin to the preembarkation quarantine facility.

(6) The animal was moved from the premises of origin to a preembarkation quarantine facility in a means of conveyance which, immediately prior to loading the animal, was cleaned and disinfected with a disinfectant specified in § 71.10 of this chapter and under the supervision of, and in the presence of, a full-time salaried employee of the national veterinary services of Chile.

(7) The animal was kept in isolation from other animals (except animals scheduled for the same shipment) in the preembarkation quarantine facility for a period of at least 60 days immediately prior to export, under the personal supervision of a full-time salaried veterinarian of the national veterinary services of Chile, and has remained free from evidence of communicable diseases and exposure to communicable diseases during the 60-day period immediately prior to export. (For the purposes of this section, "isolation" means that the animal was kept in an area in which animals intended for export are held and have no physical contact with other animals, except those scheduled for the same shipment.) All windows and other openings in the preembarkation facility were covered with screen, 16 mesh or finer.

(8) All animals which entered the preembarkation quarantine facility were handled on an "all-in, all-out" basis, except for animals removed in accordance with this section. Any animals in the preembarkation quarantine facility with any animal that tested positive for a communicable disease and was removed in accordance with this section were considered exposed to that communicable disease.

(9) *Testing.* Samples from all animals in the preembarkation quarantine facility were taken by a full-time salaried employee of the national veterinary services of Chile; all samples were tested at a laboratory approved by the national veterinary services of Chile; and testing in the preembarkation quarantine facility was performed as follows:

(i) *Tuberculosis testing:* All animals in the preembarkation quarantine facility tested negative to an intradermal tuberculin test utilizing mammalian Purified Protein Derivative (PPD) tuberculin administered by a full-time salaried veterinarian of the national veterinary services of Chile; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, slaughtered, examined, and found to have no tubercular lesions, and after no less than 60 days, the remainder of the animals in the preembarkation quarantine facility were retested with the same test performed originally and found negative to this test. Negative test results mean that the veterinarian administering the test detected no response using both visual examination and manual palpation techniques at the site of the injection 72 hours after the injection.

(ii) *Brucellosis:* All animals in the preembarkation quarantine facility were subjected to the brucellosis tube agglutination test and received negative test results at a serum dilution of 1:25 or its equivalent in international units (1:30) within 30 days prior to export; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the brucellosis tube agglutination test and received negative test results at a serum dilution of 1:25 or its equivalent in international units (1:30).[1]

(iii) *Bluetongue:* All animals in the preembarkation quarantine facility tested negative to the agar gel immunodiffusion (AGID) serological test for bluetongue; *Provided, however,* if any animal tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the agar gel immunodiffusion (AGID) serological test for bluetongue and found negative to this test.[1]

(iv) *Vesicular stomatitis:* All animals in the preembarkation quarantine facility tested negative for vesicular stomatitis at a 1:8 dilution utilizing the serum virus neutralization test with both New Jersey and Indiana antigens, and at a 1:10 dilution utilizing the complement fixation test with Cocal, Alagoas and Piry antigens; *Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested for vesicular stomatitis with the same tests performed originally, and found negative to these tests.[1]

(v) *Trypanosomiasis:* All animals in the preembarkation quarantine facility tested negative to the indirect fluorescent antibody test for *Trypanosoma vivax; Provided, however,* if any animals tested positive, they were removed from the preembarkation quarantine facility, and after no less than 30 days, the remainder of the animals in the preembarkation quarantine facility were retested with the indirect fluorescent antibody test for *Trypanosoma vivax* and found negative to this test.[1]

(10) All animals in the preembarkation quarantine facility were examined daily by a full-time salaried veterinarian of the national veterinary services of Chile for clinical signs of communicable disease.

(11) The rectal temperatures of a randomly selected sample of at least 25 percent of the animals in the preembarkation quarantine facility were taken each day by a full-time salaried employee of the national veterinary services of Chile, with any abnormal temperature readings being reported to the full-time salaried veterinarian of the national veterinary services of Chile; and the temperature of each animal in the preembarkation quarantine facility was taken at least 2 times per week by a full-time salaried employee of the national veterinary services of Chile, with any abnormal temperature readings being reported to the full-time salaried veterinarian of the national veterinary services of Chile.

(12) *Leptospirosis.* All animals in the preembarkation quarantine facility were injected twice, by a full-time salaried employee of the national veterinary

[1] The importation of llamas and alpacas which have been exposed to any infection within 60 days before their exportation is prohibited by 21 U.S.C. 104.

services of Chile, with 20 milligrams of dihydrostreptomycin per kilogram of body weight, with an interval of 14 days between injections.

(13) *Endoparasites.* All animals in the preembarkation quarantine facility were treated twice, by a full-time salaried employee of the national veterinary services of Chile, with Ivermectin at a dosage of 200 micrograms per kilogram of body weight, with a 14- to 21-day interval between treatments.

(14) *Ectoparasites.* (i) All animals in the preembarkation quarantine facility were treated twice, by a full-time salaried employee of the national veterinary services of Chile, with a pesticide product with a 10-day interval between treatments (the pesticide and the concentration used must have been approved by the Administrator as adequate to kill ticks, mites, and lice);

(ii) The animals were treated, by a full-time salaried employee of the national veterinary services in Chile, by being thoroughly wetted with a pesticide using either a sprayer with a hand-held nozzle, a spray-dip machine, or a swim vat;

(iii) The health certificate contains the name of the pesticide, the concentration used to treat the animal, and the dates of treatment; and

(iv) The animal was inspected by the veterinarian signing the health certificate and found free of any ectoparasites within 72 hours prior to being loaded on the means of conveyance which transported the animal to the United States.

(15) No animal in the preembarkation quarantine facility was vaccinated with a live or attenuated or inactivated vaccine during the 14 days preceding export to the United States.

(16) *Movement from the preembarkation quarantine facility to the port of embarkation.* The animal was moved from the preembarkation quarantine facility to the port of embarkation in a means of conveyance which, immediately prior to loading the animal, was cleaned and disinfected under the supervision of, and in the presence of, a full-time salaried employee of the national veterinary services in Chile with a disinfectant specified in § 71.10 of this chapter. Such movement was by the most expeditious route to prevent possible exposure to disease in transit. From the time of cleaning and disinfecting the means of conveyance through the unloading of the llamas and alpacas for export to the United States, there were no other animals aboard the means of conveyance.

(b) *Quarantine upon arrival.* As a condition of entry into the United States, upon arrival at the port of entry, llamas and alpacas from Chile shall be quarantined for not less than 30 days, counting from the date of arrival at the port of entry. In order to qualify for release from quarantine, such llamas and alpacas shall test negative to any test duplicative of the tests required under paragraph (a) of this section and any other tests as may be determined necessary by the Administrator to determine their freedom from communicable diseases. All llamas and alpacas from Chile shall test negative to the virus neutralization and virus infection associated antigen (VIAA) serological tests for foot-and-mouth disease during quarantine in the United States. The importer shall reimburse the Department for the cost of testing the llamas and alpacas, during quarantine in the United States, for diseases exotic to the United States.

(c) *Animals refused entry.* A llama or alpaca imported or offered for entry into the United States that is not accompanied by a health certificate as required by paragraph (a) of this section or that is found upon inspection at the port of entry to be affected with a communicable disease or to have been exposed to a communicable disease, shall be refused entry and shall be handled thereafter in accordance with 21 U.S.C. 103 or quarantined, or otherwise disposed of as the Administrator may direct.

Done at Washington, DC this 22nd day of September 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-22926 Filed 9-27-89; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150-AD26

Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to revise its generic determinations on the timing of availability of a geologic repository for commercial high-level radioactive waste and spent fuel and the environmental impacts of storage of spent fuel at reactor sites after the expiration of reactor operating licenses. These proposed revisions reflect proposed findings of the Commission reached in a five-year update and supplement to its 1984 "Waste Confidence" rulemaking proceeding, which are published elsewhere in this issue of the **Federal Register**. The Commission now finds that spent fuel generated in any reactor can be stored safely and without significant environmental impacts in reactor facility storage pools or independent spent fuel storage installations located at reactor or away-from-reactor sites for at least 30 years beyond the licensed life for operation (which may include the term of a revised license). Further, the Commission believes there is reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dispose of the commercial high-level waste and spent fuel originating in such reactors and generated up to that time.

DATE: Comment period expires December 27, 1989. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Robert MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-3401.

SUPPLEMENTARY INFORMATION:

Background

In 1984, the Commission concluded a generic rulemaking proceeding to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal would be available, and whether such wastes can be safely stored until they are safely disposed of. This proceeding was known as the "Waste Confidence" proceeding. The Commission found that there was reasonable assurance that one or more mined geologic repositories

for commercial high-level radioactive waste and spent fuel will be available by 2007–2009. However, some reactor operating licenses might expire without being renewed or some reactors might be permanently shut down prior to this period. Since independent spent fuel storage installations had not yet been extensively developed, there was a probability that some onsite spent fuel storage after license expiration might be necessary or appropriate. In addition, the possibility existed that spent fuel might be stored in existing or new storage facilities for some period beyond 2007–2009. The Commission also found that the licensed storage of spent fuel for at least 30 years beyond the reactor operating license expiration either at or away from the reactor site was feasible, safe, and would not result in a significant impact on the environment.

Consequently, the Commission adopted a rule, codified in 10 CFR 51.23, providing that the environmental impacts of at-reactor storage after the termination of reactor operating licenses need not be considered in Commission proceedings related to issuance or amendment of a reactor operating license. The same safety and environmental considerations applied to fuel storage installations licensed under part 72 as for storage in reactor basins. Accordingly, the rule also provided that the environmental impacts of spent fuel storage at independent spent fuel storage installations for the period following expiration of the installation storage license or amendment need not be considered in proceedings related to issuance or amendment of a storage installation license.

Amendment to Part 51

At the time of issuance of its Waste Confidence decision and the adoption of 10 CFR 51.23, the Commission also announced that while it believed that it could, with reasonable assurance, reach favorable conclusions of confidence, it also recognized that significant unexpected events might affect its decision. Consequently, the Commission stated that it would "review its conclusions on waste confidence should significant and pertinent unexpected events occur, or at least every 5 years until a repository for high-level radioactive waste and spent fuel is available." The Commission has now undertaken a five-year review of its earlier findings. A description of this review and a proposed supplement and update to the earlier findings is announced elsewhere in this issue. As a result of this review, the Commission is proposing to modify two of its earlier findings. As originally promulgated in 1984, the Commission found reasonable assurance that:

> One or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by the years 2007–2009, and sufficient repository capacity will be available within 30 years beyond expiration of any reactor operating license to dispose of existing commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time; and
>
> If necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the expiration of that reactor's operating license at that reactor's spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

Under the proposed revisions published today, the Commission intends to modify these findings as follows:

> The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dispose of the commercial high-level waste and spent fuel originating in such reactor and generated up to that time; and
>
> The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised license) of that reactor at its spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

The proposed revision on the timing of repository availability is premised on the following factors: The potential for delays in DOE's program; the mandate of the Nuclear Waste Policy Act Amendments of 1987 to characterize only the Yucca Mountain site which means that if that site is found unsuitable, characterization will have to begin at another site or suite of sites with consequent delay in repository availability; the regulatory need to avoid premature commitment to the Yucca Mountain site; and the questionable value of making predictions about completion of a project as complex and unique as the repository in terms of years when decades would be more realistic. But even with this change the Commission has concluded that it has reasonable assurance that on such a schedule for repository availability, sufficient repository capacity will be available within 30 years beyond the licensed life for operation of reactors. Adequate regulatory authority is available to require any measures necessary to assure safe storage of the spent fuel until a repository is available. In addition, the Commission has concluded that even if storage of spent fuel were necessary for at least 30 years beyond the licensed life of reactors, which in the case of a reactor whose operating license is renewed for 30 years would means for a period of at least 100 years, such storage is feasible, safe and would not result in a significant impact on the environment.

The Commission's conclusions with respect to safety and environmental impacts of extended storage are supported by NRC's Environmental Assessment for the 10 CFR part 72 rulemaking "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste" (53 FR 31651, August 19, 1988). Ongoing licensing and operational experience as well as studies of extended pool storage continue to demonstrate that such storage is a benign environment for spent fuel which does not lead to significant degradation of spent fuel integrity. Significant advances in the processes of dry storage of spent fuel continue to demonstrate that dry storage systems are simple, passive and easily maintained. NRC staff safety reviews of topical reports on dry storage system designs and dry storage installations at two reactor sites, as well as the EA for part 72, support the finding that storage of spent fuel in such installations for a period of 70 years does not significantly impact the environment. No significant additional non-radiological consequences which could adversely affect the environment for extended storage at reactors and independent spent fuel storage installations have been identified. In sum, the long-term material and system degradation effects are well understood and known to be minor, the ability to maintain a spent fuel storage system is assured, and the Commission maintains regulatory authority over any spent fuel storage installation.

The proposed amendment to part 51 consists of a revision to paragraph (a) of 10 CFR 51.23 to restate the revised generic Commission determination based on the supplemental Waste Confidence proceeding.

Environmental Impact

This proposed rule amends 10 CFR part 51 of the Commission's regulations to modify the generic determination currently codified in part 51 which was made by the Commission in the Waste Confidence rulemaking proceeding. That generic determination was that for at

least 30 years beyond the expiration of a reactor's operating license no significant environmental impacts will result from the storage of spent fuel in reactor facility storage pool or independent spent fuel storage installations located at reactor or away-from-reactor sites. The proposed modification provides that, if necessary, spent fuel generated in a reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation of any reactor. The licensed life for operation of a reactor may include the term of a revised license. The environmental analysis on which the revised generic determination is based can be found in the proposed revision and supplement to the Waste Confidence findings published elsewhere in this issue. This proposed rulemaking action formally incorporating the revised generic determination in the Commission's regulations has not separate independent environmental impact. The proposed supplemental assessment and revisions to the Waste Confidence findings are available for inspection at the NRC Public Document Room, 2120 L Street, Lower Level NW., Washington, DC.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office Management and Budget approval number 3150–0021.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule would describe a revised basis for continuing in effect the current provisions of 10 CFR 51.23(b) which provides that no discussion of any environmental impact of spent fuel storage in ractor facility storage pools or independent spent fuel storage installations (ISFSI) for the period following the term of the reactor operating license or amendment or initial ISFSI license or amendment for which application is made is required in any environmental report, environmental impact statement, environmental assessment or other analysis prepared in connection with certain actions. This rule affects only the licensing and operation of nuclear power plants. Entities seeking or holding Commission licenses for such facilities do not fall within the scope of the definition of small busiensses found in section 34 of the Small Business Act, 15 U.S.C. 632, in the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121, or in the NRC's size standards published December 9, 1985 (50 FR 50241).

Backfit Analysis

This proposed rule does not modify or add to systems, structures, components or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this proposed rule.

List of Subjects in 10 CFR Part 51

Administration practice and procedure, Environmental impact statement, Nuclear materials, nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 51.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

1. The authority citation for part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041. Secs. 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10155, 10161, 10168). Sec. 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021).

2. Section 51.23, paragraph (a) is revised to read as follows:

§ 51.23 Temporary storage of spent fuel after cessation of reactor operation—generic determination of no significant environmental impact.

(a) The Commission has made a generic determination that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised license) of that reactor at its spent fuel storage basin or at either onsite or offsite independent spent fuel storage installations. Further, the Commission believes there is reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dispose of the commercial high-level waste and spent fuel originating in such reactor and generated up to that time.

* * * * *

Dated at Rockville, Maryland this 25th day of September, 1989.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

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10 CFR Part 51

Waste Confidence Decision Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Review and proposed revision of waste confidence decision.

SUMMARY: On August 31, 1984, the Nuclear Regulatory Commission (NRC) issued a final decision on what has come to be known as its "Waste Confidence Proceeding." The purpose of that proceeding was "* * * to assess generically the degree of assurance now available that radioactive waste can be safely disposed of, to determine when such disposal or offsite storage will be available and to determine whether radioactive waste can be safely stored onsite past the expiration of existing facility licenses until offsite disposal or storage is available." (49 FR 34658). The purpose of this notice is to present for public comment the proposed findings of a Commission review of that Decision.

The Commission noted in 1984 that its Waste Confidence Decision was unavoidably in the nature of a prediction, and committed to review its conclusions "* * * should significant and pertinent unexpected events occur or at least every five years until a repository is available."

The Commission has reviewed its five findings and the rationale for them in light of developments since 1984. This proposed revised waste Confidence Decision supplements those 1984

findings and the environmental analysis supporting them. The Commission proposes that the second and fourth findings in the Waste Confidence Decision be revised as follows:

Finding 2: The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and that sufficient repository capacity will be available within 30 years beyond the lincensed life for operation of any reactor to dispose of the commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

Finding 4: The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised license) of that reactor at its spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

The Commission proposes to reaffirm the remaining findings. Each finding, any proposed revisions, and the reasons for revising or reaffirming them are set forth in the body of the review below.

The Commission also issued two companion rulemaking amendments at the time it issued the 1984 Waste Confidence Decision. The Commission's reactor licensing rule, 10 CFR part 50, was amended to require each licensed reactor operator to submit, no later than five years before expiration of the operating license, plans for managing spent fuel at the reactor site until the spent fuel is transferred to the Department of Energy (DOE) for disposal under the Nuclear Waste Policy Act of 1982 (NWPA). 10 CFR part 51, the rule defining NRC's responsibilities under the National Environmental Policy Act (NEPA), was amended to provide that, in connection with the issuance or amendment of a reactor operating license or initial license for an independent spent fuel storage installation, no discussion of any environmental impact of spent fuel storage is required for the period following expiration of the license or amendment applied for.

In keeping with the proposed revised Findings 2 and 4, the Commission is providing elsewhere in this issue of the Federal Register proposed conforming amendments to its 10 CFR part 51 rule providing procedures of considering in licensing proceedings the environmental effects of extended onsite storage of spent fuel.

Finally, the Commission proposes to extend the cycle of its Waste Confidence reviews from every five years to every ten until a repository becomes available. In its 1984 Decision, the Commisson said that because its conclusions were "* * * unavoidably in the nature of a prediction," it would review them "* * * should significant and unexpected events occur, or at least every five years until a repository * * * is available." As noted below, the Commission now believes that predictions of repository availability are best expressed in terms of decades rather than years. To specify a year for the expected availability of a repository decades hence would misleadingly imply a degree of precision now unattainable. Accordingly, the Commission proposes to change its original commitment in order to review its Waste Confidence Decision at least every ten years. This would not, however, disturb the Commission's original commitment to review its Decision whenever significant and pertinent unexpected events occur.

DATES: The comment period expires December 27, 1989. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, MD betweeen 7:30 a.m. and 4:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rob MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 492–3401; or John Roberts, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 492–0608.

SUPPLEMENTARY INFORMATION:

Background

In November 1976, the Natural Resources Defense Council (NRDC) petitioned NRC for a rulemaking to determine whether radioactive wastes generated in nuclear power reactor can be subsequently disposed of without undue risk to the public health and safety. The NRDC also requested that NRC not grant pending or furture requests for operating licenses until the petitioned finding of safety was made.

On June 27, 1977, NRC denied the NRDC petition. The Commission said that in issuing operating licenses, NRC must have assurance that wastes can be safely handled and stored as they are generated. It also said that it is not necessary for permanent disposal to be available if NRC could be confident that permanent disposal could be accomplished when necessary. NRC added that Congress was aware of the relationship between nuclear reactor operations and the radioactive waste disposal problem, and that NRC would not refrain from issuing reactor operating licenses until the disposal problem was resolved. The Commission also stated that it "* * * would not continue to license reactors if it did no have reasonable confidence that the wastes can and will in due course be disposed of safely."

Also in November 1976, two utility companies requested amendments to their operating licenses to permit expansion in the capacity of this spent nuclear fuel storage pools: Vermont Yankee Nuclear Power Corporation for the Vermont Yankee plant; and Northern States Power Company for its Prairie Island facility. In both cases, the utilities planned to increase storage capacity through closer spacing of spent fuel assemblies in existing spent fuel pools. The New England Coalition on Nuclear Power and the Minnesota Pollution Control Agency intervened. The NRC staff evaluated the requests and found that the modifications would not endanger public health and safety. The staff did not consider any potential environmental effects of storage of spent fuel at the reactors beyond the dates of expiration of their operating licenses. NRC's Atomic Safety and Licensing Board Panel (ASLBP) adopted the staff's safety and environmental findings and approved the license amendments for the two plants. It too did not consider the effects of at-reactor storage beyond the expiration of the facility operating license.

The Board's decision was appealed to the Atomic Safety and Licensing Appeal Board (ASLAB). The ASLAB affirmed the Licensing Board's decision, citing the Commission's "* * * reasonable confidence that wastes can and will in due course be disposed of safely * * *" in the Commission's denial of the NRDC petition. The decision of the ASLAB was appealed to the U.S. Circuit Court of Appeals.

On May 23, 1979 the Court declined to stay or vacate the license amendments, but remanded to NRC the question of "* * * whether there is reasonable assurance that an offsite storage

solution will be available by the years 2007–2009, the expiration of the plants' operating licenses, and if not, whether there is reasonable assurance that the fuel can be safely stored at the reactor sites beyond those dates." In its decision to remand to NRC, for consideration in either a generic rulemaking or an adjudicatory proceeding, the Court observed that the issues of storage and disposal of nuclear waste were being considered by the Commission in an ongoing generic proceeding known as the "S–3 Proceeding" on the environmental impacts of uranium fuel cycle activities to support the operation of a light water reactor, and that it was appropriate to remand in light of a pending decision on that proceeding and analysis.

On October 18, 1979, NRC announced that it was initiating a rulemaking proceeding in response to the Appeals Court remand and as a continuation of the NRDC proceeding. Specifically, the purpose of the proceeding was for the Commission "* * * to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal will be available, and whether such wastes can be safely stored until they are disposed of."

The Commission recognized that the scope of this proceeding would be broader than the Court's instruction, which required the Commission to address only storage-related questions. The Commission believed, however, that the primary public concern was the safety of waste disposal rather than the availability of an off-site solution to the storage problem. The Commission also committed itself to reassess its basis for confidence that methods of safe permanent disposal for high-level waste would be available when needed. Thus, the Commission chose as a matter of policy not to confine itself exclusively to the narrower issues in the court remand.

In the Notice of Proposed Rulemaking, the Commission also stated that if the proceeding led to a finding that safe off-site storage or disposal would be available before expiration of facility operating licenses, NRC would promulgate a rule providing that the impact of onsite storage of spent fuel after expiration of facility operating licenses need not be considered in individual licensing proceedings.

The Waste Confidence Decision was issued on August 31, 1984 (49 FR 34658). In the Decision, the Commission made five findings. It found reasonable assurance that:

(1) Safe disposal of high-level radioactive waste and spent fuel in a mined geologic repository is technically feasible.

(2) One or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by the years 2007–2009, and sufficient repository capacity will be available within 30 years beyond expiration of any reactor operating license to dispose of existing commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

(3) High-level radioactive waste and spent fuel will be managed in a safe manner until sufficient repository capacity is available to assure the safe disposal of all high-level radioactive waste and spent fuel.

(4) If necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the expiration of that reactor's operating license at that reactor's spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

(5) Safe independent onsite or offsite spent fuel storage will be made available if such storage capacity is needed.

On the day the Decision was issued, the Commission also promulgated two rulemaking amendments: (1) An amendment to 10 CFR part 50, which required that no later than five years before expiration of reactor operating licenses, the licensee must provide NRC with a written plan for management of spent fuel onsite, until title for the spent fuel is transferred to the DOE; and (2) an amendment to 10 CFR part 51 which provided that environmental consequences of spent fuel storage after expiration of facility licenses need not be addressed in connection with issuance of or amendment to a reactor operating license.

In issuing the part 51 amendment, the Commission stated that although it had reasonable assurance that one or more repositories would be available by 2007–2009, it was possible that some spent fuel would have to be stored beyond those dates. The part 51 amendment was based on the Commission's finding in the Waste Confidence Proceeding that it had reasonable assurance that no significant environmental impacts will result from storage of spent fuel for at least 30 years beyond expiration of reactor operating licenses.

Enactment of the NWPA contributed significantly to the basis for the Commission's 1984 Decision and companion rulemakings. The Act established a funding source and process with milestones and schedules for, among other things, the development of a monitored retrievable storage (MRS) facility and two repositories, one by early 1998 and a second, if authorized by Congress, at a later date, initially planned by DOE for 2006. For each repository, the Act required DOE to conduct *in-situ* investigations of three sites and recommend one from among them to the President and Congress for repository development. The NWPA also required DOE to recommend, from among alternative sites and designs, a site and design for an MRS for spent fuel and high-level waste management before disposal. The Commission's licensing and regulatory authority over both storage and disposal facilities was preserved by the Act.

In the four years after enactment of the NWPA, DOE met a number of the Act's early program requirements, but also encountered significant difficulties. It published a final Mission Plan for the overall NWPA program, and followed with a Project Decision Schedule for DOE and other Federal agency actions. It promulgated, with Commission concurrence, a set of guidelines for repository siting and development. It published draft and final environmental assessments for nine candidate repository sites, and recommended three for characterization. It completed and submitted to Congress an environmental assessment, a program plan, and a proposal with a site and design for an MRS. All these actions followed extensive interactions with interested Federal agencies, State, Indian tribal, and local governments, and other organizations. In the course of these activities, however, DOE also slipped its schedule for operation of the first repository by five years, indefinitely postponed efforts toward a second repository, and had to halt further MRS siting and development activities pending Congressional authorization.

In December, 1987, Congress enacted the Nuclear Waste Policy Amendments Act (NWPAA). The NWPAA redirected the high-level waste program by suspending site characterization activities for the first repository at sites other than the Yucca Mountain site, and by suspending all site-specific activities with respect to a second repository. The Amendments Act also authorized and set schedule and capacity limits on the MRS. The purpose of these limitations, according to sponsors of the legislation, was to assure that an MRS would not become a substitute for a geologic repository.

Consistent with its commitment to revisit its Waste Confidence conclusions at least every five years, the

Commission has undertaken the current review to assess the effect of these and other developments since 1984 on the basis for each of its five findings. In this document, the Commission supplements the basis for its earlier findings and the environmental analysis of the 1984 Decision. The Commission proposes to amend its second finding, concerning the timing of initial availability and sufficient capacity of a repository, and its fourth finding, concerning the duration of safe spent fuel storage. These proposed revisions are based on the following considerations:

(1) The five-year slippage, from 1998 to 2003, in the DOE schedule for repository availability;

(2) The additional slip of at least 18 months since January 1987 in the DOE schedule for the next step in the repository program, the excavation of the exploratory shaft;

(3) The need to continue accounting for the possibility that the Yucca Mountain site might be found unsuitable and that DOE would have to initiate efforts to identify and characterize another site for the first repository;

(4) The statutory suspension of site-specific activities for the second repository;

(5) DOE's estimate that site screening for a second repository should start about 25 years before the start of waste acceptance; and

(6) Increased confidence in the safety of extended spent fuel storage, either at the reactor or at independent spent fuel storage installations.

The Commission is also proposing elsewhere in this issue of the Federal Register that 10 CFR § 51.23(a) be amended to confirm with the proposed revisions to Findings 2 and 4.

Organization and Table of Contents

In conducting this review, the Commission has addressed, for each of its 1984 Findings, two categories of issues. The first category consists of the issues the Commission considered in making each Finding at the time of the initial Waste Confidence Decision. For these issues, the Commission is interested in whether its conclusions, or the Finding these conclusions support, should be changed to address new or foreseeable developments that have arisen since the first Waste Confidence Decision. The second category of issues consists of those the Commission believes should be added to the 1984 issues in light of subsequent developments. (To enable the reader to follow more easily, the lengthy discussions of Findings 1 and 2 have been organized to address each original and new issue under subheadings.) The Commission seeks comment on whether it has identified all the issues relevant to its proposed findings, and on whether its analyses of these issues supports the conclusions and findings proposed.

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Original Finding 1

The Commission finds reasonable assurance that safe disposal of high-level radioactive waste and spent fuel in a mined geologic repository is technically feasible.

Proposed Finding I

Same as above.

1.A. Issues Considered in Commission's 1984 Decision on Finding 1

1.A.1. The Identification of Acceptable Sites

Under the Nuclear Waste Policy Act of 1982 (NWPA), the Department of Energy (DOE) had responsibility for identifying candidate sites for a geologic repository and for repository development. The first requirement leading to recommendation of candidate sites was formal notification of States with one or more potentially acceptable sites for a repository within 90 days of

enactment of the NWPA. In February 1983, the DOE identified nine potentially acceptable sites for the first repository. Four of the sites were in bedded-salt formations, three were in salt domes, one in volcanic tuff, and one in basalt.

The NWPA required that each site nomination be accompanied by an environmental assessment (EA). In December 1984, DOE published Draft EAs (DEAs) for each of the nine sites identified as potentially acceptable and proposed the following sites for nomination: The reference repository location at Hanford, WA; Yucca Mountain, NV; Deaf Smith County, TX; Davis, Canyon, UT; and Richton Dome, MS. In May 1986, DOE released Final EAs (FEAs) for the five sites nominated. At that time, DOE recommended that the Yucca Mountain, Hanford, and Deaf Smith County sites undergo site characterization. The President approved the recommendation.

The NRC staff provided extensive comments on both the DEAs and the FEAs. NRC concerns on the FEAs related primarily to DOE's failure to recognize uncertainty inherent in the existing limited data bases for the recommended sites, and the tendency of DOE to present overly favorable or optimistic conclusions. The primary intent of the comments was to assist DOE in preparing high-quality Site Characterization Plans (SCPs) for each site, as required under the NWPA, before excavation of exploratory shafts. NRC concerns can only be addressed adequately through the site characterization process, because one of the purposes of this process is to develop the data to evaluate the significance of concerns relative to site suitability.

NRC did not identify any fundamental technical flaw or disqualifying factor which it believed would render any of the sites unsuitable for characterization. Further, NRC did not take a position on the ranking of the sites in order of preference, because this could be viewed as a prejudgment of licensing issues. NRC was not aware of any reason that would indicate that any of the candidate sites was unlicenseable. Nor has NRC made any such finding to date with respect to any site identified as potentially acceptable.

In March 1987, Congress began drafting legislation to amend the repository program. NRC provided comments on a number of these draft amendments. In December 1987, the NWPAA was enacted. In a major departure from the initial intent of the NWPA, the new law required that DOE suspend site characterization activities at sites other than the Yucca Mountain site. This decision was not based on a technical evaluation of the three recommended sites or a conclusion that the Hanford and Deaf Smith sites were not technically acceptable. According to sponsors of the legislation, the principal purpose of the requirement to suspend characterization at these sites was to reduce costs. In effect, the NWPAA directed DOE to characterize candidate sites sequentially, if necessary, rather than simultaneously. If DOE determines at any time that the Yucca Mountain site is unsuitable, DOE is to terminate all site characterization activities and report to Congress its recommendations for further actions.

The NRC staff has identified numerous issues regarding the Yucca Mountain site that may have a bearing on the licenseability of that site. These issues will have to be resolved during site characterization. An example of a site issue that may bear on the question of suitability is tectonic activity, the folding or faulting of the earth's crust. In the 1984 Waste Confidence Decision, NRC noted that "* * * the potential sites being investigated by DOE are in regions of relative tectonic stability." The authority for this statement came from the Position Statement of the U.S. Geological Survey (USGS). NRC has raised concerns regarding tectonic activity at the Yucca Mountain site in the comments on the draft and final EAs, and in the draft and final Point Papers on the Consultation Draft Site Characterization Plan. If it appears during site characterization that the Yucca Mountain site will be unable to meet NRC requirements regarding isolation of waste, DOE will have to suspend characterization at that site and report to Congress.

DOE's program of site screening in different geologic media was consistent with section 112(a) of the NWPA, which required that DOE recommend sites in different geologic media to the extent practicable. This strategy was to ensure that if any one site were found unsuitable for reasons that would render other sites in the same geologic medium unacceptable, alternate sites in different host rock types would be available. NRC referred to this policy in its 1984 Waste Confidence Decision, when it said, in support of its argument on technical feasibility, that "* * * DOE's program is providing information on site characteristics at a sufficiently large number and variety of sites and geologic media to support the expectation that one or more technically acceptable sites will be identified.

NRC recognizes that simultaneous site characterization is not necessary to identify a repository site that would meet NRC's technical criteria for isolating wastes. Sequential site characterization does not necessarily preclude or hinder identification of an acceptable site for a repository. NRC did express concern to Congress, on several occasions during deliberations over the proposed legislation, that sequential site characterization could delay considerably the schedule for opening a repository if the site undergoing characterization were found to be unlicenseable. NRC also indicated that this potential for delay would have to be considered by NRC in reevaluating the findings in its Waste Confidence Decision. The impact of this redirection of the high-level waste program on the Commission's Waste Confidence findings is not on the ability to identify technically acceptable sites, but on the timing of availability of technically acceptable sites. Because characterization of multiple sites appears to be more directly related to the timing of repository availability than to the feasibility of geologic disposal, consideration of the above statement in light of the NWPAA program redirection will be discussed under Finding 2.

Another question bearing on whether technically acceptable sites can be found is whether compliance with Environmental Protection Agency (EPA) environmental standards for disposal of spent fuel and high-level waste can be demonstrated. These standards, originally promulgated in final form in September 1985, were vacated in July 1987, by the U.S. Court of Appeals, and remanded to EPA for further consideration (see *NRDC* v. *EPA*, 824 F. 2d 1258). As originally promulgated, the standards set limits on releases of radioactive materials from the site into the accessible environment over a 10,000-year period following disposal. They also required that there be less than one chance in ten that the release limits will be exceeded in 10,000 years, and less than one chance in 1,000 that releases will exceed ten times the limits over 10,000 years.

In past comments on draft and proposed EPA standards, and in related NRC rulemaking efforts, NRC has expressed concern that probabilistic analyses should not be exclusively relied on to demonstrate compliance with EPA release limits. NRC's comments said in part that "* * * [t]he numerical probabilities in [the standards] would require a degree of precision which is unlikely to be achievable in evaluating a real waste disposal system." The comments went on to explain that "* * * identification of the relevant processes and events

affecting a particular site will require considerable judgment and will not be amenable to accurate quantification, by statistical analysis, of their probability of occurrence." NRC believed then, and continues to believe, that it must make qualitative judgments about the data and methodologies on which the numerical probabilities were based.

In response to NRC concerns, EPA incorporated language into its 1985 standards that appeared to allow flexibility to combine qualitative judgments with numerical probability estimates in a way that might have made implementation of the EPA standards practicable. The text of those standards recognized that "proof of the future performance of a disposal system is not to be had in the ordinary sense of the word" with the substantial uncertainties and very long performance period involved. The 1985 standards emphasized that a "reasonable expectation"—rather than absolute proof—is to be the test of compliance. "What is required," the text of the standards said, "is a reasonable expectation, on the basis of the record * * *, that compliance * * * will be achieved." In an additional attempt to provide flexibility for implementation of the standards, EPA also provided that numerical analyses of releases from a repository were to be incorporated into an overall probability distribution only "to the extent practicable." This phrase appeared to allow some discretion for NRC to incorporate qualitative considerations into its license decision-making, rather than having to rely solely on numerical projections of repository performance. On the strength of these and other EPA assurances, the Commission did not object when the final standards were published in 1985.

Pursuant to the remand by the Federal court in 1987, EPA is currently revising its standards for disposal of spent fuel and high-level waste. The court's decision directed that the remand focus on the ground water and individual protection requirements of the standards. Although the EPA standards are still undergoing development at this time, the Commission does not currently see a sufficient basis to withdraw its confidence in the feasibility of evaluating compliance with such standards. NRC staff will closely monitor the development of repromulgated standards to assure that EPA methodologies for demonstrating compliance with them can be applied by NRC to evaluate DOE's demonstration of compliance.

In sum, considering both past and current programs for characterizing sites, the Commission concludes that technically acceptable sites for a repository can be found. The Commission is confident that, given adequate time and resources, such sites can be identified, evaluated, and accepted or rejected on their merits, even if no more than one site is undergoing site characterization. This judgment does not rest on the acceptability of the Yucca Mountain site or any one future candidate site.

1.A.2. The Development of Effective Waste Packages

1.A.2.a. *Considerations in developing waste packages.* The NWPA required NRC to promulgate technical requirements and criteria to be applied in licensing a repository for high-level radioactive waste. Under section 121 of the Act, these technical criteria must provide for use of a system of multiple barriers in the design of the repository and such restrictions on the retrievability of waste as NRC deems appropriate. The system of multiple barriers includes both engineered and natural barriers.

The waste package is the first engineered barrier in the system of multiple barriers to radionuclide escape. The waste package is defined as the "waste form and any containers, shielding, packing and other absorbent materials immediately surrounding an individual waste container." Before sinking an exploratory shaft for site characterization, DOE is required to prepare an SCP including a description of the waste form or packaging proposed for use at the repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of the site.

The multiple barrier approach to radioactive waste isolation in a geologic repository is implemented in NRC requirements by a number of performance objectives and by detailed siting and design criteria. The NRC performance objective for the waste package requires substantially complete containment for a period of not less than 300 years nor more than 1,000 years after permanent closure of the repository. The technical design criteria for the waste package require that interaction of the waste package with the environment not compromise performance of the package, the underground facility, or the geologic setting. Therefore, the waste package design must take into account the complex site-specific interactions between host rock, waste package, and ground water that will affect waste package and overall repository performance.

Under the NWPAA, DOE was required to suspend site characterization activities at sites other than the Yucca Mountain, NV site. Consequently, DOE has narrowed the range of waste package designs to a design tailored for unsaturated tuff at the Yucca Mountain site. This aspect of the high-level waste program redirection may facilitate and expedite the waste package design process insofar as it enables DOE to concentrate its efforts on developing a single design for a single site instead of three designs for sites in bedded salt, basalt, and unsaturated tuff.

Currently, DOE is evaluating uncertainties in waste package design related to waste form, container type, and environment. The current conceptual design for the waste package is based on several assumptions. the waste form is presumed to be ten-year-old spent fuel or high-level waste in the form of borosilicate glass in stainless-steel canisters. (In addition to spent fuel and high-level waste, the waste form may include greater-than-Class C (GTCC) low-level waste. This waste is not routinely acceptable for near-surface disposal under NRC regulations for disposal of low-level wastes, but is acceptable for disposal in a repository licensed for disposal of spent fuel and high-level wastes. This waste might include such materials as sealed sources and activated metals from the decommissioning of reactors and production facilities.)

Six materials are being considered for fabrication of containers, including austenitic steel (316L), nickel-based alloys (Alloy 825), pure copper (CDA 102), copper-based alloys (aluminum-bronze, CDA–613, and 70–30 Cu-Ni, CDA–715), and a container with a metal outer shell and ceramic liner. The reference container for the spent fuel and high-level waste is a 1.0-cm thick cylinder to be made of American Iron and Steel Institute (AISI) 304L stainless steel. This will be DOE's benchmark material, against which other materials are to be compared. DOE currently intends for spent fuel containers to be filled with an inert gas, such as argon, before being welded closed.

The reference repository location is in the unsaturated tuff of the Topopah Spring Formation underlyign Yucca Mountain. According to DOE, little free-flowing water is thought to be present there to contribute to corrosion of the waste containers, although the degree of saturation in this tuff is estimated to be 65 ± 19 percent of the available void space in the rock. DOE has acknowledged, however, that the

greatest uncertainties in assessing waste package performance at Yucca Mountain stem from difficulty in characterizing and modeling the coupled geochemical-hydrologic processes that represent the interactions between the host rock, waste package, and ground water. The final waste package design will depend on the results of site characterization and laboratory testing to reduce uncertainty in predicting these interactions in the reference repository horizon. The final design will also be shaped by research in understanding the degradation of candidate container materials, and the characteristics of the likely reference waste forms.

Regarding the state of technology for developing long-lived waste package containers, the Swedish Nuclear Fuel and Waste Management Company (SKB), the organization responsible for radioactive waste disposal in Sweden, has described a container for spent fuel rods that consists of a 0.1-m thick copper canister surrounded by a bentonite overpack. The design calls for pouring copper powder into the void spaces in the canisters, compacting the powder using hot-isostatic pressing with an inert gas, and sealing the canisters. SKB estimates that the copper canister waste package has a million-year lifetime. (See also 1.B.3. below.)

As noted in NRC's Final Point Papers on the Consultation Draft Site Characterization Plan, the Commission does not expect absolute proof that 100 percent of the waste packages will have 100 percent containment for 300 to 1,000 years. Since that time, the NRC staff has completed its review of the December 1988 Site Characterization Plan for Yucca Mountain. Although the Commission continues to have concerns about DOE's waste package program, nothing has occurred to diminish the Commission's confidence that as long as DOE establishes conservative objectives to guide a testing and design program, in tuff or in other geologic media if necessary, it is technically feasible to develop a waste package that meets the performance objective for substantially complete containment.

1.A.2.b. *Effect of reprocessing on waste form and waste package.* The Draft 1988 Mission Plan Amendment estimates that a total of about 77,800 metric tons of heavy metal (MTHM) of spent nuclear fuel and high-level radioactive waste will be available for disposal by the year 2020. (This estimate is based on a "no new orders" assumption for commercial nuclear reactors and a 40-year reactor lifetime.) Of this 77,800 MTHM, about 9,400 MTHM will consist of reprocessed defense waste and a small amount of commercial reprocessed waste from the West Valley Demonstration Project. The decision to locate the defense high-level waste in the repository for wastes from commercial power reactors resulted from the requirement in Section 8 of the NWPA that the President evaluate the possibility of developing a defense-waste-only repository. In February 1985, DOE submitted a report to the President recommending a combined commercial and defense repository. In April 1985, the President agreed that no basis appeared to exist for a defense-only repository and directed DOE to dispose of defense waste in the commercial repository.

About 8,750 MTHM of reprocessed high-level waste from defense facilities at Savannah River, SC, Hanford, WA, and Idaho Falls, ID will be available by 2020 for disposal in the repository, according to the Draft 1988 Mission Plan Amendment. This waste will likely be solidified into a borosilicate glass matrix. About 640 MTHM of reprocessed high-level waste will come from the West Valley Demonstration Project, a facility for wastes from discontinued commercial reprocessing of spent fuel at that site. This reprocessed waste also will be solidified, probably in a borosilicate glass waste form.

Waste-form testing for the Yucca Mountain site is focusing on both spent fuel and reprocessed high-level waste. The performance of the waste form in providing the first barrier to radionuclide migration is being evaluated on the basis of the physical and chemical environment of the waste form after disposal, the performance of the waste container, and the emplacement configuration.

A major limitation on glass waste-form testing is that the actual waste glasses to be disposed of are not available, and their exact composition will not be established until after further testing. Reference waste-glass compositions are being used for studies on the effect of variation in glass composition on performance. (These glass compositions are designed by Savannah River Laboratory (SRL) for defense high-level waste, and by Pacific Northwest Laboratory (PNL) for the commercial high-level wastes to be vitrified under the West Valley Demonstration Project Act.) The reference compositions will be revised when better analyses of the composition of the wastes at SRL and West Valley are available. The test program will seek to establish upper bounds on leaching of important radionuclides, and the extent to which glass fracturing increases leach rate. Other factors influencing leach rate are temperature, pH of the leaching solution, formation of solid layers on the surface of the waste glass, irradiation, water volume, and chemistry.

It is possible that renewed reprocessing of spent fuel from nuclear power reactors may result in a greater proportion of reprocessed waste to spent fuel than is currently anticipated. Although such a departure from the current plan to dispose of mostly unreprocessed spent fuel in the repository does not appear likely at this time, the Commission believes it is important to recognize the possibility that this situation could change.

The possibility of disposal of reprocessed waste as an alternative waste form to spent fuel assemblies was recognized by the Commission in the 1984 Waste Confidence Decision. The Commission noted that the disposal of waste from reprocessing had been studied for a longer time than the disposal of spent fuel, and that the possibility of reprocessing does not alter the technical feasibility of developing a suitable waste package. The Commission went on to say that there is evidence that the disposal of reprocessed high-level waste may pose fewer technical challenges than the disposal of spent fuel. As long as DOE uses conservative assumptions and test conditions for evaluating the performance of different waste forms against NRC licensing requirements, the Commission has no basis to change its finding that there is reasonable assurance that reprocessing does not reduce confidence in the technical feasibility of designing and building a waste package that will meet NRC licensing requirements in a variety of geologic media.

1.A.3. The Development of Effective Engineered Barriers for Isolating Wastes From the Biosphere

1.A.3.a. Backfill materials. At the time of the 1984 Waste Confidence Decision, DOE was developing conceptual designs for backfill in several geologic media. Most candidate sites at that time were in saturated rock, and the conceptual designs included backfilling or packing around waste containers to prevent or delay ground water flow which could enhance corrosion and radionuclide transport near the waste containers. The conceptual design for the engineered barrier system at the Yucca Mountain site has different parameters because the site is unsaturated; instead of backfill or packing around the waste container, there is to be an air gap

between sides of the waste canister and the host rock.

Backfill material around the container is not required under NRC regulations for the waste package. NRC regulations require that "* * * containment of high-level waste within the waste packages [which includes the container] will be substantially complete for a period to be determined by the Commission * * * provided, that such period shall not be less than 300 years nor more than 1000 years after permanent closure of the repository" (10 CFR 60.113(a)(1)(ii)(B)), and that the entire engineered barrier system meet the release rate performance objective of 1 part in 100,000 per year.

Backfill is also a component of the borehole, shaft, and ramp seals, which are not part of the engineered barrier system or the underground facility. Boreholes, shafts, and ramps must be sealed when the repository is permanently closed. This aspect of backfilling is discussed below under "Development of sealants." Backfill may also include crushed rock used to fill openings such as drifts in the underground facility. At the Yucca Mountain candidate site, DOE currently plans to fill openings in the underground facility at closure of the repository. Backfilling is not planned before repository closure because it is not needed for structural support for the openings, and it would make waste retrieval more difficult. At closure of the facility, however, openings will be backfilled with coarse tuff excavated for the facility. In the conceptual design provided in the SCP, the selection of coarse tuff as backfill material is based on numerical simulations performed by DOE which suggest that coarse tuff would be a more effective barrier to capillary flow in the backfill matrix than fine materials.

DOE's design for the engineered barrier system submitted with the license application will have to contain information sufficient for NRC to reach a favorable conclusion regarding the overall system performance objective. Backfill or packing around waste containers is not required by NRC regulations if DOE can demonstrate that applicable performance objectives can be met without it. If, on the basis of testing and experiments during site characterization, DOE decided that backfill would enhance engineered barrier system performance, the design would have to reflect this conclusion. DOE has already conducted research on a wide variety of candidate materials for backfill around waste packages in a variety of geologic media. The Commission continues to have confidence that backfill or packing materials can be developed as needed for the underground facility and waste package to meet applicable NRC licensing criteria and performance objectives.

1.A.3.b. *Borehole and shaft seals.* The engineered barrier system described above is limited to the waste package and the underground facility as defined in 10 CFR part 60. The undergound facility refers to the underground structure, including openings and backfill materials, but excluding shafts, boreholes, and their seals. Containment and release-rate requirements are specified for the engineered barrier system, but not for the borehole and shaft seals. Seals are covered under 10 CFR 60.112, the overall post-closure system performance objective for the repository. Among other things, this provision requires that shafts, boreholes and their seals be designed to assure that release of radioactive materials to the accessible environment following permanent closure conform to EPA's generally applicable standards for radioactivity. Although the criteria for seals given in 10 CFR part 60 do not specifically mention seals in ramps and the underground facility, it is reasonable to consider them together with borehole and shaft sealants, because the seals and drainage design in ramps and the underground facility could also affect the overall system performance of the geologic repository.

Construction of the exploratory shaft facility (ESF) will be the first major site characterization activity. The ESF will consist of two vertical shafts, one for testing and the other for support, and underground excavations for at-depth testing. The repository surface facilities will be connected to the underground facility by two additional shafts (a men-and-materials shaft and the emplacement area exhaust shaft) and two ramps, a waste ramp for bringing radioactive waste and spent fuel into the repository, and a tuff ramp for removing rock from the underground facility to a tuff pile. In addition to these shafts and ramps, there will be exploratory boreholes for obtaining samples of rock, water, and gases in strata at varying depths. Exploratory boreholes have the potential to provide information on hydrologic properties of the Yucca Mountain site, with emphasis on movement of water in unsaturated tuff. Other properties which will be studied using exploratory boreholes are lithologic, structural, mechanical, and thermal properties of the host rock.

When the repository is decommissioned, NRC expects that most, if not all, shafts, ramps, and boreholes will probably have to be sealed to reduce the possibility that they could provide preferential pathways for radionuclide migration from the underground facility to the acccessible environment. DOE estimates that as many as 350 shallow and 70 deep exploratory boreholes may be emplaced by the time site characterization has been completed at the Yucca Mountain site. Decommissioning may not occur for up to 100 years after commencement of repository operations. Because the final design for seals will likely have been modified from the initial license application design (LAD), DOE is viewing the seal LAD as serving two primary functions. As set forth in DOE's SCP for the Yucca Mountain candidate site, the seal LAD is to establish that: (1) "* * * technology for constructing seals is reasonably available;" and (2) "* * * there is reasonable assurance that seals have been designed so that, following permanent closure, they do not become pathways that compromise the geologic repository's ability to meet the post-closure performance objectives."

To establish the availability of technology for seal construction, DOE has identified at least 31 site properties that need to be characterized in determining necessary seal characteristics. These properties include saturated hydraulic conductivity of alluvium near shafts, the quantity of water reaching the seals due to surface-flooding events, and erosion potential in the shaft vicinity. The SCP also discusses material properties that need to be identified to determine sealing components such as initial and altered hydrologic properties of materials.

The SCP indicates that DOE is planning to use crushed tuff and cements in the sealing program at the Yucca Mountain candidate site. The stated advantages of using tuff include minimizing degradation of seal material and avoiding disruption of ambient ground-water chemistry.

DOE's current design concept for meeting the overall performance objectives includes a combination of sealing and drainage. Seal requirements may be reduced in part by: (1) Limiting the amount of surface water that may enter boreholes, shafts, and ramps; (2) selecting borehole, shaft, and ramp locations and orientiation that provide long flow paths from the emplaced waste to the accessible environment above the repository; and (3) maintaining a sufficient rate of drainage below the repository horizon level so

that water can be shunted past the waste packages without contacting them.

Although DOE's program is focusing on seals for the Yucca Mountain candidate site, the Commission finds no basis for diminished confidence that an acceptable seal can be developed for candidated sites in different geologic media. The Commission finds no evidence to suggest that it can not continue to have reasonable assurance that borehold, shaft, ramp, and repository seals can be developed to meet 10 CFR part 60 performance objectives.

1.B. Relevant Issues That Have Arisen Since the Commission's Original Decision

1.B.1 In support of its argument on technical feasibility, the Commission stated in its 1984 Waste Confidence Decision that "* * * DOE's program is providing information on site characteristics at a sufficiently large number and variety of sites and geologic media to support the expectation that one or more technically acceptable sites will be identified." The NWPAA required, however, that DOE suspend site-specific site characterization activities under the Nuclear Waste Policy Act of 1982 at all sites other than the Yucca Mountain, NV site.

Under the NWPAA, the DOE program has been redirected to characterize candidate repository sites in sequence rather than simultaneously. If the Yucca Mountain site is found to be unsuitable, DOE must terminate site characterization activities there and provide Congress with a recommendation for furture action, such as the charaterizaiton of another site. Because characterization of multiple sites now appears to be more directly related to the timing of repository availability than to the technical feasibility of geologic disposal as a concept, consideration of the Commission's aforementioned 1984 statement in light of the NWPAA will be discussed under Finding 2.

1.B.2. What is the relationship, if any of the "S–3 Proceeding" to the current review of the Commission's 1984 Waste Confidence Findings? Would the planned revision of the S–3 rulemaking be affected if the Commission had to qualify its current confidence in the technical feasibility of safe disposal?

In its decision to remand to NRC the questions of whether safe offsite storage would be available to 2007–2009, or, if not, whether spent fuel could be safely stored onsite past those dates, the U.S. Circuit Court of Appeals observed that the issues of storage and disposal of nuclear waste were being considered by the Commission in an ongoing generic proceeding known as the "S–3" Proceeding.

The S–3 Proceeding was the outgrowth of efforts to address generically the NEPA requirement for an evaluation of the environmental impact of operation of a light water reactor (LWR). Table S–3 assigned numerical values for environmental costs resulting from uranium fuel cycle activities to support one year of LWR operation. NRC promulgated the S–3 rule in April 1974. In July 1976, the U.S. Circuit Court of Appeals found that Table S–3 was inadequately supported by the record regarding reprocessing of spent fuel and radioactive waste management, in part because the Commission, in reaching its assessment, had relied heavily on testimony of NRC staff that the problem of waste disposal would be resolved.

When the U.S. Circuit Court of Appeals issued the remand on what were to become the "Waste Confidence" issues in May 1979, NRC had pending before it the final amended S–3 rule. The Court regarded the resolution of the issue of waste disposal in the S–3 proceeding as being related to the issue raised by the petitioners in the appeals of the NRC decisions on the expansion of spent fuel storage capacity. The Court said that the "* * * disposition of the S–3 proceeding, although it has a somewhat different focus, may have a bearing on the pending cases."

The Commission approved the final S–3 rule in July 1979. In October 1979, the Commission issued a Notice of Proposed Rulemaking (NPRM) on the Waste Confidence issues in response to the remand by the Court of Appeals. In the NPRM, the Commission stated that the proceeding would "* * * draw upon the record compiled in the Commission's recently concluded rulemaking on the environmental impacts of the nuclear fuel cycle, and that the record complied herein will be available for use in the general fuel cycle rule update discussed in that rulemaking."

In the final Table S–3 rule issued in 1979, the Commission had said that "* * * bedded salt sites can be found which will provide effective isolation of radioactive waste from the biosphere." When the Commission issued the 1984 Waste Confidence Decision, part of the basis for the discussion of waste management and disposal in the August 1979 final S–3 rule had changed. For example, in 1984 the repository program was proceeding under the NWPA, which required that DOE recommend three sites for site characterization.

Although NRC is preparing to amend the S–3 Table, and add a new appendix to explain the basis for and significance of the data in the table, it is unlikely that the revisions will have any impact on the Commission's generic findings in the Waste Confidence proceeding. Nor is it likely that this reexamination of the Waste Confidence findings will affect the S–3 rule; the Waste Confidence Proceeding is not intended to make quantitative judgments about the environmental costs of waste disposal. Unless the Commission, in a future review of the Waste Confidence decision, finds that it no longer has confidence in the technical feasibility of disposal in a mined geologic repository, the Commission will not consider it necessary to review the S–3 rule when it reexamines its Waste Confidence findings in the future.

1.B.3. To what extent do developments in spent fuel disposal technology outside of the United States (e.g., Swedish waste package designs) enhance NRC's confidence in the technical feasibility of disposal of high-level waste and spent fuel?

Spent fuel disposal technology is the subject of extensive research investigation in both Europe and North America. Advances in this technology are being communicated to the NRC staff both through bilateral agreements and the presentation of research results at international meetings.

Outside the United States, studies of spent fuel as a waste form are now being conducted primarily in Canada and Sweden, although both France and West Germany have small programs in this area. The Swedish studies have been mainly concerned with boiling water reactor (BWR) spent fuel, whereas the Canadian studies focus on spent fuel from that country's CANDU reactors, which use unenriched uranium in a core immersed in "heavy" water made from deuterium. BWR and CANDU fuel, like pressurized water reactor (PWR) fuel, are uranium dioxide fuels clad in zircaloy. However, the burnup rates for these three fuel types vary considerably. Ongoing research studies on spent fuel include: work on the characterization of spent fuel as a waste form; the corrosion of spent fuel and its dissolution under oxidizing and reducing conditions; the radiolysis of ground water in the near vicinity of the spent fuel, and its effects on the dissolution of the fuel; and the development of models to predict the leaching of spent fuel over long time periods. The results of this work are steadily increasing our understanding of spent fuel as a waste form.

High-level radioactive waste, whether it is spent reactor fuel or waste from reprocessing, must be enclosed in an

outer canister as part of the waste package. The canister surrounding the waste is expected to prevent the release of radioactivity during its handling at the repository site before emplacement. After emplacement in the repository, it is expected to prevent the release of radioactivity for a specified period of time after the repository is closed, by providing a barrier to protect the waste from coming into contact with the ground water.

For practical reasons, canister materials may be divided into the following classes: (1) Completely or partially thermodynamically stable materials such as copper; (2) passive materials such as stainless steel, titanium, Hastelloy, Inconel, and aluminum; (3) corroding or sacrificial materials such as lead and steel; and (4) non-metallic materials such as alumina and titanium dioxide ceramics and cement.

Sweden has been conducting an extensive canister research program over the past several years. The main canister of interest is copper, but titanium, carbon steel, and alumina and titanium dioxide are also being studied as reasonable alternatives, should unexpected problems be discovered with using pure copper.

The present Swedish canister design is a 100-mm thick copper container (as described previously in section A.2.a.), which is claimed to provide containment, in conjunction with an appropriate backfill material, for a period on the order of one million years. The critical factors for the isolation period for copper canisters are: (1) The presence of corrosive substances such as sulfphide ions in the ground water; (2) the possibility of these substances reaching the canister surface; and (3) the degree of inhomogeneity, or pitting, of the resulting corrosion. Studies are continuing to obtain more information on pitting corrosion of copper and on techniques for welding thick-walled copper containers.

Several conceptual designs for canisters for the safe disposal of unreprocessed spent fuel have also been developed in Canada. One canister design option is the supported-shell, metal-matrix concept, which involves packing the spent fuel bundles into a thin corrosive-resistant shell and casting the remaining space with a low melting point metal or alloy. Structural support for the shell would be provided by the resulting metal matrix. Lead is a possible matrix material because of its favorable casting properties, cost, and low melting point.

Other supported shell canister concepts include the packed-particulate and structurally-supported designs. In these designs, a thin outer shell is supported by a particulate material packed around a steel internal structure that contains the spent fuel bundles. Several materials have been identified for the fabrication of the corrosion resistant outer shell, including commercially pure and low-alloy titanium, high nickel-based alloys such as Inconel 625, and pure copper. Detailed designs have been produced for all three types of supported shell canisters incorporating either a titanium or nickel alloy shell less than 6-mm thick. A conceptual design has also been produced for a copper-shell structurally-supported canister and a metal-matrix container with a relatively thick (25-mm) copper shell and a lead matrix material. This last canister is intended to contain 72 used CANDU fuel bundles in four layers of 18 bundles each.

Both the Canadian and Swedish conceptual designs for the disposal of spent fuel in canisters provide for surrounding the canister with backfill material as part of the waste package when it is emplaced in the repository. This backfill material would be packed around the canister to retard the movement of ground water and radionuclides. Investigations of backfill material at the Stripa mine in Sweden have shown that bentonite and silica sand can be employed successfully as backfill, both around the canister and in repository tunnels. A bentonite-silica mixture is the recommended backfill material on the basis of its thermal and mechanical properties. Bentonite backfills have been shown to produce hydraulic conductivities that are very similar to the surrounding granite at Stripa. Problems concerning the variability of bentonite samples from different geographic locations can be eliminated if material from a single source is used. The presence of sulfur and some organic material, including bacteria, in many bentonites poses some problems related to microbially-accelerated corrosion. Treatment with hydrogen peroxide may be used to oxidize these organics. Heating the bentonite to 400 degrees C can also be effective, although this may alter the crystal structure of the bentonite.

Many countries intend to dispose of their high-level radioactive waste by first converting the wastes into a solid, vitrified form after reprocessing. Since the leaching of the waste form by circulating ground water after disposal is the most likely mechanism by which the radionuclides might be returned to the biosphere, the waste form must be composed of a highly stable material with an extremely low solubility in ground water. Thus, the waste form itself should function as an immobilization agent to prevent any significant release of radionuclides to the biosphere over very long time periods. The two primary materials currently being considered for use as solidified waste forms are borosilicate glass and SYNROC, a man-made titanate ceramic material.

SYNROC was initially developed in Australia as an alternative material to borosilicate glass. It is composed primarily of three minerals (hollandite, zirconolite, and perovskite) which collectively have the capacity to accept the great majority of radioactive high-level waste constituents into their crystal lattice strucuture. These three minerals, or closely related forms, occur naturally, and have been shown to have survived for many millions of years in a wide range of natural environments. SYNROC has the property of being extremely resistant to leaching by ground water, particularly at temperatures above 100 degrees C. In addition, the capacity of SYNROC to immobilize high-level wastes is not markedly impaired by high levels of radiation damage.

The high leach-resistance of SYNROC at elevated temperatures increases the range of geologic environments in which it may be used, such as deep geologic repositories in both continental and marine environments.

Research and development work on improving SYNROC production technology is currently being done jointly in Australia and Japan. New methods of using metal alkoxides in the fabrication of SYNROC to obtain high homogeneity and lower leachability have recently been developed in Australia. The Japanese have recently developed a new method that uses titanium hydroxide, as a reducing agent to produce SYNROC with a high density and low leach rate. A pilot facility for the production of non-radioactive SYNROC is not in operation in Australia, and a small pilot facility for producing SYNROC with radioactive constituents is being completed in Japan.

On the basis of current information from the foreign studies just described on canisters, spent fuel as a waste form, backfill materials, and alternatives to borosilicate glass waste forms, the Commission concludes that there is no basis for diminished confidence that an acceptable waste package can be developed for safe disposal of high-level waste and spent fuel.

1.C. Conclusion on Finding 1

The Commission has reexamined the basis for its First Finding in the 1984 Waste Confidence Decision in light of subsequent program developments, and concludes that Finding 1 should be reaffirmed.

The technical feasibility of a repository rests initially on identification of acceptable sites. At this time, the Commission is not aware of any evidence indicating that Yucca Mountain is not acceptable for site characterization. There are many outstanding questions regarding the licenseability of the site, however, and they must be answered satisfactorily in order for NRC to issue a construction authorization for that site. If data obtained during site characterization indicate that the Yucca Mountain site is not suitable for a repository, DOE is required by the NWPAA to terminate site characterization activities and report to Congress. Within six months of that determination, DOE must make a recommendation to Congress for further action to assure the safe, permanent disposal of spent fuel and high-level waste. DOE could recommend, for example, that Congress authorize site characterization at other sites. Considering DOE's investigations of other potentially acceptable sites before its exclusive focus on Yucca Mountain, the Commission has no reason to believe that, given adequate time and program resources, a technically acceptable site cannot be found.

The technical feasibility of geologic disposal also depends on the ability to develop effective engineered barriers, such as waste packages. DOE is currently evaluating six candidate materials for waste containers, including austenitic steel and copper- and nickel-based alloys, and is planning waste-form testing based on both spent fuel and high-level waste in borosilicate glass. On the basis of DOE's program, and results from Swedish investigations of a copper waste container, the Commission is confident that, given a range of waste forms and conservative test conditions, the technology is available to design acceptable waste packages.

In addition to the materials testing for the waste container and waste form, there may be additional measures that can be taken to improve the effectiveness of the engineered barriers. It is known, for example, that the heat-loading characteristics of the wastes diminish with time. Also, the longer wastes are stored before disposal, the smaller will be the quantities of radionuclides available for transport to the accessible environment.

It is also technically feasible to separate from radioactive wastes the radionuclides that constitute the principal source of heat from the nuclides of greatest long-term concern. The former radionuclides, mainly fission products such as cesium-137 and strontium-90, could then be stored for a period of years while the fission products decay to the point where they could be disposed of either in a manner that does not require the degree of confinement provided by a geologic repository, or in a repository with less concern for thermal disturbance of the host rock's expected waste isolation properties. Meantime, the longer-lived remaining radionuclides, such as transuranic wastes with elements heavier than uranium, could be disposed of in a repository away from the fission products and without the high thermal loadings that would otherwise have to be considered in predicting the long-term waste isolation performance of the geologic setting. France, Great Britain, and Japan are currently pursuing this waste management strategy or a variant of it.

The Commission emphasizes here that it does not believe that recycling technolgies are required for the safety or feasibility of deep geologic disposal in the United States. Other countries, such as Canada, the Federal Republic of Germany, and Sweden are pursuing disposal strategies based on a similar view. Reprocessing, if employed in its current stage of development, would result in additional exposures to radiation and volumes of radioactive wastes to be disposed of. For the purpose of finding reasonable assurance in the technical feasibility of geologic disposal, however, it is worth noting that technology is currently available to permit additional engineering control of waste forms if, for reasons not now foreseen, such control were deemed desirable at some future time. Meanwhile, the Commission continues to have confidence that safe geologic disposal is technically feasible for both spent fuel and high-level waste.

DOE's current reference design for the waste package does not include backfill or packing around waste containers in the emplacement boreholes. Neither is required under NRC rules so long as DOE can show that applicable regulatory criteria and objectives will be met. An air gap between the container and the host rock is currently one of the barriers in DOE's design for meeting the performance objective. DOE has conducted investigations on a variety of candidate materials for backfill in a variety of geologic media, and the Commission finds no basis to qualify its past confidence that backfill materials can be developed, if needed, to meet applicable NRC requirements.

The current reference design for sealing boreholes, shafts, ramps and the underground facility at the Yucca Mountain candidate site employs crushed tuff and cement. Regardless of the geologic medium of the candidate site, DOE will have to show that the license application design meets NRC post-closure performance objectives. The Commission continues to have reasonable assurance that DOE's program will lead to identification of acceptable sealant materials for meeting these objectives.

Overall, from its reexamination of issues related to the technical feasibility of geologic disposal, the Commission concludes that there is reasonable assurance that safe disposal of high-level waste and spent fuel in a mined geologic repository is technically feasible.

Original Finding 2

The Commission finds reasonable assurance that one or more mined geologic repositories for commercial high-level waste and spent fuel will be available by the years 2007–2009, and that sufficient repository capacity will be available within 30 years beyond expiration of any reactor operating license to dispose of existing commercial high-level radioactive waste and spent fueld originating in that reactor and generated up to that time.

Proposed Finding 2

The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and that sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dipose of the commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

2.A. Issues Considered in Commission's 1984 Decision on Finding 2

2.A.1. Finding Technically Acceptable Sites in a Timely Fashion

In order for the Commission to find that any candidate site for a repository is technically acceptable (that is, in compliance with NRC licensing requirements), the site must undergo comprehensive site characterization to assess its hydrologic, geologic, geochemical, and rock mechanics

properties. It is possible that a site may be found unacceptable on the basis of early in-situ testing or other site characterization activities. It will not be possible, however, for the NRC staff to take a position before a licensing board that a site will meet NRC requirements for construction authorization until the results of all site characterization activities are available. Even then, the staff may conclude that the evidence from site characterization does not constitute reasonable assurance that NRC performance objectives will be met. Also, the results of the licensing hearings on construction authorization cannot be predicted. If construction is authorized and when it is substantially complete, DOE is required to obtain, in addition to the construction authorization permit, a license to receive and possess waste at the geologic repository operations area in order to commence repository operations. These considerations argue for maintaining the ready availability of alternatives sites if, after several years, site characterization or licensing activities bring to light difficulties at the leading candidate site.

In support of its argument on technical feasibility, the Commission stated in its 1984 Waste Confidence Decision that "* * * DOE's program is providing information on site characteristics at a sufficiently large number and variety of sites and geologic media to support the expectation that one or more technically acceptable sites will be identified." At the time, DOE was required under the NWPA to characterize three candidate repository sites.

The NWPAA had a major impact on DOE's repository program, however. Under the NWPAA, DOE was required to suspend site-specific activities at the Hanford, WA and Deaf Smith County, TX sites, which had been approved by the President for site characterization for the first repository. Redirection of the repository program to single-site characterization (or, if necessary, sequential site characterization if the Yucca Mountain site is found to be unsuitable) will permit DOE to concentrate its efforts and resources on information gathering at a single site, as opposed to spreading out its efforts over a range of sites. The possible schedular benefits to single-site characterization, however, must be weighed for the purposes of this Finding against the potential for additional delays in repository availability if the Yucca Mountain site is found to be unsuitable. By focusing DOE site characterization activities on Yucca Mountain, the NWPAA has essentially made it necessary for that site to be found suitable if the 2007–2009 timeframe for repository availability in the Commission's 1984 Decision is to be met. Clearly, the Commission cannot be certain at this time that the Yucca Mountain site will be acceptable.

Although Commission has no reason to believe that another technically acceptable site can not be found if the Yucca Mountain site proves unsuitable, several factors raise reasonable doubts as to the availability of even one repository by 2007–2009. These include: (1) The current reliance on a single site with no concurrently available alternatives; (2) the probability that site characterization activities will not proceed entirely without problems; and (3) the history of schedular slippages since passage of the NWPA. For example, DOE's schedule for the first repository slipped five years (from 1998 to 2003) between January 1983, when the NWPA was enacted, and January 1987, when the first Draft Mission Plan Amendment was issued. The schedule for excavation of the exploratory shaft for the Yucca Mountain site slipped by more than three years since the issuance of the PDS in March 1986. DOE has cited numerous reasons for past program slippages, including the need for a consultation process with States and Tribes, Congressional actions (e.g., the barring of funds in the 1987 budget appropriation for drilling exploratory shafts), and DOE's recognition that the EIS and license application would require more technical information than previously planned.

Given this history of delays, and given its understanding of current developments, the Commission can not be sure that current milestones for the repository program will be met, at least in the foreseeable future. For example, DOE has taken the position, with which NRC agrees, that sinking of exploratory shafts should not occur before it has a qualified quality assurance (QA) program in place. The Commission believes that the aggressive, success-oriented schedule for this milestone has not allowed for unexpected developments. Indeed, the effort to develop an approvable QA program has in itself identified problems in design control and other processes that must be resolved in order to establish a fully-qualified program that addresses all applicable NRC licensing requirements.

Thus, although the NWPAA is a clear and strong reaffirmation of Congressional support for the timely development of a repository, the Commission in this Waste Confidence review cannot ignore the potential for delay in repository availability if the Yucca Mountain site, or any other single site designated for site characterization, is found to be unsuitable. Without alternative sites undergoing simultaneous characterization or even surface-based testing, DOE will have to begin characterizing another site if the site currently selected for characterization proves unsuitable. The earlier a determination of unsuitability can be made, the smaller the impact of such a finding would be on the overall timing of repository availability.

DOE has estimated conservatively that it would required approximately 25 years to begin site screening for a second repository, perform site characterization, submit an EIS and license applications, and await authorizations before the repository could be ready to receive waste. In its June 1987 Mission Plan amendment, DOE stated "It * * * seems prudent to plan that site-specific screening leading to the identification of potentially acceptable sites should start about 25 years before the start of waste acceptance for disposal." DOE went on to say that it considered this estimate to be conservative because it does not account for expected schedular benefits from the first repository program, including improvements in such areas as site screening, site characterization, and performance assessment techniques.

Although DOE's estimate was permitted on the successful completion of a program for the first of two repositories, schedular benefits from improvements in the understanding of waste isolation processes would still be available. The glass waste form from the Defense Waste Processing Facility now under construction at Savannah River, SC, for example, will be available for testing under simulated repository conditions well before the turn of the century under current DOE schedules, and improvements in the modelling of spent fuel behavior within waste canisters can be applied in performance assessments largely irrespective of the geology of a site. It may also be pertinent that when DOE made its 25-year estimate for the second repository program in mid-1987, the law at the time required the simultaneous characterization of three sites, so that DOE could not proceed to develop one site for a repository until the completion of characterization at the site that required the most time.

Although it is still possible for a repository to be available by 2007–2009 if the current schedule does not incur major additional delays, the Commission does not believe it would be prudent to reaffirm the Agency's 1984

finding of reasonable assurance that the 2007–2009 timetable will be met. As the Court of Appeals noted in remanding this isue to NRC, the ultimate determination of whether a disposal facility will be available when needed "* * * can never rise above a prediction." The Commission is in the position of having to reach a definitive finding on events which are almost two decades away. We believe that the institutional timescale for this question can more realistically be framed in decades than in years. As the program proceeds into the next century, it will become easier for NRC to make more definitive assessments, if necessary, of the time a repository will be available.

It should be noted here that the basis for the 2007–2009 timeframe in the Court remand on the "Waste Confidence" issues has changed in the past five years. These dates no longer represent the expected dates of expiration of the Vermont Yankee and Prairie Island facilities. When the operating licenses were originally issued for nuclear power reactors, license durations were computed on the basis of a 40-year operating lifetime starting from the date of the construction permit (CP) for the facility. For many facilities, five years or more elapsed from the date of issuance of the CP until issuance of the operating license (OL). In response to requests from utilities, the NRC staff has agreed to extend the dates of expiration of the OLs by computing the 40-year period of the license from the date of issuance of the OL instead of from the date of the CP. The NRC staff has already changed the expiration date for Prairie Island Units 1 and 2 from the year 2008 to the years 2013 and 2014. The staff currently expects Vermont Yankee to request a change in its current expiration date of December 11, 2007. On the basis of the date of issuance of the OL for Vermont Yankee, it is eligible for extension of its operating license expiration to March 2012. Therefore, if the remand were to occur today, NRC would likely be evaluating the availability of a repository by 2012–2014, as these years are expected to represent the timeframe in which the OLs of the Vermont Yankee and Prairie Island facilities are due to expire.

In light of all these considerations, the Commission believes it can have reasonable assurance that at least one repository will be available within the first quarter of the twenty-first century. This estimate is based on the time it would take for DOE to proceed from site screening to repository operation at a site other than Yucca Mountain, if this should prove necessary. Assuming for the sake of conservatism that Yucca Mountain would not be found suitable for repository development, it is reasonable to expect that DOE would be able to reach this conclusion by the year 2000. This would leave 25 years for the attainment of repository operations at another site.

2.A.2. Timely Development of Waste Packages and Engineered Barriers

DOE's current conceptual design for the waste package is discussed in the SCP for the Yucca Mountain site. As information is obtained from site characterization activities and laboratory studies, the conceptual design will evolve in successive stages into the Advanced Conceptual Design (ACD), the LAD, and the final procurement and construction design. DOE has identified four areas of investigation related to the waste package LAD: (1) Waste package environment; (2) waste form and materials testing; (3) design, analysis, fabrication, and prototype testing; and (4) performance assessment. Numerous uncertainties exist in each of these areas. DOE's testing program will attempt to reduce uncertainties in these areas where possible. For example, *in-situ* testing is expected to decrease significantly uncertainties regarding the repository host rock mass in which the waste packages will be emplaced. In the area of performance assessment, however, where results of relatively short-term testing of complex rock-waste-ground water interactions must be extrapolated over as many as 10,000 years, it may be necessary to rely more heavily on the use of simplifying assumptions and bounding conditions than in other areas of investigation.

As discussed under Finding 1, the Commission continues to have reasonable assurance that waste packages and engineered barriers can be developed which will contribute to meeting NRC performance objectives for the repository. The timing of availability of a complete and high quality waste package and engineered barrier LAD, specifically their availability on a schedule which would permit repository operation by 2007–2009, is more difficult to assess at this time. In contrast with the technical feasibility issues discussed under Finding 1, development of acceptable waste packages and engineered barriers for a repository in the 2007–2009 timeframe does depend on the overall acceptability of the Yucca site. If the site is found to be unsuitable, waste package and engineered barrier development will have to begin for a different site, because, under the NWPAA, DOE may not carry out site characterization and waste package development work at sites other than the Yucca Mountain site.

Although much of the work related to waste form, materials, and performance assessment for the waste package can proceed independently of *in-situ* testing, the investigations related to waste package environment depend on the schedule for this testing. DOE's current schedule calls for completing the ACD for the waste package in 1992, and the waste package LAD in 1994. The ability to meet these dates will depend on whether DOE is able to resolve outstanding QA issues which have impeded shaft sinking and *in-situ* testing.

In sum, the Commission is not aware of any scientific or technical problems so difficult as to preclude development of a waste package and engineered barrier for a repository at Yucca Mountain to be available within the first quarter of the twenty-first century. Moreover, even given the uncertainty regarding the ultimate finding of site acceptability, and the uncertainty concerning the range of site-related parameters for which the engineered facility and waste package will have to be designed, the Commission finds reasonable assurance that waste package and engineered barrier development can be completed on a schedule that would permit repository operation within the first quarter of the twenty-first century. If necessary (that is, if Yucca Mountain were found unsuitable late in the program), DOE could initiate site characterization and develop waste packages and engineered barriers at another site or sites and still commence operation before the end of the first quarter of that century.

2.A.3. Institutional Uncertainties

2.A.3.a. *Measures for dealing with Federal-State-local concerns.* In its 1984 Waste Confidence Decision, the Commission found that the NWPA should help to minimize the potential that differences between the Federal Government and States and Indian tribes will substantially disrupt or delay the respository program. The Commission noted that the NWPA reduced uncertainties regarding the role of affected States and tribes in repository site selection and evaluation. The Commission also said that the decision-making process set up by the NWPA provides a detailed, step-by-step approach that builds in regulatory involvement, which should also provide confidence to States and tribes that the program will proceed on a technically sound and acceptable basis. Despite the

expected and continuing State opposition to DOE siting activities, the Commission has found no institutional developments since that time that would fundamentally disturb its 1984 conclusions on this point.

NRC regulatory involvement, for example, has indeed been built into the process. DOE has continued its interactions with NRC regarding repository program activities since the Commission's 1984 Waste Confidence decision was issued. NRC provided comments to DOE on major program documents such as the Siting Guidelines and the PDS as required by the NWPA, and NRC concurred on those documents. NRC also reviewed and provided comments to DOE on the DEAs and FEAs. In the December 22, 1986 letter to DOE on the FEAs, the NRC staff noted that "* * * significant efforts were made by DOE to respond to each of the NRC staff major comments on the DEAs, and in fact, many of these comments have been resolved." NRC provided comments to DOE on the 1987 Draft Mission Plan Amendment, and DOE responded to most of these comments in the Final Mission Plan Amendment provided to Congress on June 9, 1987.

Since enactment of the NWPAA in December 1987, DOE–NRC interactions have focused on the Yucca Mountain site. In January 1988, DOE issued the Consultation Draft Site Characterization Plan (CDSCP) for the Yucca Mountain site. The NRC staff provided comments in the form of draft and final "point papers" on the CDSCP. The NRC comments included several objections related to: (1) The failure to recognize the range of alternative conceptual models of the Yucca Mountain site; (2) the status of the quality assurance (QA) plans for site characterization activities; and (3) concerns related to the exploratory shaft facility. Although the December 1988 SCP shows improvement over the CDSCP, NRC continues to have an objection involving the need for implementing a baselined QA program before beginning site characterization and an objection involving the need for DOE to demonstrate the adequacy of both the ESF design and the design control process. DOE is committed to having a qualified QA program in place before sinking the exploratory shaft at the Yucca Mountain site.

DOE has also taken measures to clarify and institutionalize the roles of other Federal agencies in addition to NRC. In the Draft 1988 Mission Plan Amendment, DOE described interactions with these agencies. DOE has a Memorandum of Understanding (MOU) with the Mine Safety and Health Administration of the Department of Labor for technical support and oversight for shaft construction and other site characterization activities, and with the Department of Transportation to define the respective responsibilities of the two agencies in the waste disposal program. DOE also has interagency agreements with the Bureau of Mines and the U.S. Geological Survey of the Department of the Interior.

DOE's efforts to address the concerns of States, local governments, and Indian tribes have met with mixed results. For example, DOE has not succeeded in finalizing any consultation and cooperation (C&C) agreements as required under Section 117(c) of the NWPA, as amended. These agreements were to help resolve State and Tribal concerns about public health and safety, environmental, and economic impacts of a repository. Publication of the Siting Guidelines under section 112(a) of the NWPA resulted in numerous lawsuits challenging the validity of the Guidelines. Similarly, the FEAs were challenged in the Ninth Circuit by affected States and tribes.

The NWPAA did not curtail financial assistance to affected States and tribes, except to redefine and redistribute it if DOE and a State or tribe enter into a benefits agreement. The State of Nevada and affected local governments are currently receiving financial assistance. DOE has attempted to negotiate an agreement with the State of Nevada for monetary benefits under section 170 of the NWPAA. This section would provide for payments of $10 million per year before receipt of spent fuel, and $20 million per year after receipt of spent fuel until closure of the repository. These payments would be in addition to certain monetary benefits for which the State is eligible under the NWPA, as amended. Also under a benefits agreement, a Review Panel would be constituted for the purpose of advising DOE on matters related to the repository, and for assisting in the presentation of State, tribal, and local perspectives to DOE. The beneficiary to a benefits agreement must waive its right to disapprove the recommendation of the site for a repository and its rights to certain impact assistance under sections 116 and 118 of the NWPA, as amended. To date, the State of Nevada has declined DOE's offer to negotiate a benefits agreement.

The NWPAA introduced several new organizational entities to the repository program with responsibilities that may contribute to resolving concerns of Federal, State, and local governments involved in the program. Under section 503 of the NWPAA, the Nuclear Waste Technical Review Board (NWTRB) is to evaluate the technical and scientific validity of DOE activities under the NWPAA, including site characterization and activities related to packaging or transportation of spent fuel. The NWPAA also established the Office of Nuclear Waste Negotiator, who is to seek to negotiate terms under which a State or Indian tribe would be willing to host a repository or MRS facility at a technically qualified site. Among the duties of the Negotiator is consultation with Federal agencies such as NRC on the suitability of any potential site for site characterization.

At the time of this writing, the President has not appointed the Negotiator. On February 24, 1989 Congressman Morris K. Udall and Senator J. Bennett Johnston requested that the President take action to appoint an individual to this office. A Negotiator could contribute to the timely success of the respository program by providing an alternative site to the Yucca Mountain site that would still have to be techically acceptable, but that would enjoy the advantage of reduced institutional uncertainties resulting from opposition to State or affected Indian tribes.

An additional measure which may facilitate documentation and communication of concerns related to a repository is the Licensing Support System (LSS). The LSS is to provide full text search capability of and easy access to documents related to the licensing of the repository. Although the primary purpose of the LSS is to expedite NRC's review of the construction authorization application for a repository, it will be an effective mechanism by which all LSS participants, including the State and local governments, can acquire early access to documents relevant to a repository licensing decision. DOE has the responsibility for designing the LSS and bearing the costs associated with it, and NRC will be responsible for implementing it.

Procedures for the use of the LSS are part of revisions to 10 CFR Part 2, NRC's Rules of Practice for the adjudicatory proceeding on the application to receive and possess waste at a repository. These revisions were the result of a "negotiated rulemaking" process in which affected parties meet to reach concensus on the proposed rule. The members of the negotiating committee included: DOE; NRC; State of Nevada; coalition of Nevada local governments; coalition of industry groups; and a coalition of national environmental groups. The coalition of industry groups

dissented on the final text of the proposed rule, but the negotiating process enabled NRC to produce a proposed rule reflecting the consensus of most of the interested parties on an important repository licensing issue.

NRC is committed to safe disposal of radioactive waste and the protection of public health and safety and the environment. Any State with a candidate site for a repository should be assured that a repository will not be licensed if it does not meet NRC criteria. NRC has its own program for interaction with the State of Nevada and affected units of local government, and will continue to provide information to Nevada and consider State concerns as requested.

Given the difficult nature of siting a repository, the Commission believes that the NWPA, as amended, has achieved the proper balance between providing for participation by affected parties and providing for the exercise of Congressional authority to carry out the national program for waste disposal. The NWPAA provides adequate opportunity for interaction between DOE and other Federal agencies, States, tribes, and local governments such that concerns can be presented to DOE for appropriate action. Both the NRC and the State or tribe can exercise considerable prerogative regarding repository development. The State or tribe may disapprove the recommendation that the site undergo repository development. This disapproval can be overridden only by vote of both houses of Congress within 90 days of continuous session. If the State disapproval is overridden, DOE may submit an application for authorization to construct the repository, and, if approved, a subsequent application to receive and possess waste for emplacement. NRC will make decisions on the license applications according to the requirements of its statutory mission. Despite the complexity of the overall process and the strong views of the participants in it, the Commission sees no compelling reason to conclude that current institutional arrangements are inadequate to the task of resolving State, Federal, and local concerns in time to permit a repository to be available within the first quarter of the twenty-first century.

2.A.3.b. Continuity of the management of the waste program. At the time the Commission issued its 1984 Waste Confidence Decision, the possibility that DOE functions would be transferred to another Federal agency was cited as the basis for concerns that the resolution of the radioactive waste disposal problem would likely undergo further delays. The Commission responded that in the years since the Administration had proposed to dismantle DOE in September 1981, Congress had not acted on the proposal. The Commission further stated that even if DOE were abolished, the nuclear waste program would simply be transferred to another agency. The Commission did not view the potential transfer in program management as resulting in a significant loss of momentum in the waste program. The commission also concluded that the enactment of the NWPA, which gave DOE lead responsibility for repository development, further reduced uncertainties as to the continuity of management of the waste program.

Section 303 of the NWPA did, however, require the Secretary of Energy to "* * * undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste facilities, including the feasibility of establishing a private corporation for such purpose." To carry out this requirement, DOE established the Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities, which came to be known as the "AMFM" Panel. The Panel's final report, issued in December 1984, concluded that several organizational forms are more suited than DOE for managing the waste program, including an independent Federal agency or commission, a public corporation, and a private corporation. The report identified a public corporation as the preferred alternative on the basis of criteria developed by the Panel for an acceptable waste management organization. In particular, the report indicated that a public corporation would be stable, highly mission-oriented, able to maintain credibility with stakeholders, and more responsive to regulatory control than a Federal executive agency.

Commenting on the AMFM Panel's report in April 1985, DOE recommended retaining the present management structure of the waste program at least through the siting and licensing phase of the program. Congress did not take action to implement the Panel's recommendations, and DOE's management of the waste program has remained uninterrupted.

By enacting the NWPAA, Congress effectively reaffirmed DOE's continued management of the waste program. Congress did not revise DOE's role as the lead agency responsible for development of a repository and an MRS. Congress did establish several new entities for the purpose of advising DOE on matters related to the waste program, such as the NWTRB and the Review Panel, to be established if DOE and a State or tribe enter into a benefits agreement under section 170 of the NWPAA. Congress provided further indication of its intent that DOE maintain management control of the waste program for the foreseeable future in requiring, under section 161, that the Secretary of DOE "* * * report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository."

This is not to say, however, that there have been no management problems in the DOE program. Since the enactment of the NWPA in 1983, only one of the five Directors of DOE's Office of Civilian Radioactive Waste Management (OCRWM) has held the position on a permanent basis. Inadequate progress toward an operating repository has concerned several Congressional observers, including Senator J. Bennett Johnston, Chairman of the Senate Energy and Natural Resources Committee. In February 1989 confirmation hearings for then-Secretary-of-Energy-designate James Watkins, Senator Johnston strongly criticized mounting cost projections and lack of progress in the program, and called for new and stronger management.

Whether the management structure of the respository development program should in fact be changed is a decision best left to others. The Commission believes that a finding on the likely availability of a repository should take management problems into account, but finds no basis to diminish the degree of assurance in its 1984 conclusion on this issue. Events since the submission of the AMFM Panel report do not indicate that there will be a fundamental change in the continuity of the management structure of the program any time soon. In addition, it cannot be assumed that the program would encounter signficantly less difficulty with a new management structure than it would continuing under the present one. Under either scenario, however, the Commission believes it would be more prudent to expect respository operations after the 2007–2009 timeframe than before it. Neither the problems of a new management structure nor those of the existing one are likely to prevent the achievement of repository operations within the first quarter of the next century, however.

2.A.3.c. Continued funding of the nuclear waste management program. Section 302 of the NWPA authorized DOE to enter into contracts with generators of electricity from nuclear reactors for payment of 1.0 mill (0.1 cent) per kilowatt-hour of net electricity generated in exchange for a Federal Government commitment to take title to the spent fuel from those reactors. In the 1984 Waste Confidence Decision, the Commission noted that all such contracts with utilities had been executed. After the 1984 Decision, then-President Reagan decided that defense high-level wastes are to be collocated with civilian wastes from commercial nuclear power reactors. DOE's Office of Defense Programs is to pay the full cost of disposal of defense waste in the repository.

DOE is required under section 302(a)(4) of the NWPA, as amended, "* * * annually [to] review the amount of the fees * * * to evaluate whether collection of the fees will provide sufficient revenues to offset the costs * * *." In the June 1987 Nuclear Waste Fund Fee Adequacy Report, DOE recommended that the 1.0 mill per kilowatt-hour fee remain unchanged. This assessment was based on the assumption that an MRS facility would open in 1998, the first repository would open in 2003, and the second repository in 2023. These assumptions do not reflect changes in the waste program brought about by the NWPAA enacted in December 1987. Two such changes with significant potential impacts were the suspension of site-specific activities related to the second repository until at least 2007, and the linkage between MRS construction and operation and the granting of a repository construction authorization, which will probably occur no earlier than 1998.

According to the Draft 1988 Mission Plan Amendment, DOE should currently be preparing the 1988 fee-adequacy analysis on the basis of the changes to the waste program brought about by the NWPAA. The new fee adequacy report will reflect overall program cost savings to the utilities resulting from : (1) Limiting site characterization activities to a single site at Yucca Mountain, NV; and (2) the DOE Office of Defense Programs' sharing other program costs with generators of electricity "* * * on the basis of numbers of waste canisters handled, the portion of the repository used for civilian or defense wastes, and the use of various facilities at the repository," in addition to paying for activities solely for disposing of defense wastes. An additional factor which may eventually also contribute to the overall adequacy of Nuclear Waste Fund fees is the likelihood that a significant number of utilities will request renewals of reactor operating lifetimes beyond their current OL expiration dates. OL renewal would provide additional time during which Nuclear Waste Fund fees could be adjusted, if necessary, to cover any future increase in per-unit costs of waste management and disposal.

The Commission recognizes the potential for program cost increases over estimates in the 1987 Nuclear Waste Fund Fee Adequacy Report. If there is a significant delay in repository construction, for example, it is reasonable to assume that construction costs will escalate. There may also be additional costs associated with at-reactor dry cask storage of spent fuel, if DOE does not have a facility available to begin accepting spent fuel by the 1998 date specified in the NWPA. These costs would be further increased if one or more licensees were to become insolvent and DOE were required to assume responsibility for storage at affected reactors before 1998.

The full impact of the program redirection resulting from the NWPAA and the outlook for the timing of repository availability will continue to be assessed annually. If it does appear that costs will exceed available funds, there is provision in the NWPA for DOE to request that Congress adjust the fee to ensure full-cost recovery. Thus, the Commission finds no reason for changing its basic conclusion that the long-term funding provisions of the Act should provide adequate financial support for the DOE program.

2.A.3.d. DOE's schedule for repository development. At the time that the 1984 Waste Confidence Decision was issued, the Nuclear Waste Policy Act of 1982, enacted in January 1983, had been in effect for less than 20 months. The NWPA had established numerous deadlines for various repository program milestones. Under section 112(b)(1)(B), the NWPA set the schedule for recommendation of sites for characterization no later than January 1, 1985. Section 114(a)(2) specified that no later than March 31, 1987, with provision for a 12-month extension of this deadline, the President was to recommend to Congress one of the three characterized sites qualified for an application for respository construction authorization. Under section 114(d), NRC was to issue its decision approving or disapproving the issuance of a construction authorization not later than January 1, 1989, or the expiration of three years after the date of submission of the application, whichever occurs later. Section 302(a)(5)(B) required that contracts between DOE and utilities for payments to the Waste Fund provide that DOE will begin disposing of spent fuel or high-level waste by January 31, 1998.

In little more than a year after enactment, the schedule established by the NWPA began proving to be optimistic. In the reference schedule for the repository presented in the April 1984 Draft Mission Plan, for example, DOE showed a slip from January 1989 to August 1993 for the decision on construction authorization.

In the 1984 Waste Confidence Decision, the Commission recognized the possibility of delay in respository availability beyond 1998, and did not define its task as finding confidence that a repository would be available by the 1998 milestone in the NWPA. The Commission focused instead on the question of whether a repository would be available by the years 2007–2009, the date cited in the court remand as the expiration of the OLs for the Vermont Yankee and Prairie Island reactors. The NRC believed that the NWPA increased the chances for repository availability within the first few years of the twenty-first century, by specifying the means for resolving the institutional and technical issues most likely to delay repository completion, by establishing the process for compliance with NEPA, and by setting requirements for Federal agencies to cooperate with DOE in meeting program milestones. Finding that no fundamental technical breakthroughs were necessary for the repository program, the Commission predicted that "* * * selection and characterization of suitable sites and construction of repositories will be accomplished within the general time frame established by the Act [1998] or within a few years thereafter."

In January 1987, DOE issued a Draft Mission Plan Amendment to apprise Congress of significant developments and proposed changes in the repository program. In the Draft Amendment, DOE announced a five-year delay in its schedule for repository availability from the first quarter of 1998 to the first quarter of 2003. DOE's reasons for the delay included the need for more time for consultation and interaction with States and Tribes, the requirement in DOE's 1987 budget the funds not be used for drilling exploratory shafts in 1987, and the need for more information than previously planned for site selection and the license application. The 1987 Draft Mission Plan Amendment set the second quarter of 1988 as the new date for exploratory shaft construction at the

Yucca Mountain Site. When the final 1987 Mission Plan Amendment was submitted to Congress in June 1987, the schedule for shaft sinking at the Yucca Mountain site had slipped six months to the fourth quarter of 1988. Congress did not take action to approve the June 1987 Mission Plan Amendment as DOE had requested.

On December 22, 1987, the NWPAA was enacted. The NWPAA has its major impact on the respository program in suspending site characterization activities at the Hanford and Deaf Smith County sites and authorizing DOE to characterize the Yucca Mountain site for development of the first repository.

DOE subsequently issued the Draft 1988 Mission Plan Amendment in June 1988, to appraise Congress of its plans for implementing the provisions of the NWPAA. In the Draft 1988 Mission Plan Amendment, DOE's schedule for shaft sinking at Yucca Mountain had slipped another six months to the second quarter of 1989. At this writing, the schedule for shaft sinking is November 1989, but NRC and DOE have agreed that DOE Must first have a qualified QA program in place. DOE efforts to date to qualify its QA program have revealed issues requiring DOE attention before shaft excavation can begin, and it is possible that additional issues affecting DOE's readiness will come to light.

Realistically, as the date for shaft sinking slips, the date for repository operation must be adjusted to reflect this slip. This might not be the case if the original schedule had provided for periods of time between critical milestones that could absorb delays without affecting the schedule for repository operation. This is not the case with the schedule for the repository. The repository schedule has always been aggressive and highly success-oriented. In comments on the Draft 1988 Mission Plan Amendment, the Commission noted that the schedule has not allowed adequately for contingencies, and that, given the compression in the schedule for near-term program milestones, DOE has not shown how it will be able to meet the 2003 milestone for repository operation.

Another potential source of delay in repository availability may arise from NRC regulations. The Commission believes that current NRC rules are fully adequate to permit DOE to proceed to develop and submit a repository license application, but further clarification of these rules is desirable to reduce the time needed to conduct the licensing proceeding itself. In order to meet the three-year schedule provided in the NWPA for a Commission decision on repository construction authorization, the NRC staff has undertaken to refine its regulatory framework on a schedule that would still permit DOE to prepare and submit an application for repository construction authorization under its current schedule. The Commission fully expects to avoid delaying DOE's program, while working to reduce the uncertainties in NRC regulatory requirements that could become contentions in the licensing proceeding. Even if there are any delays resulting from a need for DOE to accommodate more specific regulatory requirements in its site characterization or waste package development programs, however, the Commission is confident that the time savings in the licensing proceeding will more than compensate for them.

In view of the delays in exploratory shaft excavation since the 2003 date for repository availability was set, it may be optimistic to expect that Phase 1 of repository operations will be able to begin by 2203. As DOE's schedule for repository availability as slipped a year and half since the date was changed from 1998 to 2003, the earliest date for repository availability would probably be closer to 2005.

An institutional issue that may further affect DOE's schedule is the status of EPA standards for disposal of spent fuel and high-level waste. These standards are required under section 121(a) of the NWPA. Under 10 CFR 60.112, NRC's overall postclosure system performance objective, the geologic setting shall be selected and the engineered barrier system, which includes the waste package, must be designed to assure that releases of radioactive materials to the accessible environment, following permanent closure, conform to EPA's standards. 40 CFR part 191, the EPA standards, first became effective in November 1985. In July 1987, the U.S. Court of Appeals for the First Circuit vacated and remanded to EPA for further proceedings subpart B of the high-level radioactive waste disposal standards. As noted under the aforementioned 1.A.1., the standards have not been reissued.

A significant modification in the reissued EPA standard may affect the schedule for completing the design of the waste package and engineered barrier to the extent that design testing is planned to demonstrate compliance with the standards. DOE's current site characterization plans for demonstrating compliance with 40 CFR part 191 are based on the standards as promulgated in 1985. DOE is proceeding to carry out its testing program developed for the original EPA standards. DOE has stated that if the EPA standards are changed significantly when they are reissued, DOE will reevaluate the adequacy of its testing program.

The Commission believes that DOE's approach is reasonable. Much of the information required to demonstrate compliance with the EPA standards is expected to remain the same regardless of the numerical level at which each standard is set. Considering the importance of developing the repository for waste disposal as early as safely practicable, it would be inappropriate for DOE to suspend work on development of engineered barriers pending reissuance of the standards, unless EPA had given clear indications of major changes in them.

Another possiblity is that, regardless of any changes in the repromulgated EPA standards, they will be litigated in Federal court. Even if this proves to be the case, however, the Commission believes that any such litigation will still permit EPA to promulgate final standards well within the time needed to enable DOE to begin repository operations at any site within the first quarter of the twenty-first century.

Given the current pace of the DOE program, and assuming that the QA program can be qualified and shaft excavation begun within the next year, the Commission finds it is still possible, though less likely, that a repository at Yucca Mountain will be available by 2007–2009. To the extent that the expiration of the OLs for Prairie Island and Vermont Yankee continue to be relevant in this proceeding, the Commission believes it is more likely that a repository will be available by the anticipated dates of extension of the OLs for those plants in 2012–2014. If DOE determines that the Yucca Mountain site is unsuitable, the Commission considers it reasonble to expect that DOE could make this determination by the year 2000 and have a repository at another site available within the first quarter of the next century.

2.B. Relevant Issues That Have Arisen Since the Commission's Original Decision

2.B.1. NRC stated in 9–14–87 correspondence to Sen. Breaux on pending nuclear waste legislation that under a program of single site characterization, "* * * there may be a greater potential for delay of ultimate operation of a repository than there is under the current regime where three sites will undergo at-depth characterization before a site is selected." To what extent does the NWPAA raise uncertainty about the identification of a technically acceptable

site and potential delay in repository availability by limiting site characterization to a single candidate site (Yucca Mt.) and by raising the possibility that a negotiated agreement might influence repository site selection? Does this uncertainty affect confidence in the availibility of a respository by 2007–2009?

In providing comments to Congress on proposed amendments to the NWPA, NRC took the position that simultaneous site characterization of three sites, as required by the NWPA, was not necessary to protect public health and safety. NRC further stated that the adequacy of a site for construction authorization would ultimately be determined in a licensing proceeding, and that NRC would only license a site that satisfied NRC licensing requirements. As described next, the Commission believes that the NWPAA contains numerous provisions to ensure that a technically acceptable site will be identified.

The NWPAA does not reduce the scope of site characterization activities that DOE is authorized to undertake. The Amendments Act establishes a Nuclear Waste Technical Review Board composed of individuals recommended by the National Academy of Sciences and appointed by the President to evaluate the scientific validity of DOE activities, including site characterization activities, and to report its findings at least semiannually to Congress and DOE. The Amendments Act also provides funding for technical assistance to States, tribes, and affected units of local government. Finally, section 160(1) of the NWPAA provides that "Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the NRC established in Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 *et seq.*)." In providing for these reviews and in reaffirming NRC's licensing authority, the NWPAA ensures that a candidate site for a repository must satisfy all NRC requirements and criteria for disposal of high-level radioactive wastes in licensed geologic repositories.

Section 402 of the NWPAA establishes the Office of the Nuclear Waste Negotiator. The duty of the Negotiator is to attempt to find a State or tribe willing to host a repository or MRS at a technically qualified site. The Negotiator may solicit comments from NRC, or any other Federal agency, on the suitability of any potential site for site characterization. Section 403(d)(4) strengthens the Commission's confidence that a technically acceptable site will be identified by providing that DOE may construct a repository at a negotiated site only if authorized by NRC. Given these safeguards on selection of a technically acceptable site, the Commission does not consider that the possibility of a negotiated agreement reduces the likelihood of finding a technically qualified site.

The Commission raised the concern as early as April 1987 that under a program of single-site characterization, there could be considerable delay while characterization was completed at another site or slate of sites if the initially chosen site were found inadequate. By terminating site characterization activities at alternative sites to the Yucca Mountain site, the NWPAA has had the effect of increasing the potential for delay in repository availability if the Yucca Mountain site proves unsuitable. The provision of the NWPAA for a Negotiator could reduce the uncertainty and associated delay in restarting the repository program by offering an alternate to the Yucca Mountain site; but at the time of this writing, a Negotiator has not been appointed.

It should be noted here that the repository program redirection under the NWPAA does not, *per se*, have a significant impact on the Commission's assurance of repository availability by 2007–2009. The Commission's reservations about reaffirming this timeframe derive from other considerations, including delays in sinking shafts and the potential for other delays in meeting program milestones, that would have arisen without the NWPAA.

The Amendments Act does, however, effectively make it necessary that Yucca Mountain be found suitable if the 2007–2009 timeframe is to be met; this target period would almost certainly be unachievable if DOE had to begin screening to characterize and license another site. Thus, confidence is repository availability by 2007–2009 implies confidence in the suitability of Yucca Mountain. The Commission does not want its findings here to constrain in any way its regulatory discretion in a licensing proceeding. The Commission has therefore concluded that even if the program were on schedule, it would be inappropriate to reaffirm the 2007–2009 timeframe in the 1984 Decision.

2.B.2. In the Draft 1988 Mission Plan Amendment, DOE stated that "* * * the date indicate that the Yucca Mountain site has the potential capacity to accept at least 70,000 MTHM [metric tons heavy metal equivalent] of waste, but only after site characterization will it be possible to determine the total quantity of waste that could be accommodated at the site."

a. Do the issues of limited spent fuel capacity at Yucca Mountain, indefinite suspension of the second repository program, and the likelihood that no more than one repository will be available by 2007–2009 undermine the NRC's 1984 assurance that "sufficient repository capacity will be available within 30 years beyond expiration of any reactor operating license to dispose of existing commercial high level radioactive waste and spent fuel originating in such reactor and generated up to that time?"

b. Is there sufficient uncertainty in total spent fuel projections (e.g., from extension-of-life license amendments, renewal of operating licenses for an additional 20 to 30 years, or a new generation of reactor designs) that this Waste Confidence review should consider the institutional uncertainties arising from having to restart a second repository program?

2.B.2.a. Although it will not be possible to determine whether Yucca Mountain can accommodate 70,000 MTHM or more of spent fuel until after site characterization, the Commission does not believe that the question of repository capacity at the Yucca Mountain site should be a major factor in the analysis of Finding 2. This is because it cannot be assumed that Yucca Mountain will ultimately undergo development as a repository. The generic issue of repository capacity does add to the potential need for more than one repository, however.

As noted earlier, the NWPA established deadlines for major milestones in the development of the first and the second repository programs. The Act also required NRC to issue a final decision on the construction authorization application by January 1, 1989 for the first repository, and January 1, 1992 for the second (or within three years of the date of submission of the applications, whichever occurred later). The July 1984 Draft DOE Mission Plan set January 1998 and October 2004 as the dates for commencement of waste emplacement in the first and second repositories, assuming that Congressional authorization was obtained to construct the second repository.

Thus, at the time the 1984 Waste Confidence Decision was issued, DOE was authorized and directed to carry out two repository programs under a schedule to make both facilities operational by 2007–2009. DOE and NRC were also working under the constraint,

still in force under the NWPA as amended, that no more than 70,000 MTHM may be emplaced in the first repository before the second is in operation. Because DOE estimated at the time that commercial U.S. nuclear power plants with operating licenses or construction permits would discharge a total 160,000 MTHM of spent fuel, it appeared that at least two repositories would be needed.

In the 1984 Waste Confidence Decision, reactors were assumed to have a 40-year operating lifetime, and because the earliest licenses were issued in 1959 and the early 1960's, the oldest plants' licenses were due to expire as early as 1999 and 2000, as discussed in more detail below. Although it was expected that at least one repository would be available by this time, there was also a limit as to how quickly spent fuel could be accepted by the repository. DOE had estimated that waste acceptance rates of 3400 MTHM per year could be achieved after the completion of Phase 2 of the first repository. This rate could essentially double if two repositories were in operation. At 6000 MTHM/year, it was estimated that all the anticipated spent fuel could be emplaced in the two repositories by about the year 2026. This was the basis for the Commission's position that sufficient repository capacity would be available within 30 years beyond expiration of any reactor OL to dispose of existing commercial high level waste and spent fuel originating in such reactor and generated up to that time.

In May 1986, however, DOE announced an indefinite postponement of the second repository program. The reasons for the postponement included decreasing forecasts of spent fuel discharges, as well as estimates that a second repository would not be needed as soon as originally supposed. With enactment of the NWPAA in December 1987, DOE was required to terminate all site-specific activities with respect to a second repository unless such activities were specifically authorized and funded by Congress. The NWPAA required DOE to report to Congress on the need for a second repository on or after January 1, 2007, but not later than January 1, 2010.

Current DOE spent fuel projections, based on the assumption of no new reactor orders, call for 87,000 MTHM to have been generated by the year 2036, including approximately 9000 MTHM of defense high-level waste. With the likelihood that there will be reactor lifetime extensions and renewals, however, the no-new-orders case probably underestimates total spent fuel discharges. Also, the NWPAA did not change the requirement that no more than 70,000 MTHM could be emplaced in the first repository before operation of the second. It therefore appears likely that two repositories will be needed to dispose of all the spent fuel and high-level waste from the current generation of reactors, unless Congress provides statutory relief from the 70,000 MTHM limit, and the first site has adequate capacity to hold all of the spent fuel and high-level waste generated. The Commission believes that if the need for an additional repository is established, Congress will provide the needed institutional support and funding, as it has for the first repository.

For all but a few licensed nuclear power reactors, OLs will not expire until some time in the first three decades of the twenty-first century. Several utilities are currently planning to have their OLs renewed for ten to 30 years beyond the original license expiration. At these reactors, currently available spent fuel storage alternatives effectively remove storage capacity as a potential restriction for safe operations. For these reasons, a repository is not needed by 2007–2009 to provide disposal capacity within 30 years beyond expiration of most OLs. If work is begun on the second repository program in 2010, the repository could be available by 2035, according to DOE's estimate of 25 years for the time it will take to carry out a program for the second repository. Two repositories available in approximately 2025 and 2035, each with acceptance rates of 3400 MTHM/year within several years after commencement of operations, would provide assurance that sufficient repository capacity will be available within 30 years of OL expiration for reactors to dispose of the spent fuel generated at their sites up to that time.

There are several reactors, however, whose OLs have already expired or are due to expire within the next few years, and which are now licensed or will be licensed only to possess their spent fuel. If a repository is not available until about 2025, these reactors may be exceptions to the second part of the Commission's 1984 Finding 2, which was that sufficient repository capacity will be available within 30 years beyond the expiration of any reactor OL to dispose of the commercial high-level waste and spent fuel originating in such reactor and generated up to that time.

The basis for this second part of Finding 2 has two components: (1) A technical or hardware component; and (2) an institutional component. The technical component relates to the reliability of storage hardware and engineered structures to provide for the safe storage of spent fuel. An example would be the ability of spent fuel assemblies to withstand corrosion within spent fuel storage pools, or the ability of concrete structures to maintain their integrity over long periods. In the 1984 Decision, the Commission found confidence that available technology could in effect provide for safe storage of spent fuel for at least 70 years.

The Commission's use of the expression "30 years beyond expiration of any reactor operating license" in the 1984 Finding was based on the understanding that the license expiration date referred to the scheduled expiration date at the time the license was issued. It was also based on the understanding that, in order to refuel the reactor, some spent fuel would be discharged from the reactor within twelve to eighteen months after the start of full power operation.

Thus, the Commission understood that, depending on the date of the first reactor outage for refueling, some spent fuel would be stored at the reactor site for most of the 40-year term of the typical OL. In finding that spent fuel could be safely stored at any site for at least 30 years after expiration of the OL for that reactor, the Commission indicated its expectation that the total duration of spent fuel storage at any reactor would be about 70 years.

Taking the earliest licensed power reactor, the Dresden 1 facility licensed in 1959, and adding the full 40-year operating license duration for a scheduled license expiration in the year 1999, the Commission's finding would therefore entail removal of all spent fuel from that reactor to a repository within the succeeding 30 years, or by 2029. Even if a repository were not available until the end of the first quarter of the twenty-first century, DOE would have at least four years to ship the reactor's 683 spent fuel assemblies, totalling 70 metric tons initial heavy metal (MTIHM), from Dresden 1 without exceeding the Commission's 30-year estimate of the maximum time it would take to dispose of the spent fuel generated in that reactor up to the time its OL expired. (MTIMH is a measure of the mass of the uranium in the fuel (or uranium and plutonium if it is a mixed oxide fuel) at the time the fuel is placed in the reactor for irradiation.)

Considering the experience from the 1984 and 1985 campaigns to return spent fuel from the defunct West Valley reprocessing facility to the reactors of

origin, 70 metric tons of BWR spent fuel can easily be shipped within four years. The first campaign, involving truck shipments of 20 metric tons from West Valley, NY, to Dresden 1 in Morris, IL, took eleven months. The second, involving truck shipments of 43 tons from West Valley to the Oyster Creek reactor in Toms River, NJ, took six months. (See *Case Histories of West Valley Spent Fuel Shipments*, Final Report, NUREG/CR–4847 WPR–86(6811)–1, p. 2–2.) This estimate assumes, moreover, that no new transportation casks, designed to ship larger quantities of older, cooler spent fuel, for example, would be available by 2025.

The institutional part of the question concerning the availability of sufficient repository capacity required the Commission to make a finding as to whether spent fuel in at-reactor storage would be safely maintained after the expiration of the facility OL. This question related to the financial and managerial capability for continued safe storage and monitoring of spent fuel, rather than to the capability of the hardware involved. The Commission determined, in Finding 3 of its 1984 Decision, that spent fuel will be managed in a safe manner until sufficient repository capacity is available to assure safe disposal, which was expected under Finding 2 to be about 30 years after the expiration of any reactor OL. (See discussion of Finding 3 below for additional discussion of the institutional aspects of spent fuel storage pending the availability of sufficient disposal capacity.)

The availability of a repository within the first quarter of the twenty-first century holds no significant adverse implications for the Commission's institutional concern that there be an organization with adequate will and wherewithal to provide continued long-term storage after reactor operation. This could be a concern if a significant number of reactors with significant quantities of spent fuel onsite were to discontinue operations indefinitely between now and 1995, and the utility-owners of these reactors did not appear to have the resources to manage them safely for up to 30 years pending the assumed availability of a repository in 2025.

No such development is likely. No licenses for currently operating commercial nuclear reactors are scheduled to expire until the year 2000, and most such licenses will expire during the first two decades after 2006. (See *Nuclear Regulatory Commission 1989 Information Digest*, NUREG–1350, Vol. 1, p. 33.) The availability of the first repository by 2025, and of a second repository within one or two decades thereafter, would provide adequate disposal capacity for timely removal of the spent fuel generated at these reactors.

There are several licensees, however, whose authority to operate their commercial reactors has already been terminated. These are Indian Point 1, Dresden 1, Humboldt Bay, and Lacrosse. They are also the only licensed power reactors that are retired with spent fuel being stored onsite. Assuming conservatively that a repository does not become operational until 2025, it appears likely that spent fuel will remain at these sites for more than 30 years beyond the time their reactors were indefinitely shut down, at which point their operating licenses could be considered to have effectively expired, although they will continue to hold a possession license for the storage of the spent fuel.

In considering the means and motivation of the owner of an indefinitely retired reactor to provide safe long-term storage, the Commission believes it is useful to distinguish between the owner with only one reactor, and the owner of a reactor at a multi-unit site or an owner with operating reactors at other sites.

In the case of a retired reactor at a multi-unit site, the owner would have a clear need to maintain the safety of storage at the retired reactor sufficiently to permit continued generation at the site. If the owner of the retired reactor also owned other reactors at other sites, the spent fuel at the retired reactor could be transferred, if necessary, to the storage facilities of other units still under active management. Of the four reactors just cited, Indian Point 1 and Dresden 1 fit this description, and the sibling reactors at their sites are operating under licenses that do not expire until well beyond the year 2000—that is, well within the post-OL period during which the Commission has found that spent fuel could be safely stored pending the availability of a repository.

For the Lacrosse and Humboldt Bay reactors, the Commission is confident that, even if a repository is not available within 30 years following their retirement, the overall safety and environmental acceptability of extended spent fuel storage will also be maintained for these exceptional cases. Because there will still be an NRC possession license for the spent fuel at these facilities, the Commission will retain ample regulatory authority to require any measures, such as removal of the spent fuel remaining in storage pools to passive dry storage casks, that might become necessary until the time that DOE assumes title to the spent fuel under contracts pursuant to the NWPA. It should also be borne in mind that Humboldt Bay and Lacrosse are both small early reactors, and their combined spent fuel inventory totals 67 metric tons of initial heavy metal. (See *Spent Fuel Storage Requirements* (DOE/RL 88–34) October 1988, Table A.3b., pp. A.15–A.17.) If for any reason not now foreseen, this spent fuel can no longer be managed by the owners of these reactors, and DOE must assume responsibility for its management earlier than currently planned, this quantity of spent fuel is well within the capability of DOE to manage onsite or offsite with available technology financed by the utility either directly or through the Nuclear Waste Fund.

Nor does the Commission see a significant safety or environmental problem with premature retirements of additional reactors. In the Commission's original Waste Confidence Decision, it found reasonable assurance that spent fuel would have to spend no more than 30 years in post-operational storage pending the availability of a repository. For a repository conservatively assumed to be available in 2025, this expected 30-year maximum storage duration remains valid for most reactors, and would be true for all reactors that were prematurely retired after 1995. Based on the past history of premature shutdowns, the Commission has reason to believe that their likely incidence during the next six years will be small as a proportion of total reactor-years of operation.

Historically, 14 of the 125 power reactors that have operated in the U.S. over the past 30 years have been retired before the expiration of their operating licenses. These early retirements included many low-power developmental reactors, which may make the ratio of 14 to 125 disproportionately high as a basis for projecting future premature shutdowns.

The Commission is aware of currently operating reactors that may be retired before the expiration of their OLs, including: the recently-licensed Shoreham reactor, which has generated very little spent fuel; the Fort St. Vrain high-temperature gas-cooled reactor, which its owner plans to decommission; and the Rancho Seco reactor, which has operated for the past 12 years and may or may not be retired. Assuming that all these and perhaps a few more reactors do retire in the next several years, their

total spent fuel storage requirements would not impose an unacceptable safety or environmental problem, even in the unlikely event that all these reactors' owners were rendered financially or otherwise unable to provide adequate care, and DOE were required to assume custody earlier than currently envisioned under the NWPA.

Licensed non-power research reactors provide an even more manageable case. DOE owns the fuel for almost all of these reactors, many of which have been designed with lifetime cores that do not require periodic refueling. For those reactors that do discharge spent fuel, DOE accepts it for storage or reprocessing, and not more than an estimated 50 kilograms of such spent fuel are generated annually.

Thus, given these worst-case projections, which are not expectations but bounding estimates, the Commission finds that a delay in repository availability to 2025 will not result in significant safety or environmental impacts due to extended post-operational spent fuel storage. To put it another way, the Commission is confident that, even if a repository were not available within 30 years after the effective expiration of the OLs for both currently retired reactors and potential future reactor retirements through 1995, the overall safety and environmental impacts of extended spent fuel storage would be insignificant.

2.B.2.b. Although it is clear that there is uncertainty in projections of total future spent fuel discharges, it is not clear that the institutional uncertainties arising from having to restart a second repository program should be considered in detail in the current Waste Confidence Decision review.

License renewals would have the effect of increasing requirements for spent fuel storage. The Commission understands that some utilities are currently planning to seek renewals for 30 years. Assuming for the sake of establishing a conservative upper bound that the Commission does grant 30-year license renewals, the total operating life of some reactors would be 70 years, so that the spent fuel initially generated in them would have to be stored for about 100 years if a repository were not available until 30 years after the expiration of their last OLs.

Even under the conservative bounding assumption of 30-year license renewals for all reactors, however, if a repository were available within the first quarter of the twenty-first century, the oldest spent fuel could be shipped off the sites of all currently operating reactors well before the spent fuel initially generated in them reached the age of 100 years. Thus, a second repository, or additional capacity at the first, would be needed only to accommodate the additional quantity of spent fuel generated during the later years of these reactors' operating lives. The availability of a second repository would permit spent fuel to be shipped offsite well within 30 years after expiration of these reactors' OLs. The same would be true of the spent fuel discharged from any new generation of reactor designs.

In sum, although some uncertainty in total spent fuel projections does arise from such developments as utilities' planning renewal of OLs for an additional 20 to 30 years, the Commission believes that this Waste Confidence review need not at this time consider the institutional uncertainties arising from having to restart a second repository program. Even if work on the second repository program is not begun until 2010 as contemplated under current law, there is sufficient assurance that a second repository will be available in a timeframe that would not constrain the removal of spent fuel from any reactor within 30 years of its licensed life for operation.

2.B.3. Are early slippages in the DOE repository program milestones significant enough to affect the Commission's confidence that a repository will be available when needed for health and safety reasons?

The 2007–2009 timeframe imposed on the Commission by the May 23, 1979 remand by the Court of Appeals was based on the scheduled expiration of the OLs for the Vermont Yankee and Prairie Island nuclear reactors. The specific issues remanded to the Commission were: (1) Whether there is reasonable assurance that an offsite storage solution will be available by the years 2007–2009 (the expiration of the plants' operating licenses); and, if not, (2) whether there is reasonable assurance that the fuel can be stored safely at the sites beyond those dates.

There was no finding by the Court that public health and safety required offsite storage or disposal by 2007–2009. In directing the Commission to address the safety of at-reactor storage beyond 2007–2009, the Court recognized the possibility that an offsite storage or disposal facility might not be available by then. In any case, the years 2007–2009 no longer have the same meaning for this proceeding as they had in 1984; the OLs for Prairie Island and Vermont Yankee have been or will soon be extended to 2012–2014, on the basis of NRC's past willingness to approve a 40-year operating lifetime from the date of issuance of the OL.

The Commission has not identified a date by which a repository must be available for health and safety reasons. Taking into account institutional requirements for spent fuel storage, the Commission found, under Finding 3 in the 1984 Waste Confidence Decision, that spent fuel would be safely managed until sufficient repository capacity is available. The Commission also found, however, that in effect, under the second part of Finding 2, safe management would not need to continue for more than 30 years beyond expiration of any reactor's OL, because sufficient repository capacity was expected to become available within those 30 years. Considering that spent fuel would not have to be stored more than 30 years after any reactor's 40-year OL expiration, and taking into account the technical requirements for such storage, the Commission went on to determine under Finding 4 that, in effect, spent fuel could be safely stored for at least 70 years after discharge from a reactor. Thus, the Commission's 1984 Decision did not establish a time when sufficient repository capacity would be required; it established a minimum period during which storage would continue to be safe and environmentally acceptable pending the expected availability of sufficient repository capacity.

Bearing in mind that reactor facilities were originally designed and OLs issued for a licensed life for operation of 40 years, the Commission is proposing elsewhere in this **Federal Register** notice a clarifying revision of Finding 4 to say that spent fuel can be safely stored at a reactor for at least 30 years after the "licensed life for operation" of that reactor. Implicitly, the proposed use of the phrase "licensed life for operation" clarifies that the Commission found in 1984 that NRC licensing requirements for reactor facility design, construction, and operation provide reasonable assurance that spent fuel can be stored safely and without significant environmental impacts for at least the first 40 years of the reactor's life. The Commission's proposed finding also implies that, barring any significant and pertinent unexpected developments, neither technical nor institutional constraints would adversely affect this assurance for at least another 30 years after that first 40 years. Another implication of this revised finding is that, where a utility is able to meet NRC requirements to extend that reactor's operating lifetime by license renewal, spent fuel storage for at least 30 years beyond the end of the period of extended life will also be safe and

without significant environmental impacts.

In assessing the effect of early slippages in DOE repository program milestones, therefore, the most important consideration is not the earliest date that an operating license actually expired, but the earliest date that an OL was issued. The earliest OL to be issued was for Dresden 1 in 1959, followed by a number of reactors licensed for operation in 1962. The OLs for all of the 111 power reactors now licensed to operate are currently scheduled to expire sometime within the first three decades of the twenty-first century, which is also the period in which their currently licensed life for operation would end. (See *Nuclear Regulatory Commission 1989 Information Digest*, NUREG–1350, Vol. 1, p. 33.) Thus, conservatively assuming here that there will be no license renewals, the earliest timeframe when a repository might be needed to dispose of spent fuel from the majority of reactors is 2029–2050.

As proposed in the first part of Finding 2, the Commission has reasonable assurance that a repository will be available within the first quarter of the twenty-first century. Even if a repository were not available until 2025, this would be several years before the beginning of the earliest timeframe within which, based on an assumed 30-year storage after an assumed 40-year licensed life of reactor operation, a repository might be needed for spent fuel disposal. Thus, early slippages in DOE's program milestones do not affect the Commission's confidence that a repository will be available within that timeframe.

2.B.4. NRC has stated that the 3- to 4-year license application review schedule is optimistic, and that for NRC to meet this schedule, DOE must submit a complete and high-quality license application. In the September 16, 1988 NRC comments to DOE on the Draft 1988 Mission Plan Amendment, the Commission requested that DOE acknowledge its commitment to develop this complete and high-quality application, "even if this would result in longer times to collect the necessary information and subsequent delays in submitting the license application."

Will NRC's emphasis on the completeness and quality of the license application have a significant effect on the timing of the submittal of the license application and subsequent licensing proceeding to grant construction authorization in time for repository availability by 2007–2009?

As the NRC indicated to DOE in NRC's October 25, 1985 comments on the draft PDS, the three-year statutory schedule for the NRC licensing proceeding on the application for construction authorization is optimistic. The Commission has sought ways to improve the prospects for meeting this schedule, for example by developing the LSS for expedited document discovery during the licensing proceeding.

In the same correspondence on the PDS, NRC also stated that the adequacy of the three-year review period depends on DOE's submittal of a complete and high-quality application. A license application supported by inadequate data may lead to findings during the licensing proceeding that the results of certain tests cannot be admitted as part of the license application. If it is not possible to repeat the tests in question, NRC may have no alternative but to deny the application—with a consequent loss of program momentum and considerable financial cost.

NRC recognizes that emphasis on a complete and high-quality license application may cause some near-term delays that could make it difficult to achieve the current schedule calling for submittal of the construction authorization application in 1995. Notwithstanding any such delays, the Commission has reasonable assurance that if the Yucca Mountain site is not found unsuitable, a repository at that site could be available by the 2012–2014 timeframe, consistent with the rescheduled OL expiration dates for Prairie Island and Vermont Yankee. For reasons discussed previously, this timeframe now appears more relevant to the Waste Confidence proceeding than the 2007–2009 timeframe.

In any case, the Commission remains convinced that the benefits to the repository program of submitting a high-quality license application would outweigh the cost of delay in preparing the application. NRC has always placed great emphasis on early resolution of potential licensing issues in the interest of expeditious review of the license application and timely repository availability. It is in the same spriit of timely repository operation that the Commission is urging greater attention to quality than to meeting the schedule for submittal of the license application. NRC believes that a complete and high-quality license application offers the best available assurance that timely repository licensing and operation can be achieved.

In addition to expediting the review of the application, a high-quality license application and site characterization program should enhance overall confidence that any site granted a construction authorization will prove to be reliable during the period of performance confirmation. It will also increase public confidence that the program is being carried out in a thorough and technically sound manner.

2.C. Conclusion on Finding 2

In reexamining the technical and institutional uncertainties surrounding the timely development of a geologic repository since the 1984 Waste Confidence Decision, the Commission has been led to question the conservatism of its expectation that a repository would be available to 2007–2009.

At the time of the 1984 Decision, the Commission said that timely attainment of a repository did not require DOE to adhere strictly to the milestones set out in the NWPA, and there would be delays in some milestones. It did not appear to the Commission at the time that delays of a year or so in meeting any of the milestones would delay the date of repository availability by more than a few years beyond the 1998 deadline specified in the act.

Since then, however, several developments have made it apparent that delays of more than a few years are to be the norm rather than the exception in the early years of this program. There has been a five-year slip in DOE's estimate of repository availability from 1998 to 2003, and DOE has been unable to meet such near-term repository program milestones as excavation of the exploratory shaft and the start of in-situ testing. There remains the possibility that potential repository availability at the Yucca Mountain site wil be further delayed due to unforeseen problems during site characterization. These developments do not in themselves rule out the possibility that DOE will still be able to achieve repository operation by 2007–2009, but they do suggest that to expect repository operation by then may be optimistic.

In the Commission's view, 2012–2014 is now a more relevant timeframe than 2007–2009. When the Court issued its 1979 remand, 2007–2009 was when the OLs for Vermont Yankee and Prairier Island were scheduled to expire. The operating licenses for the two Prairie Island units have since been extended to 2013 and 2014, and the operating license for Vermont Yankee is eligible for extension to 2012. These extensions have been made available under the Commission's policy that the allowable operating life of a licensed reactor should not be foreshortened because of construction delays. It therefore seems reasonable for NRC to make its finding on the timing of repository availability

by 2012–2014, rather than by 2007–2009. The Commission has a greater degree of assurance that if the Yucca Mountain site is suitable, a repository would be available there by 2012–2014.

For the sake of conservatism, however, the suitability of Yucca Mountain should not be assumed. Yucca Mountain is now the only candidate site available; the NWPAA required that DOE terminate site characterization activities at all sites other than the Yucca Mountain site. In effect, the 2007–09 schedule for repository availability could be met only if Yucca Mountain survived the repository development process as a licensed site. If this site were found to be unlicenseable or otherwise unsuitable, characterization would have to begin at another site or suite of sites, with consequent further delay in repository availability. The final decision on the suitability of the site to proceed to licensing and repository development will rest with DOE, but the position of the NRC staff will figure in that decision. The staff will not be able to make a recommendation to a licensing board to authorize repository construction at Yucca Mountain until all site characterization activities have been completed. DOE might thus be able for several more years to determine whether there will in fact have to be a delay to find and characterize another site.

Another reason the Commission is unwilling to assume the suitability of Yucca Mountain is that NRC must be mindful of preserving all its regulatory options—including a recommendation of license application denial—to assure adequate protection of public health and safety from radiological risk. In our view, it is essential to dispel the notion that for schedular reasons there is no alternative to the currently preferred site. This view is consistent with past Commission statements that the quality of DOE's preparations for a license application should take precedence over timeliness where the two conflict. It is also consistent with the view that because we are making predictions about completion dates for a unique and complex enterprise at least some 20 years hence, it is more reasonable to express the timescale for completion in decades rather than years.

In order to obtain a conservative upper bound for the timing of repository availability, the Commission has made the assumption that the Yucca Mountain site will be found to be unsuitable. If DOE were authorized to initiate site screening for a repository at a different site in the year 2000, the Commission believes it is reasonable to expect that a repository would be available by the year 2025. This estimate is based on the DOE position that site screening for a second repository should begin 25 years before the start of waste acceptance. The consideration of technical and institutional issues presented here has found none that would preclude the availability of a repository within this timeframe.

For the second part of its 1984 finding on repository availability, the Commission found reasonable assurance that sufficient repository capacity will be available within 30 years beond expiration of any reactor OL to dispose of existing commercial high level waste and spent fuel originating in that reactor and generated up to that time. The Commission believes that this finding should also be modified in light of developments since 1984.

When the Commission made this finding, it took into consideration both technical and institutional concerns. The technical concern centered on the ability of the spent fuel and the engineered at-reactor storage facilities to meet the requirements for extended post-operational storage before shipment for disposal. The institutional question concerned whether the utility currently responsible for post-operational at-reactor storage, or some substitute organization, would be able to assure the continued safety of this storage.

The principal new developments since 1984 that bear on these questions are: (1) That dry spent fuel storage technologies have become operational on a commercial scale; and (2) that several utilities are proceeding with plans to seek renewals of their OLs, with appropriate plant upgrading, for an additional period up to 30 years beyond the 40-year term of their current licenses. The accumulation of operating experience with dry-cask storage, a technology requiring little active long-term maintenance, provides additional assurance that both the technical and institutional requirements for extended post-operational spent fuel storage will be met. License renewals, however, would have the effect of increasing requirements for both the quantity and possibly the duration of storage. If the commission were to grant 30-year license renewals, the total operating life of some reactors could be 70 years, so that the spent fuel initially generated in such reactors would have to be stored for about 100 years, if a respository were not available until 30 years after the expiration of their last OLs. This raises the question as to whether that spent fuel, and the hardware and civil engineering structures for storing it, can continue to meet NRC requirements for an additional 30 years beyond the period the Commission supported in 1984.

For all the reasons cited in the discussion of Finding 4, the Commission believes there is ample technical basis for confidence that spent fuel can be stored safely and without significant environmental impact at these reactors for at least 100 years. If a repository were available within the first quarter of the twenty-first century, the oldest spent fuel could be shipped off the sites of all currently operating reactors well before the spent fuel initially generated in them reached the age of 100 years.

The need to consider the institutional aspects of storage beyond 30 years after OL expiration was not in evidence in 1984 because the Commission was confident that at least one repository would be available by 2007–2009. On that schedule, waste acceptance of spent fuel from the first reactor whose operating license had expired (Indian Point 1, terminated in 1980) could have begun within 30 years of expiration of that license. If a repository does not prove to be available until 2025, however, it would not be available within 30 years of the time that OLs could be considered effectively to have expired for Indian Point 1 and the three other plants with spent fuel onsite that were retired before the end of their licensed life for reactor operation. The same would be true of any additional reactors prematurely retired between now and 1995, when the 30-year clock starts for the availability of a repository by 2025. Premature shutdowns notwithstanding, the Commission has reasons to be assured that the spent fuel at all of these reactors will be stored safely and without significant environmental impact until sufficient repository capacity becomes available.

Considering first the technical reasons for this assurance, it is important to recognize that each of these reactors and its spent fuel storage installation were originally licensed in part on the strength of the applicant's showing that the systems and components of concern were designed and built to assure safe operation for 40 years under expected normal and transient severe conditions. All of the currently retired reactors have a significant portion of that 40-year expected life remaining, and all have only small quantities of spent fuel onsite in storage installations that were licensed to withstand considerably larger thermal and radiation loadings from much greater quantities of spent fuel. Of the four reactors currently

retired with spent fuel onsite, the two with far the longest terms of operation, Lacrosse and Dresden, were operated for 19 and 18 years, respectively.

For the continued safe management of the spent fuel and storage installations at any existing or potential prematurely retired plant, the Commission believes it can reasonably rely on the continued structural and functional integrity of the plant's engineered storage installations for at least the balance of its originally licensed life as if the OL were still in effect. This is to say that for the purposes of Finding 2, no foreseeable technical constraints have arisen to disturb the Commission's assurance that spent fuel storage at any reactor will remain safe and environmentally accpetable for at least 30 years after its licensed life for operation, regardless of whether its OL has been terminated at an earlier date.

The Commission also sees no insurmountable institutional obstacles to the continued safe management of spent fuel during the remainder of any shutdown reactor's initially licensed life for operation, or for at least 30 years thereafter. Because there will still be an NRC possession license for the spent fuel at any reactor that has indefinitely suspended operations, the Commission will retain ample regulatory authority to require any measures, such as removal of the spent fuel remaining in storage pools to passive dry storage casks, that might appear necessary after an OL expires. Even if a licensed utility were to become insolvent, and responsibility for spent fuel management were transferred to DOE earlier than is currently planned, the Commission has no reason to believe that DOE would have insufficient Nuclear Waste Fund resources or otherwise be unable to carry out any safety-related measures NRC considers necessary. Thus, in the case of a premature reactor retirement, the Commission has an adequate basis, on both technical and institutional grounds, for reasonable assurance that spent fuel can be stored safely and without significant environmental impacts for at least 30 years beyond not only the actual end of that reactor's OL, but the end of its originally licensed life for operation.

In sum, considering developments since 1984 in the repository development program, in the operating performance of U.S. power reactors, and in spent fuel storage technology, the Commission finds that: (1) The overall public health, safety, and environmental impacts of the possible unavailability of a repository by 2007–2009 would be insignificant; and (2) neither 30-year renewals of reactor licenses nor a delay in repository availablility to 2025 will result in significant safety or environmental impacts from extended post-operational spent fuel storage.

The Commission finds ample grounds for its proposed revised findings on the expected availability of a repository. The institutional support for the repository program is well-established. A mechanism for funding repository program activities is in place, and there is a provision in the NWPA for adjusting, if necessary, the fee paid by utilities into this fund. Congress has continued to provide support for the repository program in setting milestones, delineating responsibilities, establishing advisory bodies, and providing a mechanism for dealing with the concerns of States and affected Indian tribes.

Technical support for extended spent fuel storage has improved since 1984. Considering the growing availability, reasonable cost, and accumulated operating experience with new dry cask spent fuel storage technology since then, the Commission now has even greater assurance that spent fuel can be stored safely and without significant environmental impact for at least 30 years after the expected expiration of any reactor's OL. Where a reactor's OL has been terminated before the expected expiration date, the Commission has an adequate basis to reaffirm what was implicit in its initial concept, namely: that regardless of the actual date when the reactor's operating authority effectively ended, spent fuel can be stored safely and without significant environmental impacts for at least 30 years beyond that reactor's licensed life for operation.

There is thus no foreseeable health and safety or environmental requirement that a repository be made available within the 2007–2009 timeframe at issue in the Commission's original proceeding. Nor does the Commission see a radiological safety or environmental requirement for repository availability at the end of the expected revised timeframe of 2012–2014 for the expiration of the Prairie Island and Vermont Yankee OLs.

Indeed, the Commission sees important NRC mission-related grounds for avoiding any statement that repository operation by 2007–2009 is required. Geologic disposal of high-level radioactive wastes is an unprecedented endeavor. It requires reliable projections of the waste isolation performance of natural and engineered barriers over millennia. After the repository is sealed, retrieval of the emplaced wastes will no longer be practicable, and the commitment of wastes to that site will, by design, be irreversible. In DOE's testing, both in the laboratory and at the candidate repository site, in its development of facility and waste-package designs, and in all other work to demonstrate that NRC requirements will be met for a repository at Yucca Mountain, the Commission believes that the confidence of both NRC and the public depends less on meeting the schedule for repository operation than on meeting safety requirements and doing the job right the first time. Thus, given the Commission's assurance that spent fuel can safely be stored for at least 100 years if necessary, it appears prudent for all concerned to prepare for the better-understood and more manageable problems of storage for a few more years in order to provide additional time to assure the success of permanent geologic disposal.

This is not to say that the Commission is unsympathetic to the need for timely progress toward an operational repository. It is precisely because NRC is so confident of the national commitment to achieve early repository operation that the Commission believes it no longer need add its weight to the considerable pressures already bearing on the DOE program. There is ample institutional impetus on the part of others, including Congress, the nuclear power industry, State utility rate regulatory bodies, and consumers of nuclear-generated power, toward DOE achievement of scheduled program milestones. With continuing confidence in the technical feasibility of geologic disposal, the Commission has no reason to doubt the institutional commitment to achieve it in a timeframe well before it might become necessary for safety or environmental reasons. Indeed, the Commission believes it advisable not to attempt in this review a more precise NRC estimate of the point at which a repository will be needed for radiological safety or environmental reasons, lest this estimate itself undermine the commitment to earlier achievement of repository operations. The Commission continues to hope that a repository will in fact be available by 2007–2009, and has found nothing to date that would conclusively prevent this achievement.

To find reasonable assurance that a repository will be available by 2007–2009, however, is a different and more consequential proposition in the context of this review. In light of the delays the program has encountered since its inception, and the regulatory need to avoid a premature commitment to the

Yucca Mountain site, the Commission cannot prudently describe a basis for assurance that the current DOE schedule for repository operation in 2003 will not slip another four to six years under any reasonably foreseeable circumstances. The Commission could more easily substantiate a finding that a repository will be available within the revised 2012–2014 timeframe that would be created by extending the OLs of the reactors in question when the Waste Confidence proceeding began. Even this revised estimate, however, could too easily be misinterpreted as an NRC estimate of the time at which continued spent fuel storage at these sites would be unsafe or environmentally significant. The Commission's enhanced confidence in the safety of extended spent fuel storage provides adequate grounds for the view that NRC need not at this time define more precisely the period when, for reasons related to NRC's mission, a permanent alternative to post-operational spent fuel storages will be needed. The Commission therefore proposes the following revision of its original Finding on when sufficient repository capacity will be available.

The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation of any reactor to dispose of the commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

Original Finding 3

The Commission finds reasonable assurance that high-level radioactive waste and spent fuel will be managed, in a safe manner until sufficient repository capacity is available to assure the safe disposal of all high-level waste and spent fuel.

Proposed Finding 3

Same as above.

3.A. Issues Considered in Commission's 1984 Decision on Finding 3

In the Commission's discussion of Finding 3 in its Waste Confidence Decision (49 FR 34658, August 31, 1984), in section 2.3 'Third Commission Finding,' the Commission stated.

Nuclear power plants whose operating licenses expire after the years 2007–09 will be subject to NRC regulation during the entire period between their initial operation and the availability of a waste repository. The Commission has reasonable assurance that the spent fuel generated by these licensed plants will be managed by the licensees in a safe manner. Compliance with the NRC regulations and any specific license conditions that may be imposed on the licensees will assure adequate protection of the public health and safety. Regulations primarily addressing spent fuel storage include 10 CFR part 50 for storage at the reactor facility and 10 CFR part 72 for storage in independent spent fuel storage installations (ISFSIs). Safety and environmental issues involving such storage are addressed in licensing reviews under both parts 50 and 72, and continued storage operations are audited and inspected by NRC. NRC's experience in more than 80 individual evaluations of the safety of spent fuel storage shows that significant releases of radioactivity from spent fuel under licensed storage conditions are extremely remote.

Some nuclear power plant operating licenses expire before the years 2007–09. For technical, economic or other reasons, other plants may choose, or be forced to terminate operation prior to 2007–09 even though their operating licenses have not expired. For example, the existence of a safety problem for a particular plant could prevent further operation of the plant or could require plant modifications that make continued plant operation uneconomic. The licensee, upon expiration or termination of its license, may be granted (under 10 CFR part 50 or part 72) a license to retain custody of the spent fuel for a specified term (until repository capacity is available and the spent fuel can be transferred to DOE under sec. 123 of the Nuclear Waste Policy Act of 1982) subject to NRC regulations and license conditions needed to assure adequate protection of the public. Alternatively, the owner of the spent fuel, as a last resort, may apply for an interim storage contract with DOE, under sec. 135(b) of the Act, until not later than 3 years after a repository or monitored retrievable storage facility is available for spent fuel. For the reasons discussed above, the Commission is confident that in every case the spent fuel generated by those plants will be managed safely during the period between license expiration or termination and the availability of a mined waste repository for disposal.

Even if a repository does not become available until 2025, nothing has occurred during the five years since its original Decision to diminish the Commission's confidence that high-level waste and spent fuel will be managed in a safe manner until a repository is available. The same logic just stated continues to apply through the first quarter of the twenty-first century. NRC regulations remain adequate to assure safe storage of spent fuel and radioactive high-level waste at reactors, at independent spent fuel storage installations (ISFSIs), and in an MRS until sufficient repository capacity is available.

10 CFR 72.42(a) provides for renewal of licensed storage at ISFSIs for additional 20-year periods for interim storage, or for additional 40-year periods for monitored retrievable storage of spent fuel and solidified radioactive high-level waste if an MRS facility is constructed, licensed, and operated. This would ensure that spent fuel and solidified high-level waste, if any were to be delivered to an MRS facility, would remain in safe storage under NRC regulation throughout its storage. The Commission has also published for public comment a proposed amendment to part 72, to issue a general license to reactor operating licensees to use approved spent fuel storage casks at reactor sites. If this proposed amendment is promulgated, no specific part 72 license would be required. Operating license holders would register with NRC to use approved casks on their sites.

Spent fuel may continue to be stored in the reactor spent fuel pool under a part 50 "possession only" license after the reactor has ceased operating. In addition, DOE's policy of disposing of the oldest fuel first, as set forth in its Annual Capacity Report, makes it unlikely that any significant fraction of total spent fuel generated will be stored for longer than the 30 years beyond the expiration of any operating reactor license. This expectation, established in the Commission's original proceeding, continues to be reasonable, even in the event that a repository is not available until some time during the first quarter of the twenty-first century. Even in the case of premature shutdowns, where spent fuel is most likely to remain at a site for 30 years or longer beyond OL expiration (see Finding 2, previously discussed), the Commission has confidence that spent fuel will be safely managed until safe disposal is available.

Until the reactor site has been fully decommissioned, and spent fuel has been transferred from the utility to DOE as required by NRC regulations, the licensee remains responsible to NRC. Furthermore, under 10 CFR 50.54bb, originally issued in final form by the Commission with its 1984 Waste Confidence Decision, a reactor licensee must provide to NRC, five years before expiration of an OL, notice of plans for spent fuel disposition. Accordingly, the Commission concludes that nothing has changed since the enactment of the Nuclear Waste Policy Act of 1982 and the Waste Confidence Decision in August 1984 to diminish the Commission's "* * * reasonable assurance that high-level radioactive waste and spent fuel will be managed in a safe manner until sufficient repository capacity is available * * *."

Pursuant to the NWPA, the Commission issued in final form 10 CFR part 53, "Criteria and Procedures for Determining Adequacy of Available

Spent Nuclear Fuel Storage Capacity," addressing the determination of need, if any, for DOE interim storage. No applications were received by the June 30, 1989 NWPA deadline incorporated into the Commission's rule, and it seems unlikely that any applications will be made to NRC for interim storage by DOE. Even if NRC were to make an exception for a late application, a determination must be made before January 1, 1990 to comply with the NWPA.

3.B Relevant Issues That Have Arisen Since the Commission's Original Decision on Finding 3

Although a DOE facility will not be available to enable the Department to begin accepting spent fuel in 1998, as provided in the contracts under the NWPA, the Commission's confidence in safe storage is unaffected by any potential contractual dispute between DOE and spent fuel generators and owners as to responsibility for spent fuel storage. In the event that DOE does not take title to spent fuel by this date, a licensee under either 10 CFR part 50 or part 72 cannot abandon spent fuel in its possession. Further, the Commission notes that only two reactors are currently scheduled for shutdown before 2003, DOE's anticipated repository startup date. (See *Nuclear Regulatory Commission 1989 Information Digest,* NUREG–1350, Vol. 1, p.33). To resolve any continuing uncertainties, however, it would be helpful if DOE and utilities and other spent fuel generators and owners could reach an early and amicable resolution to the question of how and when DOE will accept responsibility for spent fuel. This would facilitate cooperative action to provide for a smoothly operating system for the ultimate disposition of spent fuel.

The Commission recognizes that the NWPA limitation of 70,000 NTHM for the first repository will not provide adequate capacity for the total amount of spent fuel projected to be generated by all currently operating licensed reactors. The NWPAA effectively places a moratorium on a second repository program until 2007–2010. Either the first repository must be authorized and able to provide expanded capacity sufficient to accommodate the spent fuel generated, or there must be more than one repository. Since Congress specifically provided in the NWPAA for a first repository, and required DOE to return for legislative authorization for a second repository, the Commission believes that Congress will continue to provide institutional support for adequate repository capacity.

The Commission's confidence about the availability of repository capacity is not affected by the possibility that some existing reactor licenses might be renewed to permit continued generation of spent fuel at these sites. Because only two reactor licenses are scheduled to expire before 2003, the impact of license renewals (a matter not considered in the Commission's 1984 Decision) will have no significant effect within the first quarter of the twenty-first century on scheduling requirements for a second repository. Renewals may slightly alleviate the need for a second repository in the short term, because spent fuel storage capacity will be expanded for extended storage at these reactor sites. Over the longer term, renewals might increase spent fuel generation well into the latter half of the twenty-first century. Nonetheless, nothing in this situation diminishes the Commission's assurance that safe storage will be made available as needed.

In summary, the Commission finds no basis for changing the Third Finding in its Waste Confidence Decision. The Commission continues to find "* * * reasonable assurance that high-level radioactive waste and spent fuel will be managed in a safe manner until sufficient repository capacity is available to assure the safe disposal of all high-level waste and spent fuel."

Original Finding 4

The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the expiration of that reactor's operating license at that reactor's spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

Proposed Finding 4

The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impact for at lest 30 years beyond the licensed lite for operation (which may include the term of a revised license) of that reactor at its spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations.

4.A. Issues Considered in Commission's 1984 Decision on Finding 4

In the Commission's discussion of Finding 4 in its Waste Confidence Decision (49 FR 34658, August 31, 1984) section 2.4 "Fourth Commission Finding," the Commission said that:

Although the Commission has reasonable assurance that at least one mined geologic repository will be available by the years 2007–09, the Commission also realizes that for various reasons, including insufficient capacity to immediately dispose of all existing spent fuel, spent fuel may be stored in existing or new storage facilities for some periods beyond 2007–09. The Commission believes that this extended storage will not be necessary for any period longer than 30 years beyond the term of an operating license. For this reason, the Commission has addressed on a generic basis in this decision the safety and environmental impacts of extended spent fuel storage at reactor spent fuel basins or at either onsite or offsite spent fuel storage installations. The Commission finds that spent fuel can be stored safely and without significant environmental impacts for at least 30 years beyond the expiration of reactor operating licenses. To ensure that spent fuel which remains in storage will be managed properly until transferred to DOE for disposal, the Commission is proposing an amendment to its regulations (10 CFR part 50). The amendment will require the licensee to notify the Commission, five years prior to expiration of its reactor operating license, how the spent fuel will be managed until disposal.

The Commission's finding is based on the record of this proceeding which indicates that significant releases of radioactivity from spent fuel under licensed storage conditions are highly unlikely. It is also supported by the Commission's experience in conducting more than 80 individual safety evaluations of storage facilities.

The safety of prolonged spent fuel storage can be considered in terms of four major issues: (a) The long-term integrity of spent fuel under water pool storage conditions, (b) structure and component safety for extended facility operation, (c) the safety of dry storage, and (d) potential risks of accidents and acts of sabotage at spent fuel storage facilities.

For reasons discussed above, the Commission arrived at a provisional figure of 10 years or more for storage (i.e., a 40-year reactor 0L span, plus 30 years or more).

The 70-year-plus estimate is supported by oral testimony from the nuclear industry to the Commission in the Waste Confidence Proceeding. (See Transcript of Commission Meeting, "In the Matter of: Meeting on Waste Confidence Proceeding," January 11, 1982, Washington, DC, pp. 148–160). This testimony specifically addressed safety issues related to water pool storage of spent fuel and supported the position that spent fuel could be stored for an indefinite period, citing the industry's written submittal to the Commission in the proceeding. (See "The Capability for the Safe Interim Storage of Spent Fuel" (Document 4 of 4), Utility Nuclear Waste Management Group and Edison Electric Institute, July 1980). Some of this

material alluded to in the oral testimony was subsequently referenced by the Commission in its discussion of water pool storage issues and its Fourth Finding of reasonable assurance that spent fuel and high level waste " * * * will be managed in a safe manner." (See 49 *FR* 346758 at pp. 34681–2, August 31, 1984).

If a reactor with a 40-year initial license were to have that license renewed for another 30 years, the Commission believes that the spent fuel generated at that reactor can be safely stored for at least several decades past the end of the 70-year operating period. Adding to these 70 years the expected 30-year post-0L period during which the Commission believes, udner Finding 2, that sufficient repository capacity will be made available for any reactor's spent fuel, the total storage time would be about 100 years.

In making the original Fourth Finding, the Commission did not determine that for technical or regulatory reasons, storage would have to be limited to 70 years. This is apparent from the Commission's use of the words " * * * for *at least* 30 years beyond the expiration of that reactor's operating license * * * [emphasis added]." Similarly, in using the words "at least" in its proposed revised Finding Four, the Commission is not suggesting 30 years beyond the licensed life for operation (which may include the term of a revised license) represents any technical limitation for safe and environmentally benign storage. Degradation rates of spent fuel in storage, for example, are slow enough that it is hard to distinguish by degradation alone between spent fuel in storage for less than a decade and spent fuel stored for several decades.

The Commission's proposed revised Finding here is meant to apply both to wet storage in reactor pools and dry storage in engineered facilities outside the reactor containment building. Both dry and wet storage will be discussed in detail next.

Since the original Waste Confidence Decision, which found that material degradation processes in dry storage were well-understood, and that dry-storage systems were simple, passive, and easily maintained, NRC and ISFSI operators have gained experience with dry storage which confirms the Commission's 1984 conclusions. NRC staff safety reviews of topical reports on storage-system designs, the licensing and inspection of storage at two reactor sites, and NRC promulgation of the part 72 amendment for MRS, have significantly increased the agency's understanding of the confidence in dry storage.

Under NWPA section 218(a), DOE has carried out spent fuel storage research and development as well as demonstration of dry cask storage at its Idaho National Engineering Laboratory. Demonstration has been carried out for metal casks under review or previously reviewed by NRC staff. DOE has also provided support to utilities in dry storage licensing actions (see Godlewski, N.Z., "Spent Fuel Storage—An Update," *Nuclear News,* Vol. 30, No. 3, March 1987, pp. 47–52).

Dry storage of spent fuel has become an available option for utilities, with at-reactor dry storage licensed and underway at two sites: The H.B. Robinson Steam Electric Plant, Unit 2, in South Carolina, and the Surry Nuclear Station in Virginia. NRC has received an application for dry storage at Duke Power Company's Oconee Power Station site as well. This application is still under review, bu the environmental review is completed and an environmental assessment and finding of no significant impact have been issued (see 53 FR 44133, November 1, 1988). Based on utility statements of intent, and projections of need for additional storage capacity at reactor sites, the NRC staff expects numerous applications from utilities over the next decade (see "Final Version Dry Cask Storage Study," DOE/RW–0220, February 1989).

Since the original Waste Confidence finding, the Commission has reexamined long-term spent fuel storage in issuing an amendment to 10 CFR part 72 to address the storage of spent fuel and high-level radioactive waste in an MRS, as envisioned by Congress in section 141 of the NWPA. Under the rule, storage in an MRS is to be licensed for a period of 40 years, with the possibility for renewal. The Commission determined not to prepare an environmental impact statement for the proposed amendments to 10 CFR part 72, however. (See 53 FR 31651, p. 31657, August 19, 1988.) An environmental assessment and finding of no significant impact were issued because the Commission found that the consequences of long-term storage are not significant. The environmental assessment for 10 CFR part 72, "Licensing Requirements for the Indpendent Storage of Spent Fuel and High-Level Radioactive Waste," NUREG–1092, assessed dry storage of spent fuel for a period of 70 years after receipt of spent fuel from a reactor:

> The basis chosen for evaluating license requirements for the long-term storage of spent nuclear fuel and high-level radioactive waste in an MRS is an installation having a 70-year design lifetime and a 70,000 MTU storage capability. This assessment focuses on the potential environmental consequences for a long-term storage period, a period for which the Commission needs to assure itself of the continued safe storage of spent fuel and high-level radioactive waste and the performance of materials of construction. This means the reliability of systems important to safety needs to be established to ensure that long-term storage of spent fuel and HLW does not adversely impact the environment.
>
> For example, the staff needs to establish that systems, such as concrete shielding, have been evaluated to determine how their physical properties withstand the consequences of irradiation and heat flux for about a 70-year period. The Commission addressed structure and component safety for extended operation for storage of spent fuel in reactor water pools in the matter of waste confidence rulemaking proceeding. The Commission's preliminary conclusion is that experience with spent fuel storage provides an adequate basis for confidence in the continued safe storage of spent fuel for at least 30 years after expiration of a plant's license. The Commssion is therefore confident of the safe storage of spent fuel for at least 70 years in water pools at facilities designed for a 40-year lifetime. The Commission also stated that its authority to require continued safe management of spent fuel generated by licensed plants protects the public and assures them the risks remain acceptable. In consideration of the safety of dry storage of spent fuel, the Commission's preliminary conclusions were that [its] confidence in the extended dry storage of spent fuel is based on a reasonable understanding of the material degradation processes, together with the recognition that dry storage systems are simpler and more readily maintained. In response to Nuclear Waste Policy Act of 1982 authorizations, the Commission noted: '* * * the Commission believes the information above [on dry spent fuel storage research and demonstration] is sufficient to reach a conclusion on the safety and environmental effects of extended dry storage. All areas of safety and environmental concern (e.g., maintenance of systems and components, prevention of material degradation, protection against accidents and sabotage) have been addressed and shown to present no more potential for adverse impact on the environmental and the public health and safety than storage of spent fuel in water pools.' At this time, the Commission is confident it can evaluate the long-term integrity of material for constructing an installation and provide the needed assurance for safe storage of spent fuel and HLW to establish the licensibility of an MRS over extended periods of time. The MRS fuel storage concepts discussed here for revision of 10 CFR part 72 covers only dry storage concepts. [References omitted]

The Commission believe that its 1984 Fourth Finding should be changed to reflect the environmental assessment in the 10 CFR part 72 MRS rulemaking and other evidence that spent fuel can be stored, safely and without significant

environmental impact, for extended periods. Although the Commission does not beleive storage in excess of a century to be likely, with or without an MRS, there is the potential for storage of spent fuel for times longer than 30 years beyond the expiration of an initial, extended, or renewed reactor OL, if a reactor operating under such a license were prematurely shut down. The Commission does not, however, see any significant safety or environmental problems associated with storage for at least 30 years after the licensed life for operation of any reactor, even if this effectively means storage for at least 100 years, in the case of a reactor with a 70-year licensed life for operation.

Under the environmental assessment for the MRS rule, the Commission has found confidence in the safety and environmental insignificance of dry storage of spent fuel for 70 years following a period of 70 years of storage in spent fuel storage pools. Thus, this environmental assessment supports the proposition that spent fuel may be stored safely and without significant environmental impact for a period of up to 140 years if storage in spent fuel pools occurs first and the period of dry storage does not exceed 70 years.

The Commission has also found that experience with water-pool storage of spent fuel continues to confirm that pool storage is a benign environment for spent fuel that does not lead to significant degradation of spent fuel integrity. Since 1984, utilities have continued to provide safe additional reactor pool storage capacity through reracking, with over 110 such actions now completed. The safety of storage in pools is widely recognized among cognizant professionsls. Specifically, the Commission notes one expert's view that:

> During the last 40 years there has been very positive experience with the handling and storing of irradiated fuel in water; thus wet storage is now considered a proved technology. There is a substantial technical basis for allowing spent fuel to remain in wet storage for several decades. For the past two decades, irradiated Zircaloy-clad fuel has been handled and stored in water. There continues to be no evidence that Zircaloy-clad fuel degrades significantly during wet storage—this includes: fuel with burnups as high as 41,000 MWd/MTU; continuous storage of low-burnup fuel for as long as 25 years; and irradiation of fuel in reactors for periods up to 22 years. Cladding defects have had little impact during wet storage, even if the fuel is uncanned. [References omitted.] [See Bailey, W.J. and Johnston, Jr. A.B., *et al.*, "Surveillance of LWR Spent Fuel in Wet Storage," NP–3765, Electric Power Research Institute (EPRI), October 1984, pp. 2–10.]

This last conclusion has been reaffirmed by the same authors, who recently wrote: "There continues to be no evidence that LWR spent fuel with Zircaloy or stainless steel cladding degrades significantly during wet storage [EPRI 1986; International Atomic Energy Agency (IAEA) 1982]." (See "Results of Studies on the Behavior of Spent Fuel in Storage," Journal of the Institute of Nuclear Materials Management," Vol. XVI, No. 3, April 1988, p. 27.IV A).

In addition to the confidence that the spent fuel assemblies themselves will not degrade significantly in wet storage, there is confidence that the water pools in which the assemblies are stored will remain safe for extended periods:

> As noted in the recent IAEA world survey, the 40 years of positive experience with wet storage illustrates that it is a fully-developed technology with no associated major technological problems. Spent fuel storage pools are operated without substantial risk to the public or the plant personnel. There is substantial technical basis for allowing spent fuel to remain in wet storage for several decades. Minor, but repairable, problems have occured with spent fuel storage pool components such as liners, racks, and piping. [See Bailey, W.J., and Johnston, Jr., A.B., *et al.*, "Surveillance of LWR Spent Fuel in Wet Storage," EPRI NP–3765, prepared by Battelle Pacific Northwest Laboratories, Final Report, October 1984, p. 6–1.]

The studies just cited support the view that rates of uniform corrosion of spent fuel cladding in storage pools are low over time. Localized corrosion on cladding surfaces has also been gradual and can be expected to remain so. Cladding that has undergone damage while in the reactor core has not resulted in significant releases of radioactivity when stored in pools. Furthermore, the operational experience accumulated since the 1984 Waste Confidence Decision and NRC experience in licensing and inspection reinforce the conclusions in that Decision that wet storage involves a relatively benign environment. There are no driving mechanisms, such as temperature and pressure, to degrade storage structures or components or the fuel itself, or to spread contamination. Degradation mechanisms are gradual and well understood; they allow ample time for remedial action, including repair or replacement of any failing systems. This extensive experience adequately supports predictions of long-term integrity of storage basins.

The Commission also notes the endorsement of this basic confidence by cognizant professional organizations:

> The American Nuclear Society issued a policy statement [ANS 1986] in 1986 regarding storage of spent nuclear fuel. The statement indicates that continued wet storage of spent fuel at nuclear power plant sites until the federal government accepts it under existing contracts with the utilities is safe, economical and environmentally acceptable. [See Gilbert, E.R., Bailey, W.J., and Johnston, A.B., "Results of Studies on the Behavior of Spent Fuel in Storage," Journal of the Institute of Nuclear Materials Managemnt, Vol. XVI, No. 3, April 1988, p. 27.IV A).]

Thus, supported by the consistency of NRC experience with that of others, the Commission has concluded that spent fuel can be stored safely and without significant environmental impact, in either wet storage or in wet storage followed by dry storage, for at least 100 years. The Commission considers it unlikely, however, that any fuel will actually remain in wet storage for 100 years or even for 70 years. We anticipate that, consistent with the currently developing trend, utilities will move fuel rods out of spent fuel pools and into dry storage to make room in pools for freshly-discharged spent fuel.

Although the Commission has concluded that reactor spent fuel pools can safely be used to store spent fuel for 100 years, there is no technically compelling reason to use them that long. If reactor licenses are renewed for as long as 30 years, making a total of 70 years of operation, it will be necessary to store the spent fuel discharged at the end of the reactor's operation in a spent fuel pool for several years to allow for radioactive decay and thermal cooling. After this period, the fuel could be placed in dry storage and the spent fuel pool decommissioned. Thus, for most reactors, the most likely maximum period of storage will be well within the extended 30-year post-operational period under the Commission's proposed revision to Finding 4. Moreover, considering that under certain conditions spent fuel can be stored safely and without significant environmental impacts for up to 140 years, the Commission believes there is ample basis for confidence in storage for at least 100 years.

In its 1984 Waste Confidence Decision, the Commission also concluded that "there are no significant additional non-radiological impacts which could adversely affect the environment if spent fuel is stored beyond the expiration of operating licenses for reactors" (see 49 FR 34658 at p. 34686, August 31, 1984). The Commission did not find anything to contradict this conclusion in its 1988 rulemaking amending 10 CFR part 72 for long-term spent fuel and high-level waste storage at an MRS:

In August 1984, the NRC published an environmental assessment for this proposed revision of part 72 NUREG–1092, 'Environmental Assessment for 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste.' NUREG–1092 discusses the major issues of the rule and the potential impact on the environment. The findings of the environmental assessment are '(1) past experience with water pool storage of spent fuel establishes the technology for long-term storage of spent fuel without affecting the health and safety of the public, (2) the proposed rulemaking to include the criteria of 10 CFR part 72 for storing spent nuclear fuel and high-level radioactive waste does not significantly affect the environment, (3) solid high-level waste is comparable to spent fuel in its heat generation and in its radioactive material content on a per metric ton basis, and (4) knowledge of material degradation mechanisms under dry storage conditions and the ability to institute repairs in a reasonable manner without endangering the health [and safety] of the public shows dry storage technology options do not significantly impact the environment.' The assessment concludes that, among other things, there are no significant environmental impacts as a result of promulgation of these revisions of 10 CFR part 72.

Based on the above assessment, the Commission concludes that the rulemaking action will not have a significant incremental environmental impact on the quality of the human environment. [53 FR 31651 at pp. 31657–31658, August 19, 1988.]

Thus, the 1988 amendments to 10 CFR part 72 provide the basis for the Commission to conclude that the environmental consequences of long-term spent fuel storage, including non-radiological impacts, are not significant.

Finally, no considerations have arisen to affect the Commission's confidence since 1984 that the possibility of a major accident or sabotage with offsite radiological impacts at a spent-fuel storage facility is extremely remote. NRC has recently reexamined reactor pool storage safety in two studies, "Seismic Failure and Cask Drop Analyses of the Spent Fuel Pools at Two Representative Nuclear Power Plants" (NUREG/CR–5176) and "Beyond Design Basis Accidents in Spent Fuel Pools" (NUREG–1353). These studies reaffirmed that there are no safety considerations that justify changes in regulatory requirements for pool storage. Both wet- and dry-storage activities have continued to be licensed by the Commission. In its recent rulemaking amending 10 CFR part 72 to establish licensing requirements for an MRS, the Commission did choose to eliminate an exemption regarding tornado missile impact "* * * to assure designs continue to address maintaining confinement of particulate material." (53 FR 31651, p. 31655, August 19, 1988). However, NRC staff had previously considered tornado missile impacts in safety reviews of design topical reports and in licensing reviews under 10 CFR part 72.

4.B. Relevant Issues That Have Arisen Since the Commission's Original Decision on Finding 4

In its original Finding 4, the Commission found reasonable assurance of safe storage without significant environmental impacts for at least 30 years beyond reactor OL expiration. Delays and uncertainties in the schedule for repository availability since the 1984 Decision have convinced the Commission to allow some margin beyond the scheduled date for repository opening currently cited by DOE. As noted in Finding 2, the Commission has reasonable assurance that at least one repository will be available within the first quarter of the twenty-first century. For all currently operating reactors, this would still be within the period of 30 years from expiration of their OLs, which the Commission previously found to be the minimum period for which spent fuel storage could be considered safe and without significant environmental impact.

Under the NWPA as amended, DOE is authorized to dispose of up to 70,000 MTHM in the first repository before granting a construction authorization for a second. Under existing licenses, projected spent fuel generation could exceed 70,000 MTHM as early as the year 2010. Possible extensions or renewals of OLs also need to be considered in assessing the need for and scheduling the second repository. It now appears that unless Congress lifts the capacity limit on the first repository—and unless this repository has the physical capacity to dispose of all spent fuel generated under both the original and extended or renewed licenses—it will be necessary to have at least one additional repository. Assuming here that the first repository is available by 2025 and has a capacity on the order of 70,000 MTHM, additional disposal capacity would probably not be needed before about the year 2040 to avoid storing spent fuel at a reactor for more than 30 years after expiration of reactor OLs.

Although action on a second repository before the year 2007 would require Congressional approval, the Commission believes that Congress will take the necessary action if it becomes clear that the first repository site will not have the capacity likely to be needed. If DOE were able to address the need for a second repository earlier, for example by initiating a survey for a second repository site by the year 2000, DOE might be able to reduce the potential requirement for extended spent fuel storage in the twenty-first century. The Commission does not, however, find such action necessary to conclude that spent fuel can be stored safely and without significant environmental impact for extended periods.

The potential for generation and onsite storage of a greater amount of spent fuel as a result of the renewal of existing OLs does not affect the Commission's findings on environmental impacts. In Finding 4, the Commission did not base its determination on a specific number of reactors and amount of spent fuel generated. Rather, the Commission took note of the safety of spent fuel storage and lack of environmental impacts overall, noting that individual actions involving such storage would be reviewed. In the event there were applications for renewal of existing reactor OLs, each of these actions would be subject to safety and environmental reviews, with subsequent issuance of an environmental assessment or environmental impact statement, which would cover storage of spent fuel at each reactor site during the period of the renewed license.

The Commission also notes that the amount of spent fuel expected to be discharged by reactors has continued to decline significantly, a trend already noted in the Commission's discussion of its Finding 5 (49 FR 34658 at p. 34687, August 31, 1984). At the time of the Commission's decision, "* * * the cumulative amount of spent fuel to be disposed of in the year 2000 [was] expected to be 58,000 metric tons of uranium" (see "Spent Fuel Storage Requirements" (Update of DOE/RL–82–17) DOE/RL–83–1, January, 1983). Today, that figure has declined to 40,384 metric tons (see "Spent Fuel Storage Requirements" (DOE/RL–88–34), October 1988, p. A. 17). Thus, the amount of spent fuel considered likely to be discharged by the year 2000 in the Commission's 1984 decision will not be attained until well into the second decade of the twenty-first century, if then.

The Commission believes that its 1984 Finding 4 should be revised to acknowledge the possibility and assess the safety and environmental impacts of extended storage for periods longer than 70 years. The principal reasons for this proposed revision are that: (1) The long-term material and system degradation effects are well understood and known to be minor; (2) the ability to maintain

the system is assured; and (3) the Commission maintains regulatory authority over any spent fuel storage installation.

On the basis of experience with wet and dry spent fuel storage and related rulemaking and licensing actions, the Commission concludes that spent fuel can be safely stored without significant environmental impact for at least 100 years, if necessary. Therefore, the Commission proposes to revise its original Fourth Finding thus: "The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised license) of that reactor at its spent fuel storage basin, or at either onsite or offsite independent spent fuel storage installations."

Original Finding 5

The Commission finds reasonable assurance that safe independent onsite spent fuel storage or offsite spent fuel storage will be made available if such storage capacity is needed.

Proposed Finding 5

Same as above.

5.A. Issues Considered in Commission's 1984 Decision on Finding 5

In its discussion of Finding 5 of its Waste Confidence Decision (49 FRN 34658, August 31, 1984), the Commission said that:

> The technology for independent spent fuel storage installations, as discussed under the fourth Commission Finding, is available and demonstrated. The regulations and licensing procedures are in place. Such installations can be constructed and licensed within a five-year time interval. Before passage of the Nuclear Waste Policy Act of 1982 the Commission was concerned about who, if anyone, would take responsibility for providing such installations on a timely basis. While the industry was hoping for a government commitment, the Administration had discontinued efforts to provide those storage facilities. * * * The Nuclear Waste Policy Act of 1982 establishes a national policy for providing storage facilities and thus helps to resolve this issue and assure that storage capacity will be available.
>
> Prior to March 1981, the DOE was pursuing a program to provide temporary storage in off-site, or away-from-reactor (AFR), storage installations. The intent of the program was to provide flexibility in the national waste disposal program and an alternative for those utilities unable to expand their own storage capacities.
>
> Consequently, the participants in this proceeding assumed that, prior to the availability of a repository, the Federal government would provide for storage of spent fuel in excess of that which could be stored at reactor sites. Thus, it is not surprising that the record of this proceeding prior to the DOE policy change did not indicate any direct commitment by the utilities to provide AFR storage. On March 27, 1981, DOE placed in the record a letter to the Commission stating its decision 'to discontinue its efforts to provide Federal government-owned or controlled away-from-reactor storage facilities.' The primary reasons for the change in policy were cited as new and lower projections of storage requirements and lack of Congressional authority to fully implement the original policy.
>
> The record of this proceeding indicates a general commitment on the part of industry to do whatever is necessary to avoid shutting down reactors or derating them because of filled spent fuel storage pools. While industry's incentive for keeping a reactor in operation no longer applies after expiration of its operating license, utilities possessing spent fuel are required to be licensed and to maintain the fuel in safe storage until removed from the site. Industry's response to the change in DOE's policy on federally-sponsored away-from-reactor (AFR) storage was basically a commitment to do what is required of it, with a plea for a clear unequivocal Federal policy. * * * The Nuclear Waste Policy Act of 1982 has now provided that policy.
>
> The Nuclear Waste Policy Act defines public and private responsibilities for spent fuel storage and provides for a limited amount of federally-supported interim storage capacity. The Act also includes provisions for monitored retrievable storage facilities and for a research development and demonstration program for dry storage. The Commission believes that these provisions provide added assurance that safe independent onsite or offsite spent fuel storage will be available if needed. [References omitted]

The policy set forth in the NWPA regarding interim storage remains in place. Therefore, the Commission's confidence remains unchanged. The only policy change affecting storage involves long-term storage in an MRS. The NWPAA sets schedule restrictions on an MRS by trying it to the repository siting and licensing schedule. These restrictions effectively delay implementation of an MRS. Consequently, its usefulness in providing storage capacity relief to utilities is likely to be lost.

Although the Commission's confidence in its 1984 Decision did not depend on the availability of an MRS facility, the possibility of such a facility, as provided for in the NWPA, was one way in which needed storage could be made available. The NWPAA makes an MRS facility less likely by linking it to repository development. The potential impact of the decreased likelihood of an MRS on the Commission's confidence is, however, more than compensated for by operational and planned spent fuel pool expansions and dry-storage investments by utilities themselves—developments that had not been made operational at the time of the original Waste Confidence Decision. Consequently, the statutory restrictions that may make an MRS ineffective for timely storage capacity relief are of no consequence for the Commission's finding of confidence that adequate storage capacity will be made available if needed.

Although the NWPAA limits the usefulness of an MRS by linking its availability to repository development, the Act does provide authorization for an MRS facility. The Commission has remained neutral since its 1984 Waste Confidence Decision with respect to the need for authorization of an MRS facility. The Commission does not consider the MRS essential to protect public health and safety. If any offsite storage capacity is required, utilities may make application for a license to store spent fuel at a new site. Consequently, while the NWPAA provision does affect MRS development and therefore can be said to be limiting, the Commission believes this should not affect its confidence in the availability of safe storage capacity.

5.B. Relevant Issues That Have Arisen Since the Commission's Original Decision on Finding 5

DOE will not be able to begin operation of a repository before 2003 under current plans, and operation might begin somewhat later. Given progress to date on an MRS, the link between MRS facility construction and repository construction authorization established by the NWPAA, and the absence of other concrete DOE plans to store the spent fuel, it seems unlikely that DOE will meet the 1998 deadline for taking title to spent fuel. (Under section 302(a)(5)(B) of the NWPA, "* * * the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel [subject to disposal contracts].") This potential problem does not, however, affect the Commission's confidence that storage capacity will be made available as needed.

The possibility of a dispute between DOE and utilities over the responsibility for providing spent fuel storage will not affect the public health and safety or the environment. Uncertainty as to contractual responsibilities raises questions concerning: (1) Who will be responsible; (2) at what point in time responsibility for the spent fuel will be transferred; (3) how the fuel will be

managed; (4) how the transfer of management responsibility from the utilities to DOE will take place; and (5) how the cost of DOE storage might differ, if at all, from utility storage. Utilities possessing spent fuel in storage under NRC licenses cannot abrogate their safety responsibilities, however. Until DOE can safely accept spent fuel, utilities or some other licensed entity will remain responsible for it. If DOE and the utilities can amicably resolve their respective responsibilities for spent fuel storage in the interest of efficient and effective administration of the overall waste management system, including the Nuclear Waste Fund, NRC would gain added confidence in the institutional arrangements for spent fuel management (see also Finding 3 on this issue).

Estimates of the amount of spent fuel generated have continued to decline. At the time of the Commission's Decision, the Commission cited in Finding 5 the cumulative figure of 58,000 metric tons uranium of spent fuel generated in the year 2000 (See 49 FR 34658, p. 34697, August 31, 1984.) More recently, DOE estimated 40,384 metric tons (See "Spent Fuel Storage Requirements," DOE/RL–88–34, October 1988, p. A. 17). Although estimates may show an increase at some date well into the twenty-first century if licenses of some reactors are renewed or extended, this possibility does not affect the Commission's confidence in the availability of safe storage capacity until a repository is operational. The industry has made a general commitment to provide storage capacity, which could include away-from-reactor (AFR) storage capacity. To date, however, utilities have sought to meet storage capacity needs at their respective reactor sites. Thus, a new industry application for AFR storage remains only a potential option, which currently seems unnecessary and unlikely.

Utilities have continued to add storage capacity by reracking spent fuel pools, and NRC expects continued reracking where it is physically possible and represents the least costly alternative. Advances in dry-storage technologies and utility plans both have a positive effect on NRC's confidence. At the time the Commission reached its original findings, dry storage of LWR spent fuel was, as yet, unlicensed under 10 CFR Part 72, and DOE's dry-storage demonstrations in support of dry-cask storage were in progress at the Idaho National Engineering Laboratory (INEL).

Today, DOE's demonstration efforts have been successful (See Godlewski, N. Z., "Spent Fuel Storage—An Update," *Nuclear News*, Vol. 30, No. 3 March 1987, pp. 47–52, at p. 47.) Dry storage has been licensed at two reactor sites, and a third application is under review. Dry cask storage is licensed at Virginia Electric Power Company's Surry Power Station site (see License, SNM 2501 under Docket No. 72–2), and dry-concrete module and stainless-steel canister storage is licensed at Carolina Power and Light Company's (CP&L's) H. B. Robinson, Unit 2, site (see License SNM 2502, under Docket No. 72–3). An application is under review for a similar modular system at Duke Power Company's Oconee Nuclear Station site (See Letter to Director, Division of Fuel Cycle and Material Safety, NRC, from Hal B. Tucker, Duke Power Company, dated March 31, 1988, under Docket No. 72–4). A new application has been received in 1989 for CP&L's Brunswick site, and another is expected in 1989 for the Baltimore Gas and Electric Company's Calvert Cliffs site. Applications are also expected for CP&L's Robinson 2 site (at another onsite location to allow for greater storage capacity), Wisconsin Electric Power Company's Point Beach site, and Consumer Power's Palisades site. The Tennessee Valley Authority has indicated that it will apply for its Sequoyah plant site.

Thus, the successful demonstration by DOE of dry cask technology for various cask types at INEL, utilities' actions to forestall spent fuel storage capacity shortfalls, and the continuing sufficiency of the licensing record for the Commission to authorize increases in at-reactor storage capacity all strengthen the Commission's confidence in the availability of safe and environmentally sound spent fuel storage capacity.

Renewal of reactor OLs will involve consideration of how additional spent fuel generated during the extended term of the license will be stored onsite or offsite. There will be sufficient time for construction and licensing of any additional storage capacity needed.

In summary, the Commission finds no basis to change the Fifth Finding in its Waste Confidence Decision. Changes by the NWPAA, which lessen the likelihood of an MRS facility, and the potential for some slippage in repository availability to the first quarter of the twenty-first century (see our discussion of Finding 2) are more than offset by the continued success of utilities in providing safe at-reactor-site storage capacity in reactor pools and their progress in providing independent onsite storage. Therefore, the Commission continues to find "* * * reasonable assurance that safe independent onsite spent fuel storage or offsite spent fuel storage will be made available if such storage is needed."

Dated at Rockville, Maryland, this 25th day of September, 1989.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 89–22931 Filed 9–27–89; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–129–86]

Definitions of "Highly Compensated Employee" and "Compensation"

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the scope and meeting of the terms "highly compensated employee" in section 414(q) and "compensation" in section 414(s) of the Internal Revenue Code of 1986.

DATES: The public hearing will be held on Monday, December 4, 1989, beginning at 10:00 a.m. Outlines of oral comments must be delivered by Monday, November 13, 1989.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE–129–86), Room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer, telephone (202) 566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations appearing in the **Federal Register** for Friday, February 19, 1988, (53 FR 4999).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the

hearing on the proposed regulations should submit, not later than Monday, November 13, 1989, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-22858 Filed 9-27-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1-89-111]

Drawbridge Operation Regulations; Piscataqua River, Maine/New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule and public hearing on proposed regulations.

SUMMARY: At the request of the Maine-New Hampshire Interstate Bridge Authority (M-NHIBA), the Coast Guard is considering a change to the regulations governing the Memorial (US 1) and Sarah M. Long (Route 1 Bypass) drawbridges over the Piscataqua River, at miles 3.5 and 4.0, between Kittery, Maine and Portsmouth, New Hampshire. The proposal considered would provide openings for commercial vessels less than 100 gross tons and recreational vessels between 7 a.m. and 7 p.m., from 15 May to 31 October, on half-hour intervals; the Memorial (US 1) bridge on the hour and half-hour and the Sara M. Long (Route 1 Bypass) bridge at 15 minutes before and 15 minutes after the hour. This proposal is being made because periods of peak vehicular traffic have increased. This action should accommodate the needs of vehicular traffic, while providing for the reasonable needs of navigation.

The Commander, First Coast Guard District, has authorized a public hearing to be held to receive comments on the proposed regulations governing the operation of the Memorial (US 1) and Sarah M. Long (Route 1 Bypass) bridges across the Piscataqua River, miles 3.5 and 4.0, between Kittery, Maine and Portsmouth, New Hampshire. The hearing is being held to gather information and data necessary to attempt to resolve differences between various factions who support or oppose the proposed regulation.

DATES: (a) The hearing will be held on 18 October 1989 commencing at 7 p.m.

(b) Written comments on the proposed rule may be submitted on or before 17 November 1989.

ADDRESSES: (a) The hearing will be held in City Hall Complex on Junkins Avenue, Portsmouth, New Hampshire.

(b) Written comments should be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, NY 10004-5073. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Contract Officer listed above by 16 October 1989. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the regulation, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed regulation. The proposed regulation may be changed in light of comments received. After the time set for the submission of comments, the Commander, first Coast Guard District will determine a final course of action. If significant differences still remain, the district commander will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, for final action.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr. Project Officer, and Lieutenant Robert E. Korroch, Project Attorney.

Discussion of Proposed Regulations

In 1988, M-NHIBA unofficially instituted an hourly opening test from May to October 1988, between the hours of 7 a.m. and 7 p.m. The Memorial (US 1) bridge opened on the hour and the Sarah M. Long (Route 1 Bypass) bridge opened on the half-hour, however, both bridges continued to provide openings for commercial boats on demand. This schedule, while reducing openings and facilitating vehicular traffic, reportedly created safety problems for the recreational and marine communities. As a result, the State and local officials requested that temporary regulations for the 1989 boating season be promulgated and evaluated to determine if regulation changes would be make to improve vehicular traffic flow without significantly restricting marine traffic. A temporary rule has been issued by the First District Commander under 33 CFT 117.43 for the periods 15 September – 30 October 1989 and published as a Final Temporary Rule elsewhere in this **Federal Register** and in Public Notice 1-699. Since the bridges lie between Kittery, Maine, and Portsmouth, New Hampshire, and Subpart B of title 33 part 117 of the Code of Federal Regulations is arranged alphabetically by waterway and by state the regulation appears under both Maine and New Hampshire listings.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under

Executive Order 12291 on Federal Regulations, and nonsignificant under the 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. The regulation will not prevent the passage of vessels but just schedule their movement to permit both vehicular and marine traffic to utilize the bridge. Since the economic 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 Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations:

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations as follows:

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. Section 117.531 is revised and a center heading added preceding it and § 117.700 and a center heading preceding it are added to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Maine

§ 117.531 Piscataqua River.

(a) The following requirements apply to all bridges across the Piscataqua River:

(1) Public vessels of the United States, state and local vessels used for public safety, commercial vessels over 100 gross tons and vessels in distress shall be passed through the draws of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 18 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(4) Except as provided in paragraphs (b) through (c) of this section the draws shall open on signal.

(b) The draw of the Memorial (US 1) bridge, mile 3.5, shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only on the hour and half hour for recreational vessels and commercial vessels less than 100 gross tons.

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) The main ship channel draw shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only at quarter of and quarter after the hour for recreational vessels and commercial vessels less than 100 gross tons.

(2) The secondary recreation draw shall be left in the fully open position from Memorial Day through 31 October except for the crossing of a train in accordance with (a)(3) of this section.

New Hampshire

§ 117.700 Piscataqua River.

(a) The following requirements apply to all bridges across the Piscataqua River:

(1) Public vessels of the United States, state and local vessels used for public safety, commercial vessels over 100 gross tons and vessels in distress shall be passed through the draws of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle, horn or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 18 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw shall not exceed five minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(4) Except as provided in paragraphs (b) through (c) of this section the draws shall open on signal.

(b) The draw of the Memorial (US 1) bridge, mile 3.5, shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only on the hour and half hour for recreational vessels and commercial vessels less than 100 gross tons.

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) The main ship channel draw shall open on signal; except that from Memorial Day through 31 October, from 7 a.m. to 7 p.m., the draw need be opened only at quarter of and quarter after the hour for recreational vessels and commercial vessels less than 100 gross tons.

(2) The secondary recreation draw shall be left in the fully open position from Memorial Day through 31 October except for the crossing of a train in accordance with (a)(3) of this section.

Dated: September 19, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89–22856 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 54, No. 187
Thursday, September 28, 1989

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meetings; Committee on Rulemaking

ACTION: Notice of public meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of meetings of the Committee on Rulemaking of the Administrative Conference of the United State.

Committee: Committee on Rulemaking.

Date: Thursday, October 19, 1989 at 4:30 p.m.

Location: Library of the Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC.

Agenda: The committee will meet to discuss possible recommendations on the subject of the indexing and disclosing of agency adjudications, and their use as precedent.

Public Participation: The committee meeting are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Kevin L. Jessar, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Dated: September 21, 1989.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 89–22899 Filed 9–27–89; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Public Hearing Regarding the Conversion of Acreage Allotments to Poundage Quotas for Fire-Cured and Dark Air-Cured Tobacco

Notice is hereby given of public hearings regarding the possible proclamation of poundage quotas for fire-cured (types 22–23) and dark air-cured tobaccos for the 1990–91 marketing year:

Date: October 3, 1989.
Time: 7 p.m. local time.
Place: Curry Center Auditorium, Murray State University, Chestnut Street, Murray, Kentucky.

Date: October 4, 1989.
Time: 1 p.m.
Place: Courtroom, Robertson County Courthouse, Springfield, Tennessee.

Date: October 4, 1989.
Time: 7 p.m. local time.
Place: Court Room, Logan County Courthouse, 200 W. 4th Street, Russellville, Kentucky.

Date: October 5, 1989.
Time: 7 p.m. local time.
Place: Blandford Lecture Hall, Humanities Building, Owensboro Community College, New Hartford Road, Owensboro, Kentucky.

Purpose: To ascertain whether producers and other interested persons favor marketing quotas on a poundage basis pursuant to section 319 of the Agricultural Adjustment Act of 1938 7 U.S.C. 1314e. If the testimony at these hearings indicates that poundage quotas are favored for fire-cured and/or dark air-cured tobacco, the Secretary may proclaim marketing quotas on a poundage basis for the respective kinds of tobacco for the next three marketing years.

Individuals who wish to address a hearing may register at the hearing. Depending on the number who wish to speak, the available time will be divided accordingly.

Dated: September 22, 1989.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89–22915 Filed 9–27–89; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Nez Perce National Historic Trail Advisory Council; Public Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Nez Perce National Historic Trail Advisory Council will host a 2-day meeting. The purpose of the meeting is to discuss maters relating to the Nez Perce National Historic Trail. Agency items are: review and identification of the historic route, discussion of state/federal/private landowner coordination needs, draft of a Comprehensive Plan, and historic interpretation. The council was established in accordance with the provisions of the National Trails Systems Act. The public is invited to attend.

DATE: The meeting will be held on November 3–4, 1989, from 8:00 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Quality Inn, 700 Port Drive, Clarkston, WA 99403.

FOR FURTHER INFORMATION CONTACT: Jim Dolan, Project Coordinator, by telephone (406) 329–3582 or by mail, USDA, Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807.

Dated: September 19, 1989.

John W. Mumma.

Regional Forester.

[FR Doc. 89–22914 Filed 9–27–89; 8:45 am]

BILLING CODE 3410–11–M

Delegation of Authority to Issue and Terminate Certain Easements; Forest Supervisors, Pacific Northwest Region

AGENCY: Forest Service, USDA.

ACTION: Notice; Delegation of Authority.

SUMMARY: Pursuant to 36 CFR 251.52 and the delegation of authority from the Chief of the Forest Service set forth in Forest Service Manual sections 2732.04 and 2733.04b. The Regional Forester of the Pacific Northwest Forest Service Region has delegated authority to all Forest Supervisors within the Region to issue and terminate, subject to the grantee's consent, easements to public road agencies, road cost-share cooperators and other qualifying landowners for the construction and use of roads under authority of the Forest

Road and Trail Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–38).

Similarly, authority has been delegated to certain Forest Supervisors within the Region to issue easements, reservations, and stipulations for the construction and use of roads under authority of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1761–71).

This delegation also includes authority to terminate easements with the grantee's consent.

These delegations have been issued in a Regional supplement to Forest Service Manual, chapter 2730—Road and Trail Rights-of-Way Grants.

DATE: This delegation became effective on September 19, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene Fontenot, Rights-of-Way Staff, Forest Service, USDA, P.O. Box 3623, Portland, Oregon 97208–3623, (503) 326–2921.

Dated: September 21, 1989.

Richard A. Ferraro,

Acting Regional Forester.

[FR Doc. 89–22891 Filed 9–27–89; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Lower Lake Champlain Watershed, VT

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Lake Champlain Watershed, Chittenden, Addison and Rutland Counties, Vermont.

FOR FURTHER INFORMATION CONTACT: John C. Titchner, State Conservationist, Soil Conservation Service, 69 Union Street, Winooski, Vermont 05404, telephone (802) 951–6795.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John C. Titchner, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection and water quality improvement. The planned works of improvement include conservation land treatment and agricultural waste management practices.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John C. Titchner, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 25, 1989.

John C. Titchner,

State Conservationist.

[FR Doc. 89–22919 Filed 9–27–89; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Departmental Performance Review Board

This notice announces membership of the Departmental Performance Review Board (PRB) in the Department of Commerce. The purpose of the Departmental PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and SES members whose ratings are initially prepared by their respective appointing authorities.

These Departmental PRB members are appointed for a two year term. The list of members is as follows:

	Term expiration
Assistant Secretary for Administration	
Otto J. Wolff, Deputy Assistant Secretary for Administration	11/91
Joseph C. Brown, Deputy Director, Office of Personnel and Civil Rights	11/91
Mark E. Brown, Director, Office of Budget	11/91
Mary Ann Fish, Director, Office of White House Liaison	11/90
General Counsel	
Stephen J. Powell, Deputy Chief Counsel for Import Administration	11/90
Dan Haendel, Deputy General Counsel	11/91
Minority Business Development Agency	
Thomas Francis, Assistant Director for Program Support	11/90
Dinah L. Cheng, Assistant Director for Program Development	11/91
Economic Affairs	
C. Louis Kincannon, Deputy Director, Bureau of the Census	11/91
Allan H. Young, Director, Bureau of Economic Analysis	11/91
Harry A. Scarr, Statistical Coordinator for the Under Secretary	11/91
Frederick T. Knickerbocker, Executive Director	11/91
Suzanne H. Howard, Associate Under Secretary for External Relations	11/91
Technology Administration	
Lee W. Mercer, Deputy Under Secretary for Technology Administration	11/90
National Institute of Standards and Technology	
Lyle Schwartz, Director, Institute for Materials Science and Engineering	11/91
Guy Chamberlain, Director of Administration	11/91
Burton H. Colvin, Director for Academic Affairs	11/90
George A. Sinnott, Associate Director for Technical Evaluation	11/90
Lura Powell, Chief, Program Office	11/91
National Telecommunications and Information Administration	
Dennis R. Conners, Director, Office of Policy Coordination and Management	11/91
Economic Development Administration	
Craig Smith, Deputy Assistant Secretary for Management Support	11/90
James L. Perry, Deputy Assistant Secretary for Grant Programs	11/90
International Trade Administration	
Saul Padwo, Director, Office of Trade Promotion	11/91
Peter B. Hale, Director, Office of Western Europe	11/91
Timothy J. Hauser, Deputy Assistant Secretary for Planning	11/91
Henry P. Misisco, Director, Office of Trade and Investment Analysis	11/91
Sandra B. Shumway, Managing Director, Export Promotion Services	11/91
James C. Lake, Director, Office of Planning and Coordination	11/91
Juan A. Benitez, Deputy Assistant Secretary for Science and Electronics	11/91

	Term expiration
Lisa B. Barry, Deputy Assistant Secretary for Import Administration	11/91
National Oceanic and Atmospheric Administration	
Thomas Pyke, Assistant Administrator for Satellite and Information Services	11/90
James W. Brennan, Assistant Administrator for National Marine Fisheries Service	11/90
Dennis F. Geer, Director, Office of Administration	11/90
Ronald D. McPherson, Deputy Assistant Administrator for National Weather Service	11/91
Thomas A. Campbell, General Counsel, Office of the General Counsel	11/91
Patent and Trademark Office	
William L. Lawson, Patent Documentation Administrator	11/91
Stephen G. Kunin, Group Director	11/91
Bureau of Export Administration	
John A. Richards, Deputy Assistant Secretary for Industrial Resources Administration	11/91
William Skidmore, Director, Office of Antiboycott Compliance	11/90

Dated: September 20, 1989.

Thomas J. Lambiase,

Executive Secretary, Departmental Performance Review Board, Department of Commerce.

[FR Doc. 89-22922 Filed 9-27-89; 8:45 am]

BILLING CODE 3510-BS-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command, Directorate of Inland Traffic; Rules and Accessorial Services Governing the Movement of Department of Defense Bulk Commodity Traffic Requiring Tank Truck Service

AGENCY: Military Traffic Management Command, Department of the Army, DOD.

ACTION: Notification of procedural changes in DOD freight rate acquisition programs.

SUMMARY: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), intends to modify the procedures used to acquire rates and charges from the commercial motor carrier industry for the movement of its bulk commodity traffic requiring tank truck service. This modification is the issuance of a rules publication designed to standarize and simplify the procurement of rates and services for this traffic under 49 U.S.C. 10721. This publication, MTMC Freight Traffic Rules Publication No. 4, is now available in draft form for public review and comment. A copy of this publication may be obtained by writing HQ, Military Traffic Management Command, ATTN: MTIN-NG, Room 629, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, or telephone (703) 756-1585. Written comments concerning the proposed publication will be considered if received not later than November 13, 1989. Address comments to Commander, Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

SUPPLEMENTARY INFORMATION: The transportation regulatory reform legislation enacted over the past several years has brought an influx of new carriers doing business with DOD, a corresponding proliferation of rate publications, and a great diversity in the manner in which carriers' rates, rules, and services are expressed within those publications. As a result, the standardization and automation of carriers' rates and charges are essential to the formulation of a successful and manageable rate comparison program. Automation is feasible, of course, only if carriers' rates and charges are expressed in a uniform manner compatible with electronic data processing.

MTMC Freight Traffic Rules Publication No. 4 (MFTRP No. 4) contains both rules and accessorial service requirements to govern the rates and services of all motor tank truck carriers doing business with DOD. The purpose in developing this publication is to define and clearly express the transportation needs of DOD for the movement of bulk commodities requiring tank truck service and to provide the standardization necessary for achieving a fully automated system for routing and auditing DOD traffic.

This publication is designed to be used with DOD Standard Tender of Freight Services, MT Form 364-R, and will apply to DOD shipments in intrastate commerce and shipments from, to, or between points in the continental United States (CONUS), and from, to, or between points in CONUS and points in Alaska and/or Canada which are specified in carriers' individual tenders filed with HQ, MTMC. Tenders of carriers subject to MFTRP No. 4 may not refer to any other publication for application of rates and charges therein.

FOR FURTHER INFORMATION CONTACT: Mr. Allen Kirby or Mr. David Hannaford, HQ, Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, or telephone (703) 756-1585.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 89-22916 Filed 9-27-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: October 7, 1989, 10:00 a.m. until 4:00 p.m. or conclusion of business. October 8, 1989, 1:00 p.m. until 5:30 p.m. October 9, 1989, 10:30 a.m. until 12:30 p.m. and 3:00 p.m. until 5:00 p.m. October 10, 1989, 2:00 p.m. until 4:00 p.m. October 11, 1989, 1:00 p.m. until 5:00 p.m. or conclusion of business.

ADDRESS: Hotel Captain Cook, 5th & K Streets, Anchorage, Alaska 99501 907/276-6000 for all sessions except for the session on October 10, which will be held in the Lower Level of the William A. Egan Civic & Convention Center, 555 West 5th Street, Anchorage, Alaska 99501 907/263-2800.

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., Room 4072, Switzer Building, Washington, DC 20202-7556 (202/732-1353).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (part C, title V, Pub. L. 100-297) and to advise Congress and the Secretary of Education with regard to Federal education programs in which Indian children or

adults participate or from which they can benefit.

On October 7, 1989, beginning at approximately 10 a.m., the full Council will meet in open session for a general business session, including reports of the chairman and Executive Director, action on previous minutes, election of officers of the Council, and other business. The business meeting will end at 4:00 p.m. or conclusion of business for the day.

On October 8, 1989, beginning at 1:00 p.m., the full Council will meet in open discussion with Indian educators, representatives of Indian tribes and organizations, and others interested in the education of Indian children to identify public elementary and secondary school issues and problems, determine the best solutions, and develop action plans to address these concerns. This session will end at approximately 3:00 p.m.

On October 8, 1989, beginning at 3:30 p.m., the full Council will meet in open discussion with Indian educators, representatives of Indian tribes and organizations, and others interested in the education of Indian children and adults to identify issues and problems in Bureau of Indian Affairs-operated and tribal schools, determine the best solutions, and develop action plans to address these concerns. The session will end at approximately 5:30 p.m.

On October 9, 1989, beginning at 10:30 a.m., the full Council will meet in open discussion with Indian educators, representatives of Indian tribes and organizations, and others interested in the education of Indian children and adults to identify tribal college issues and problems, determine the best solutions, and develop action plans to address these concerns. The session will end at approximately 12:30 p.m.

On October 9, 1989, beginning at 3:00 p.m., the full Council will meet in open discussion with Indian educators, representatives of Indian tribes and organizations, and others interested in the education of Indian people to idenfity adult and vocational/technical education issues and problems, determine the best solutions, and develop action plans to address these concerns. The session will end at approximately 5:00 p.m.

On October 10, 1989, beginning at 2:00 p.m., the full Council will meet in open discussion with Indian educators, representatives of Indian tribes and organizations, and others interested in the education of Indian people to identify higher education and scholarship issues and problems, determine the best solutions, and develop action plans to address these concerns. The session will end at approximately 4:00 p.m.

On October 11, 1989, beginning at approximately 1:00 p.m., the full Council will meet for discussion of the results of the issues sessions and to assign issues to Council committees. The Council standing committees will then meet and subsequently report any recommendations back to the full Council. The full Council will discuss any other business until conclusion of business at approximately 5:00 p.m.

During the morning hours of October 10 and/or 11, 1989, the NACIE School Quality Control Committee will conduct site visits to schools serving Indian and Alaska native students in the Anchorage School District. On October 12 and 13, 1989, the School Quality Control Committee will conduct site visits to schools serving primarily Eskimo students in the Lower Kuskokwim School District, including schools in Chefornak and Bethel, Alaska.

The public is being given less than 15 days notice due to scheduling problems of the events of this extensive meeting and site visits.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 330 C Street, SW., Room 4072, Washington, DC 20202–7556.

Dated: September 25, 1989. Signed at Washington, DC.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 89–22985 Filed 9–27–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP89–51–000; FERC J.D. No. 85–04112]

Michigan Department of Natural Resources, Section 102 NGPA Determination, West Bay Exploration Co., Duff-Grant Farms No. 3–36D Well; Preliminary Finding

September 21, 1989.

On October 31, 1984, the Michigan Department of Natural Resources (Michigan) notified the Commission that it had made an affirmative determination that the West Bay Exploration Company's (West Bay) Duff-Grant Farms No. 3–36D well qualified under section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA). [1] Absent Commission action, the notice would have become final after 45 days pursuant to § 275.202(a) of the Commission's regulations. However, on December 12, 1984, the Commission notified Michigan and West Bay that the notice was incomplete because the notice did not include all the information required to demonstrate that production was from a new onshore reservoir.[2]

On May 19, 1989, the Commission advised Michigan and West Bay that the Commission may reverse the determination if the required information was not received and that refunds might consequently be required. By letter dated June 5, 1989, Michigan advised the Commission that it had notified West Bay by telephone in 1986 that West Bay's application needed to be amended and that these requests for necessary additional information, West Bay has not provided it. As a result, the determination has not become final because § 275.202(b) of the regulations provides that the 45-day period for the Commission review does not begin to run if the Commission timely notifies the jurisdictional agency, the purchaser, and all parties that the notice is deficient. NGPA section 503(b) provides that the Commission finds that the determination is not supported by substantial evidence.

Under § 275.202(a), the Commission may, before any determination becomes final, make a preliminary finding that the determination is not supported by substantial evidence in the record. Based on the foregoing facts and circumstances the Commission hereby makes a preliminary finding that the subject determination submitted by Michigan is not supported by substantial evidence in the record upon which the determination was made. Michigan, West Bay or any person may, within 30 days after issuance of a preliminary finding, submit written comments and may request an informal conference with the Commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after issuance of the preliminary finding.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89–22879 Filed 9–27–89; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3312(c)(1)(C) (1982).

[2] The filing requirements for applications for determinations are contained in subpart B of part 274 of the regulations. Section 274.104 specifies what must be included in a notice of determination.

[Docket No. CP89-2114-000]

Cypress Pipeline Co. et al.; Joint Application

September 19, 1989.

Take notice that on September 18, 1989, Cypress Pipeline Company (Cypress) and Trinity Pipeline Company (Trinity), both located at 600 Travis Street, P.O. Box 1478, Houston, Texas 77251-1478, pursuant to section 7(c) of the Natural Gas Act (NGA), filed an abbreviated application in Docket No. CP89-2114-000 for a certificate of public convenience and necessity seeking authorization to acquire, own and operate facilities currently owned by United Gas Pipe Line Company (United). Take notice that, in addition, United, at the same address, pursuant to section 7(b) of the Natural Gas Act (NGA), requests authority to abandon these facilities to permit the acquisition by Cypress and Trinity and seeks an order permitting and approving the abandonment of services and termination of all obligations under certain of United's existing contracts for transportation services performed by various interstate pipelines with demand charge obligations and related certificates, as well as United's contract for storage service performed by ANR Storage Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Cypress states that it seeks authorization to acquire transmission and gathering facilities which stretch from the discharge side of United's Goodrich Compressor Station located in Polk County, Texas and extend into northeast Texas. It is indicated that the facilities include United's Latex-Fort Worth line, United's transmission line extending from Latex to Huntsville, United's Waskom-Goodrich line, United's Latex-Magasco line, United's Magasco-Call Junction line, and related gathering facilities.

Trinity states that it seeks authorization to acquire transmission and gathering facilities, which comprise United's south Texas system from Duval County northward to the inlet suction header of United's Goodrich Compressor Station located in Polk County, Texas.

Cypress and Trinity state that each also requests a blanket certificate of public convenience and necessity seeking authorization to transport natural gas on behalf of others in accordance with parts 157 and 284 of the Commission's Regulations.

United requests authority pursuant to NGA section 7(b) to abandon those facilities and services that would be acquired by Cypress and Trinity. United states that Cypress and Trinity, as wholly-owned subsidiaries of United, have been created to effectuate the sale of certain of United's Texas facilities. United submits that the abandonment of these facilities for acquisition by Cypress and Trinity is in the public convenience and necessity as set forth in the application which outlines United's proposal to restructure its current business arrangements.

It is stated that as part of this restructuring, United also requests an order permitting and approving abandonment of services and termination of all obligations under United's existing contracts for transportation service performed by various interstate pipeline companies with demand charge obligations and related certificates, as well as under United's existing contract for storage service performed by ANR Storage Company.

United states that the filing raises no genuine issues of material fact necessitating an evidentiary hearing prior to disposition. United states that the Commission holds ample authority to approve the joint application without a trial-type hearing so long as all relevant factors in dispute are properly addressed and a formal hearing is found unnecessary for the Commission to reach its decision.

United indicates it believes that the Commission's treatment of the joint application will turn not on any disputed issues of fact but wholly on law and policy. United states that if the Commission determines that United's filing raises genuine issues of material fact, its recently reaffirmed paper hearing procedures adequately suffice to satisfy all due process rights without the necessity of a trial-type record developed at hearing. United states that there is no need for trial-type record development since the financial and other written information sponsored by United's witnesses plainly show a company on the verge of unprecedented cashflow exhaustion. United states that it is willing to allow all intervenors to conduct full expedited discovery, subject to confidentiality requirements, in data rooms located in Houston, Texas, and Washington, DC.

Expeditious processing of the application is requested. It is indicated that absent relief United would have insufficient cash flow to meet expenses as early as January 1990, and that it would lack the funds necessary to repay, by the due date of December 31, 1989, any of the $100 million payment due on its line of credit. It is stated that failure to meet the payment would constitute an event of default that could inexorably force United to seek protection under the Bankruptcy Code.

United, Cypress and Trinity also request all waivers that are necessary to permit the Commission to grant the authorizations these companies seek.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22878 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

September 21, 1989.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on September

15, 1989 tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective October 1, 1989:

	Superseding
Seventieth Revised Sheet No. 3a.	Sixty-Ninth Revised Sheet No. 3a
Sixth Revised Sheet No. 3a.1.	Fifth Revised Sheet No. 3a.1

Mid Louisiana states that the purpose of the filing of Seventieth Revised Sheet No. 3a and Sixth Revised Sheet No. 3a.1 is to reflect the collection of the Annual Charges imposed by section 382 of the Commission's Regulations.

Mid Louisiana also requests a waiver of the Notice Provisions of § 154.22 of the Commission's Regulations to allow the Tariff sheets to become effective October 1, 1989.

This filing is being made in accordance with section 22 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene of Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions of protests should be filed on or before September 28, 1989. 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 Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22875 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-38-001]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

September 21, 1989.

Take notice that on September 15, 1989, Ringwood Gathering Company (Ringwood), filed a Substitute Fifty-First Revised Sheet No. PGA-1 to its FERC Gas Tariff and FERC Form No. 542-PGA pursuant to section 4 of the Natural Gas Act and 18 CFR section 154.305.

Ringwood states that copies of the filing were served upon Ringwood, jurisdictional customers and interested state agencies.

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 sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 11, 1989. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22876 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-66-000]

Superior Offshore Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 21, 1989.

Take notice that on September 14, 1989, Superior Offshore Pipeline Company (SOPCO) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

FERC Gas Tariff, Original Volume No. 1

Fourth Revised Sheet No. 5
Third Revised Sheet No. 40
Third Revised Sheet No. 41
Second Revised Sheet No. 42
Second Revised Sheet No. 43
Third Revised Sheet No. 48
Second Revised Sheet No. 49
Third Revised Sheet No. 54
Second Revised Sheet No. 55

SOPCO states that these revised tariff sheets are being filed to amend SOPCO's FERC Annual Charge Adjustment (ACA) related tariff sheet to reflect the change in the FERC ACA Unit Charge. SOPCO has received an Annual Charges Billing from the Commission for fiscal year 1989 and has remitted to the Commission SOPCO's portion of the Commission deficit. For the purpose of recovering this payment, SOPCO has elected, pursuant to the authority outlined in Order No. 472, to institute the ACA Unit Charge. As set forth by the Commission on SOPCO's Annual Charges Bill, SOPCO's ACA Unit Charge will change from $0.0017 per MMBTU to $0.0016 per MMBTU.

Additionally, SOPCO is making certain administrative changes to its tariff currently on file. Specifically, SOPCO is changing some of the names, addresses and other information concerning its Standards of Conduct for Interstate Pipelines with Marketing Affiliates implementing Order No. 497, and its Form of Transportation Service Agreements. Finally, SOPCO has requested a waiver of the Commission's 30 day notice period so that these sheets may become effective October 1, 1989. SOPCO states that no customer will be harmed by this waiver.

Any person desiring to be heard or 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 the rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All such motions or protests should be filed on or before September 28, 1989. 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 proceedings. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22877 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-70-004]

Stingray Pipeline Co.; Compliance Filing

September 21, 1989.

Take notice that Stingray Pipeline Company (Stingray) on September 1, 1989, tendered for filing the revised tariff sheets listed in appendices A and B attached to the filing in compliance with Ordering Paragraph (B) of the Commission's Order dated August 3, 1989.

Stingray states that copies of its filing have been served on all parties and customers.

Any person desiring to protest said filing should file a 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 of Practice and Regulations. All such protests should be

filed on or before September 28, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22880 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-238-000]

The Washington Water Power Co.; Proposed Change in FERC Gas Tariff

September 21, 1989.

Take notice that on September 15, 1989, The Washington Water Power Company ("WWP") submitted for filing, to be part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets:

First Revised Sheet No. 3
First Revised Sheet No. 4
Second Revised Sheet No. 5
First Revised Sheet No. 5A
Second Revised Sheet No. 6
First Revised Sheet No. 6A
Second Revised Sheet No. 7
First Revised Sheet No. 7A
Second Revised Sheet No. 8
First Revised Sheet No. 8A
First Revised Sheet No. 9

WWP states these proposed tariff revisions reflect the terms and conditions of an Agreement (hereinafter "1989 Release Agreement") for the release of Jackson Prairie storage capacity, executed on April 21, 1989, by WWP and B.C. Gas, Inc., pursuant to which WWP will release to B.C. Gas up to 630,000 therms per day of deliverability and up to 22,680,000 therms per day of seasonal capacity for a primary term extending through April 30, 1996. The 1989 Release Agreement supersedes an earlier Agreement dated November 4, 1982 (hereinafter "1982 Release Agreement") between WWP and B.C. Gas Inc.'s predecessor-in-interest, British Columbia Hydro & Power Authority ("B.C. Hydro"). As such, the terms and conditions of the 1989 Release Agreement are meant to effectuate the full assignment of B.C. Hydro's rights and obligations to B.C. Gas. WWP sates that the negotiated rate charged B.C. Gas for the continued release of capacity and deliverability is predicated on a revised cost of service analysis.

WWP requests an effective date of October 15, 1989, for each of the respective tariff sheets, which date is thirty (30) days from the date of filing.

Any person desiring to be heard or 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 of Practice and Procedure. All such motions or protests should be filed on or before September 28, 1989. Protests will 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. 89-22881 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-48-000 and CP89-1126-000]

Transwestern Pipeline Co.; Informal Settlement Conference

September 21, 1989.

Take notice that an informal conference will be convened on October 19, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE, Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Joanne Leveque (202) 357-8418 or Dennis Melvin (202) 357-8076.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22882 Filed 9-27-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

University Research Instrumentation Program

AGENCY: Department of Energy.

ACTION: Program solicitation announcement.

SUMMARY: The purpose of this notice is to announce the availability of the University Research Instrumentation (URI) program solicitation, and to inform potential applicants of the closing date and location for transmittal of applications for awards under this program. For more detailed background information about the URI solicitation, please refer to the following related documents: (1) DOE request for public comment on the URI program, June 7, 1983 (48 FR 26328-26331), (2) October 18, 1983, DOE changes to the program (48 FR 48277-48281); and (3) December 15, 1983, DOE program solicitation announcement (48 FR 55774-55775).

FOR FURTHER INFORMATION CONTACT: All communications or questions regarding this program solicitation should be directed to: Ms. Susan Black, Procurement and Contracts Division, Oak Ridge Operations Office, Post Office Box 2001, Oak Ridge, TN 37831-8758, Telephone Number: (615) 576-0792.

SUPPLEMMENTARY INFORMATION:

Background

The purpose of the University Research Instrumentation program is to assist university and college scientists in strengthening their capabilities to conduct long-range research in specific energy research and development areas of direct interest to DOE through the acquisition of specialized research instrumentation. This program is consistent with, and part of, a government-wide effort to increase the availability of advanced research instrumentation in universities and colleges. For FY 1990, the appropriation recommended in the conference report for the Energy and Water Development Appropriations Bill is $5.0 million. In anticipation of enactment of this bill, DOE invites all qualified universities to write for a copy of its University Research Instrumentation program solicitation, DOE-ER-0184/5, Notice of Program Announcement Number DOE-PS05-90ER755534. Selection for award under this solicitation is subject to the availability of funds.

Principal Research Areas

While all areas of energy research are eligible, in FY 1990 the URI program's funds will be concerned primarily with capital equipment costing $100,000 or more needed for on-campus research in one of five specific energy areas (listed below in alphabetical order). In order to indicate the potential breadth of the research in each area, a number of examples of related research topics are given. Within each topic area no

preference is given to any of the examples.

1. Atomic and Nuclear Physics

a. Atomic Physics

Research on the properties of atomic and molecular systems when exposed to super-strong electromagnetic fields, i.e., fields much stronger than the coulombic fields inside the atom.

b. Nuclear Physics

Understanding the interactions, properties, and structure of atomic nuclei unsing probes of light ions, heavy ions, electrons, and other nuclear particles for research in: (1) Nuclear collision dynamics via detection of nuclear reaction products; (2) Polarization effects in the collision of nuclear systems; (3) Nuclear structure and nuclear spectroscopy; (4) Giant resonances and other mechanisms of gamma-ray emission; (5) Probing fundamental symmetries and interactions; (6) Neutron scattering physics; (7) Radiative capture reactions; and (8) Properties of hot nuclear matter.

2. Biomedical and Environmental Research

a. Nuclear Medicine

(1) research on the applications of radiation, radioisotopes and stable isotopes in the diagnosis, study and treatment of human diseases; (2) production of radionuclides, new radiopharmaceuticals, automated chemical synthesis systems, studies of biodistribution and pharmacokinetics of radiolabled compounds; (3) improvement of biomedical imaging techniques (SPECT, PET, NMR spectroscopy, and magnetoencephalography, etc.) for diagnosis and physiologic and metabolic studies; (4) development of boronated compounds with higher selectivity for tumor tissue to ascertain clinical merit of boron neutron capture therapy.

b. Life Science Studies

(1) DNA damage and repair; (2) mapping and sequencing the human genome; (3) characterizing the structure and function of biological macromolecules; (4) health and environmental effects of radon exposure; (5) computer applications for analyzing biological date.

c. Environmental Processes and Effects

(1) subsurface microbiology, contaminant transport, and factors affecting mobilization and immobilization of mixed waste regimes in systems, including new technologies to characterize microbes and the groundwater systems within which they grow; (2) determination of the movement and fate of energy related materials introduced along the ocean margins; (3) development of integrated ecological studies focusing on water relations in large scale ecosystem experiments that will contribute to global research activities.

d. Atmospheric and Climate Research

(1) measurement and control systems for experimental research of biological effects of CO_2 and climate variables; instrumentation to produce and measure tracer material (e.g., C^{11} isotope) for real time studies of carbon fixation and metabolism with plants; (2) ground base remote sensing instruments such as: Radio Acoustical Sounder (RASS) for temperature profiles; Differential Absorption Lidar (DIAL) for water vapor profiles, Raman Lidars for water vapor profiles; Doppler Wind Systems and High Resolution Interferometer Sounder (HIS) for solar and infrared spectral measurements.

3. Chemical and Coal Sciences

a. Chemical Science

Photochemical and photophysical studies of systems related to solar photochemical energy conversion, the dynamics of high temperature chemical reactions, and phenomena involving highly charged atoms, and quantum optics for research in: (1) Inorganic and organic photochemistry; (2) excited-state electron transfer; (3) photoelectrochemistry; (4) photo-induced charge separation in microheterogeneous environments; (5) artificial photosynthesis; (6) picosecond spectroscopy; (7) synthesis and catalysis as it relates to the photoconversion of various substrates into fuels and chemicals.

b. Coal Science

(1) *Surface Science.* Research on surface properties of coal and mineral matter pertinent to weathering, preparation (i.e., cleaning, surface enhanced beneficiation, dewatering, and pelletizing), conversion, utilization, and the rheology of coal-oil/coal-water slurries.

(2) *Reaction Chemistry.* Fundamental research directed toward an understanding of the organic, inorganic, and biochemistry of coal with respect to (a) catalyzed and uncatalyzed conversion and utilization; (b) chemical and microbiological coal cleaning, gasification, liquefaction, denitrification, and desulfurization, novel chemical and biochemical reactions in supercritical fluids; and (d) fuel cell chemistry.

c. *Environmental Science.* Research on the formation, control, and elimination of pollutants arising from coal conversion and utilization reactions.

4. Geosciences

Understanding the physical and chemical behavior of rocks, minerals and fluids for energy- and waste-related research in the following areas:

a. Underground imaging;
b. Continental scientific drilling;
c. Hydrocarbon maturation and transport;
d. Evolution of sedimentary basins;
e. Hazardous waste mitigation;
f. Delineation of induced and natural fracture systems;
g. Flood front mapping;
h. Crustal stress measurements.

5. Materials Research

Synthesis, processing and characterization of advanced materials: ceramics and ceramic matrix composites, metals, polymers, semiconductors, superconductors, photovoltaics.

a. Thin films, doped and ion implanted compositions, electroresponsive polymers, coatings, electrochromic and thermochromic optical films.

b. Microstructural and microchemical characterization of ex- and in-situ methods to establish structures, compositions/stabilities, and defect state/structure.

c. Magnetic properties, electronic transport properties, mechanical properties (especially at elevated temperatures), diffusion, phase transformations, superconductivity.

While the equipment requested wil be equally suitable and may be used for research on other energy-related topics, the need for the instrument(s) must be justified (and the application will be reviewed) in terms of its value and ability to enhance the institution's capabilities in the principal designated energy-related research area specified on the cover sheet. The instrument's utility in advancing other areas of scientific or technical research is of peripheral interest during the application's review procedure.

Eligibility and Limitations

Participation in the URI program is limited to U.S. universities and colleges that currently have active, ongoing DOE-funded research support (including subcontracts) totalling at least $150,000 in value in the specific area for which the equipment is requested during the past two fiscal years (October 1, 1987 to September 30, 1989).

DOE is establishing this limitation to ensure that the instrumentation acquired with these grants will significantly expand the research capability of institutions which have already demonstrated the capability to perform long-range energy research. The Office of Energy Research believes that restricting eligibility to institutions which have performed $150,000 of DOE supported research over a two-year period will limit eligibility in this grant program to those institutions which, because of their existing commitment to energy research, are best able to incorporate advanced instrumentation into their research programs. Special consideration will be given to Historically Black Colleges and Universities (HBCU's) which meet the institutional eligibility criteria, and have significant research capabilities in the selected research area. DOE will consider only requests for larger instruments, costing about $100,000 or more, which are required to advance reearch in the designated area. Smaller research instruments (less than $100,000 each) will not be eligible for consideration in this program. General purpose computing equipment is also not eligible under this program. However, laboratory computers and associated peripherals dedicted for use directly with the instrument(s) in the selected area may be considered. Computer equipment for theoretical research will be eligible under this program, but will be given secondary consideration relative to instrumentation for experimental research.

Application Forms

Program solicitations are expected to be ready for mailing by October 1, 1989. Applications must be prepared and submitted in accordance with the instructions and forms included in the program solicitation. Copies may be obtained by writing to: Division of University and Industry Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone Number: (202) 586-8910.

Closing Date for Transmittal of Applications

To be eligible, applications must be received at the following address by 4:30 p.m., local prevailing time, December 1, 1989: DOE University Research Instrumentation Program, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402.

Authority for the University Research Instrumentation Program is contained in section 31(a) and (b) of the Atomic Energy Act of 1954 (42 U.S.C. 2051) and section 209 of the Department of Energy Organization Act (42 U.S.C. 7139).

(Catalog of Federal Domestic Assistance No. 81.077, University Research Instrumentation Program)

Antionette Grayson Joseph,

Director, Office of Field Operations Management, Office of Energy Research.

[FR Doc. 89-22946 Filed 9-27-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44538; FRL-3651-9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 2-chloroaniline (CAS No.95-51-2), submitted pursuant to a consent order under the Toxic Substances Control Act (TSCA). This notice also announces the receipt of test data on cumene (CAS No. 98-82-8), submitted pursuant to a final test rule under the Toxic Substance Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the Federal Register reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received. Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for 2-chloroaniline was submitted by the Synthetic Organic Chemical Manufacturers Association, Inc., on behalf of E. I. duPont de Nemours & Company pursuant to a consent order at 40 CFR 799.5000. It was received by EPA on September 7, 1989. The submission describes the mouse bone marrow micronucleus assay of 2-chloroaniline. Bone Marrow micronucleus testing is required by this consent order.

Test data for cumene was submitted by the Chemical Manufacturers Association pursuant to a test rule at 40 CFR 799.1285. It was received by EPA on September 8, 1989. The submission describes the determination of the ratio of the volatilization rate constant of cumene to the oxygen reaeration rate constant in an aquatic system. Chemical fate testing is required by this test rule.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44538). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: September 19, 1989.

Charles M. Auer,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-22863 Filed 9-27-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51740; FRL-3652-1]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13,1983 (48 FR 21722). This notice announces receipt of 81 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-1005, 89-1006, 89-1007, 89-1008, 89-1009, 89-1010: Nov. 13, 1989.

P 89-1011, 89-1012, 89-1013, 89-1014: Nov. 14, 1989.
P 89-1015, 89-1016, 89-1017, 89-1018, 89-1019, 89-1020, 89-1021, 89-1022, 89-1023: Nov. 15, 1989.
P 89-1024, 89-1025: Nov. 18, 1989.
P 89-1026: Nov. 20, 1989.
P 89-1027: Nov. 15, 1989.
P 89-1028, 89-1029, 89-1030, 89-1031, 89-1032, 89-1033, 89-1034: Nov. 18, 1989.
P 89-1035, 89-1036: Nov. 19, 1989.
P 89-1037, 89-1038: Nov. 20, 1989.
P 89-1039: Nov. 19, 1989.
P 89-1040: Nov. 20, 1989.
P 89-1041: Nov. 25, 1989.
P 89-1042, 89-1043, 89-1044: Nov. 22, 1989.
P 89-1045, 89-1046, 89-1047, 89-1048, 89-1049: Nov. 21, 1989.
P 89-1050: Nov. 25, 1989.
P 89-1051, 89-1052, 89-1053, 89-1054, 89-1055: Nov. 26, 1989.
P 89-1056, 89-1057, 89-1058, 89-1059, 89-1060: Nov. 29, 1989.
P 89-1061: Dec. 3, 1989.
P 89-1062, 89-1063, 89-1064, 89-1065, 89-1066, 89-1067, 89-1068: Dec. 4, 1989.
P 89-1069: Dec. 5, 1989.
P 89-1070: Dec. 4, 1989.
P 89-1071: Dec. 6, 1989.
P 89-1072, 89-1073, 89-1074, 89-1075, 89-1076, 89-1077: Dec. 5, 1989.
P 89-1078: Dec. 9, 1989.
P 89-1079: Nov. 22, 1989.
P 89-1080, 89-1081, 89-1082, 89-1083: Dec. 9, 1989.
P 89-1086, 89-1087: Dec. 11, 1989.

Written comments by:

P 89-1005, 89-1006, 89-1007, 89-1008, 89-1009, 89-1010: Oct. 14, 1989.
P 89-1011, 89-1012, 89-1013, 89-1014: Oct. 15, 1989.
P 89-1015, 89-1016, 89-1017, 89-1018, 89-1019, 89-1020, 89-1021, 89-1022, 89-1023: Oct. 16, 1989.
P 89-1024, 89-1025: Oct. 19, 1989.
P 89-1026: Oct. 21, 1989.
P 89-1027: Oct. 16, 1989.
P 89-1028, 89-1029, 89-1030, 89-1031, 89-1032, 89-1033, 89-1034: Oct. 19, 1989.
P 89-1035, 89-1036: Oct. 20, 1989.
P 89-1037, 89-1038: Oct. 21, 1989.
P 89-1039: Oct. 20, 1989.
P 89-1040: Oct. 21, 1989.
P 89-1041: Oct. 26, 1989.
P 89-1042, 89-1043, 89-1044: Oct. 23, 1989.
P 89-1045, 89-1046, 89-1047, 89-1048, 89-1049: Oct. 22, 1989.
P 89-1050: Oct. 26, 1989.
P 89-1051, 89-1052, 89-1053, 89-1054, 89-1055: Oct. 27, 1989.
P 89-1056, 89-1057, 89-1058, 89-1059, 89-1060: Oct. 30, 1989.
P 89-1061: Nov. 3, 1989.
P 89-1062, 89-1063, 89-1064, 89-1065, 89-1066, 89-1067, 89-1068: Nov. 4, 1989.
P 89-1069: Nov. 5, 1989.
P 89-1070: Nov. 4, 1989.
P 89-1071: Nov. 6, 1989.
P 89-1072, 89-1073, 89-1074, 89-1075, 89-1076, 89-1077: Nov. 5, 1989.
P 89-1078: Nov. 9, 1989.
P 89-1079: Oct. 23, 1989.
P 89-1080, 89-1081, 89-1082, 89-1083: Nov. 9, 1989.
P 89-1086, 89-1087:

ADDRESS: Written comments, identified by the document control number "(OPTS-51740)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC 20460 (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 89-1005

Importer. Maurubeni America Corporation.

Chemical. (S) Mixture of pyridinium,1-(4-[(3-(acetylamino)-4-[(4-(2-(4-nitro-2-sulfophenyl)ethenyl)-3-sulfophenyl)azo)phenyl)amino)-6-[(2,5-disulfophenyl)aminol)-1,3,5-triazin-2-yl)-3-carboxy-,hydroxide,tetrasodium salt,1,4-benzenedisulfonic acid,2-[(4-[(3-(acetylamino)-4-[(4-(2-(4-nitro-2-sulfophenyl)ethenyl)-3-sulfophenyl)azo)phenyl)amino)-6-chloro-1,3,5-triazin-2-yl)amino)-, tetrasodium salt and 1,4-benzenedisulfonic acid,2[(6-[(3-(acetylamino)-4-[(4-2-(4-nitro-2-sulfophenyl)ethenyl)-3-sulfophenyl)azo)phenyl)amino)-1,4-dihydro-4-oxo-1,3,5-triazin-yl)amino)-, tetrasodium salt.

Use/Import. (G) Dye for cellulosic fibers. Import range: 10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50>5,000 MG/KG species (Rat). Acute dermal toxicity: LD50>2,000 MG/KG species (Rat). Static acute toxicity: EC50>1,000 MG/L time 48 HR species (Daphnia Magna). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 89-1006

Manufacturer. Imitec, Inc.

Chemical. (G) Polyimide laminating resin.

Use/Production. (S) Laminating & bonding agent, for circuit boards. Prod. range: Confidential.

P 89-1007

Manufacturer. Confidential.

Chemical. (G) Anionic polymer, ammonium salt.

Use/Production. (S) Highly dispersive use. Prod. range: Confidential.

P 89-1008

Manufacturer. Confidential.

Chemical. (G) Vinyl sulfonate, ammonium salt.

Use/Production. (G) Destructive use: open, nondispersive use. Prod. range: Confidential.

P 89-1009

Manufacturer. Confidential.

Chemical. (G) Alkyl ether phosphate.

Use/Production. (G) An additive used in the textile industry. Prod. range: Confidential.

P 89-1010

Manufacturer. Miranol Inc.

Chemical. (G) Block copolymer from reaction of N,N'-bis(3-(dimethylamino)propyl)adipic acid diamide and N,N'-bis(3-(dimethylamino)propyl)urea with bis(2-chloroethyl)ether.

Use/Production. (S) Ingredient for fabric cleaning (laundry) composition. Prod. range: 150,000-300,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 11,460 MG/KG species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89-1011

Manufacturer. Confidential.

Chemical. (G) Diene nitrile.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 89-1012

Manufacturer. Confidential.

Chemical. (G) Diene nitrile.

Use/Production. (G) Destuctive use. Prod. range: Confidential.

P 89-1013

Manufacturer. Confidential.

Chemical. (G) Olefin nitrile.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 89-1014

Manufacturer. Confidential.

Chemical. (G) Siloxanyl alkanoic acid, alkoxy silyl alkyl ester.

Use/Production. (G) Silicone rubber additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50>5 g/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-1015

Manufacturer. Amoco Chemical Company.

Chemical. (G) Polyaminoalkaneamide.
Use/Production. (G) Water treatment chemical. Prod. range: Confidential.

P 89–1016

Manufacturer. Minnesota Mining & Manufacture (3M).
Chemical. (S) Sodium sulfoisophthalic acid; isophthalic acid; sebasic acid; 5-t-butyl isophthalic acid; neopentyl glycol; ethylene glycol;diazo.
Use/Production. (G) Photosensitive polymeric binder. Prod. range: Confidential.

P 89–1017

Manufacturer. Confidential.
Chemical. (G) Methylene diphenyl diisocyanate (MDI) prepolymer.
Use/Production. (G) Elastomeric polyurethane. Prod. range: Confidential.

P 89–1018

Manufacturer. Confidential.
Chemical. (G) Methylene diphenyl diisocyanate (MDI) prepolymer.
Use/Production. (G) Elastomeric polyurethane. Prod. range: Confidential.

P 89–1019

Manufacturer. Hatco Corporation.
Chemical. (G) Diacarboxylic acid esters of branched short chain mono alcohols.
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 89–1020

Manufacturer. Hatco Corporation.
Chemical. (G) Dicarboxylic acid esters of branched short chain mono alcohols.
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 89–1021

Manufacturer. Minnesota Mining & Manufacturing Co.
Chemical. (G) Amido aliphatic amine.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 89–1022

Manufacturer. Minnesota Mining & Manufacturing Co.
Chemical. (G) Substituted thioamides.
Use/Production. (S) Coloformer. Prod. range: Confidential.

P 89–1023.

Manufacturer. Minnesota Mining Manufacturing (3M).
Chemical. (G) Substituted thioamides.
Use/Production. (S) Coloformer. Prod. range: Confidential.

P 89–1024

Importer. Huls America Inc.
Chemical. (G) Benzenetracarboxylic acid, terakis (2-ethylhexyl) esters.
Use/Import. (S) Synathetic lubricant. Import range: 10,000–30,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–1025

Importer. Huls America Inc.
Chemical. (G) Dodecanedioic acid, diisotridecyl ester.
Use/Import. (S) Synthetic lubricant. Import range: 60,000–150,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–1026

Manufacturer. Mazer Chemicals, Division of PPG.
Chemical. (G) Organo polyanhydride.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 89–1027

Manufacturer. Mazer Chemicals, Division of PPG Div.
Chemical. (G) Organo polyacid amine salt.
Use/Production. (G) Corrosion inhibitor. Prod. range: Confidential.

P 89–1028

Importer. Ciba-Geigy Corporation, Pigment Division
Chemical. (G) 1,2 Octanediol.
Use/Import. (G) Additive for colorant in open nondispersive use. Import range: Confidential.

P 89–1029

Importer. GAF Chemicals Corporation.
Chemical. (G) Anionic lactam polymer.
Use/Import. (G) Adhesive textile aid, detergent builder. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 G/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 89–1030

Manufacturer. Confidential.
Chemical. (G) Reaction product of an organic acid an organic ester and a manganese salt.
Use/Production. (G) Paint drier. Prod. range: Confidential.

P 89–1031

Manufacturer. Confidential.
Chemical. (G) Urethane modified polyester.
Use/Production. (G) Open, nondispersive. Prod. range: 48,000–110,000 kg/yr.

P 89–1032

Manufacturer. Confidential.
Chemical. (G) Urea, formaldehyde, alkylamine condensate.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89–1033

Manufacturer. Confidential.
Chemical. (G) Reaction product of a substituted acrylic acid a novoloid resin.
Use/Production. (G) Protective treatment for nylon fiber. Prod. range: Confidential.

P 89–1034

Manufacturer. Texaco Lubricants Company.
Chemical. (G) Polyurea grease thickener prepared by the reaction of diphenylmethane diisocyanate with aliphatic amine and alcohol.
Use/Production. (S) Automotive constant velocity joints. Prod. range: 7,140 kg/yr.

P 89–1035

Importer. Confidential.
Chemical. (S) Methanone, bis(4-(2-(1-propenyl)phenoxy)phenyl)-.
Use/Import. (S) Thermoset polymer modifier. Import range: Confidential.

P 89–1036

Importer. Nagase America Corporation.
Chemical. (G) Aliphatic polyglycidyl ether.
Use/Import. (G) Modifier for thermoplastics. Import range: Confidential.

P 89–1037

Manufacturer. Confidential.
Chemical. (G) Alkylated phenoilc resin.
Use/Production. (S) Resin used for manufacturing a photoactive compound for electronic circuitry patterns. Prod. range: Confidential.

P 89–1038

Manufacturer. Alcolac.
Chemical. (G) I-Methacrylamido, 2-imidazolidinone ethane.
Use/Production. (S) Adhesive promoter in latex paint, latex adhesives, for industrial coatings, caulks and sealants. Prod. range: Confidential.

P 89–1039

Manufacturer. Confidential.
Chemical. (S) .
Use/Production. (G) Contained use. Prod. range: Confidential.

P 89–1040

Importer. Chemie Linz U.S., Inc.

Use/Import. (G) Contained use. Import range: Confidential.

P 89–1041

Manufacturer. Midland Chemical Company.

Chemical. (G) Modified brominated epoxy resin.

Use/Production. (S) Manufacture of printed circuit boards. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 $\geq$ 4,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–1042

Manufacturer. E. I. du Pont de Nemours & Co., Inc.

Chemical. (G) Macrocyclic cobalt compound.

Use/Production. (G) Contained use. Prod. range: Confidential.

P 89–1043

Importer. E. I. du Pont de Nemours & Co., Inc.

Chemical. (G) Substituted hydrazine.

Use/Import. (G) Contract enchancing agent. Import range: Confidential.

P 89–1044

Manufacturer. E. I. du Pont de Neumours & Co., Inc.

Chemical. (G) Aromatic pyromellitic tetrapolymide.

Use/Production. (S) Substrate for election circuits. Prod. range: Confidential.

P 89–1045

Importer. Confidential.

Chemical. (G) Multisubstituted naphthalen.

Use/Import. (G) Resin for paint manufacture. Import range: Confidential.

P 89–1046

Manufacturer. Lanchem.

Chemical. (G) Acrylic resin solution.

Use/Production. (G) Resin for paint manufacture. Prod. range: Confidential.

P 89–1047

Manufacturer. Confidential.

Chemical. (G) Chlorinated aromatic polycarboxylic ester.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 89–1048

Manufacturer. Confidential.

Chemical. (G) Aromatic polycarboxylic ester.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 89–1049

Importer. Organic Dyestuffs Corporation.

Chemical. (G) Nonbenzidine diazo black.

Use/Import. (S) Shading color. Import range: 5,000–15,000 kg/yr.

P 89–1050

Manufacturer. Bostik Division.

Chemical. (G) Graft copolymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89–1051

Importer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Oil free polyester resin.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 89–1052

Importer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Coconut oil fatty acid modified alkyd resin.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 89–1053

Importer. Confidential.

Chemical. (G) (Sufo substituted phenyl) substituted heterocyclic.

Use/Import. (G) Contained use in an article. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–1054

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated urethane polymer.

Use/Production. (G) Urethane adhesive. Prod. range: Confidential.

P 89–1055

Importer. Confidential.

Chemical. (G) Rosin modified phenolic resin.

Use/Import. (G) Printing ink component. Import range: Confidential.

P 89–1056

Manufacturer. Minnesota Mining & Manufacturing (3M).

Chemical. (G) Polyurethane.

Use/Production. (G) Urethane foam. Prod. range: Confidential.

P 89–1057

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated urethane polymer.

Use/Production. (G) Urethane adhesive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2737 mg/kg species (Rat). Acute dermal toxicity: LD50 13 G/KG species (Rabbit). Skin irritation: moderate species (Rabbit).

P 89–1058

Manufacturer. Confidential.

Chemical. (G) Vinyl ester.

Use/Production. (S) Monomer to produce polymers. Prod. range: Confidential.

P 89–1059

Manufacturer. Confidential.

Chemical. (G) Organofunctional silane.

Use/Production. (G) Coating additive. Prod. range: Confidential.

P 89–1060

Manufacturer. Confidential.

Chemical. (G) Monocarboxylic acids, reation products with a polyethylenepolyamine.

Use/Production. (S) Corrosion inhibit base. Prod. range: Confidential.

P 89–1061

Importer. International Paint Powder Coatings, Inc.

Chemical. (G) Polyester Resin IP2010.

Use/Import. (G) Resin for surface coatings. Import range: Confidential.

P 89–1062

Manufacturer. Confidential.

Chemical. (G) Polyether amide.

Use/Production. (S) Intermediate in the production of a gasoline additive. Prod. range: Confidential.

P 89–1063

Importer. Huls America Inc.

Chemical. (G) Polyester resin of alkyl and aryl dicarboxylic acids and esters and alkyl diols.

Use/Import. (S) Prepolymer for hot melt adhesive. Import range: Confidential.

P 89–1064

Manufacturer. Hanna Chemical Coatings Corp.

Chemical. (G) Silicone modified polyester.

Use/Production. (S) Synthetic coating. Prod. range: 22,000–44,000 kg/yr.

P 89–1065

Manufacturer. Confidential.

Chemical. (G) Aliphatic amine salt of phosphoric acid.

Use/Production. (G) Intermediate for polymer manufacture. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 4,700 mg/kg species (Rat). Acute dermal toxicity: LD50 9,539 mg/kg species (Rabbit).

P 89-1066

Manufacturer. Cygnus Corporation.
Chemical. (G) Polyamino acid.
Use/Production. (G) Intermediate used in the manufacture of mineral scale. Prod. range: Confidential.

P 89-1067

Manufacturer. Cygnus Corporation.
Chemical. (G) Polypeptide.
Use/Production. (G) . Prod. range: Confidential.

P 89-1068

Manufacturer. Confidential.
Chemical. (G) Alkylene diamine derivative.
Use/Production. (G) The PMN substance dissolves silver on the film surface by way of oxidization. The dissolved silver can be collected in fixing solution for recovery. Prod. range: Confidential.

P 89-1069

Importer. Basf Corporation Coatings & Colorant Div.
Chemical. (G) Substituted phenol, 1,3,-(bis(2-carboxybenzyl)azo)-, mixed ester.
Use/Import. (G) Liquid colorant. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Static acute toxicity: LC50 > 1,000 mg/1 time 96 h species (Zebra fish). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative. Skin sensitization: negative species (Guinea Pig).

P 89-1070

Manufacturer. Confidential.
Chemical. (G) Polyether amide.
Use/Production. (S) Gasoline additive. Prod. range: Confidential.

P 89-1071

Manufacturer. Novo Biochemical Industries, Inc.
Microorganism: (G) *Bacillus licheniformis,* self-cloned, by recombinant DNA techniques to contain multiple gene copies coding for an amylase enzyme using plasmid vectors.
Use/Production: (G) This microorganism will be used for the biosynthesis of an enzyme: *alpha*-amylase. Production range: Confidential.
Test data: Environmental studies: The wildtype strain and the recombinant strain were inoculated into separate flasks of sterile soil and showed similar populations after two weeks, although after four weeks the wildtype strain showed an enrichment of factor of 25 over the recombinant strain population. When both strains were added to the same flask of sterile soil the wildtype strain population showed an enrichment factor of 500 over the recombinant strain population. The recombinant strain is sporulation deficient and reverts to sporulation proficiency with a frequency of less than 10^{-7}. *Toxicity studies:* Vegetative cells of the host and recombinant strains were administered intraperitoneally to mice at three dose levels and the mice were observed for 14 days. It was concluded that both strains are nonpathogenic to mice because the LD_{50} was greater than 10^{10} but less than 10^{11} cells per kg body weight.
Exposure: Workers in laboratory and production areas.
Environmental release/Disposal: Production and processing: Live cells used for biosynthesis are contained in sealed fermentation vessel systems. At the end of the biosynthesis, the cells are inactivated using a validated procedure and separated from the enzyme product. Disposal of cell waste: Solid wastes are disposed of by land application to hay fields on site. Liquid wastes are treated and used for irrigation on site.

P 89-1072

Importer. Confidential.
Chemical. (G) Acrylic acid ester.
Use/Import. (G) Monomer for photopolymerization. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>2,000 mg/kg species (Rat). Eye irritation: strong species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-1073

Importer. Confidential.
Chemical. (G) Diureas.
Use/Import. (G) Lubricating grease for sealed bearings which are used for automobile parts. Import range: Confidential.

P 89-1074

Importer. Confidential.
Chemical. (G) Diureas.
Use/Import. (G) Lubricating grease for sealed bearings which are used for automobile parts. Import range: Confidential.

P 89-1075

Importer. Confidential.
Chemical. (G) Diureas.
Use/Import. (G) Lubricating grease for sealed bearings which are used for automobile parts. Import range: Confidential.

P 89-1076

Importer. Confidential.
Chemical. (G) Diureas.
Use/Import. (G) Lubricating grease for sealed bearings which are used for automobile parts. Import range: Confidential.

P 89-1077

Importer. Confidential.
Chemical. (G) Diureas.
Use/Import. (G) Lubricating grease for sealed bearings which are used for automobile parts. Import range: Confidential.

P 89-1078

Manufacturer. Confidential.
Chemical. (G) Alkyl napthalenes.
Use/Production. (G) Lubricant additive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>5 g/kg species (Rat). Acute dermal toxicity: LD50>2 g/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: positive species (Guinea Pig).

P 89-1079

Manufacturer. E.I. du Pont de Nemours & Co., Inc.
Chemical. (G) Urethane alkyd.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 89-1080

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 89-1081

Importer. Huls America Inc.
Chemical. (G) Reaction product of alkyl carboxylic acids/alkane polyols polyester with an acrylate prepolymer.

P 89-1082

Manufacturer. Ciba-Geigy Corporation, Additives division
Chemical. (G) Decanedioc acid, bis (2,2,6,6-tetramethyl-4-piperidinyl) ester, reaction products with tert-butylhydroperoxide and n-octane.
Use/Production. (G) . Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>2,400 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 89-1083

Manufacturer. Confidential.
Chemical. (G) Polybutadene polyether urethane.
Use/Production. (G) Used in coating applied by industrial manufacture. Prod. range: Confidential.

P 89-1086

Importer. yuka fine corporation.
Chemical. (G) Condensation products of phenol and hydroxybenzaldehyde.

P 89-1087

Importer. Confidential.
Chemical. (G) S-triazine oligomer.
Use/Import. (G) Flame retardant.
Import range: Confidential.

Dated: September 21, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division,

Office of Toxic Substances.

[FR Doc. 89-22864 Filed 9-27-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-842-DR]

Commonwealth of Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA-842-DR), dated September 21, 1989, and related determinations.

DATED: September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated September 21, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from Hurricane Hugo on September 17-18, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance by supplemental, any Federal funds provided under Public Law 93-288, as amended by Public Law 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 1248, I hrereby appoint Jose A. Bravo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth Puerto Rico to have been affected adversely by this declared major disaster:

The municipios of Canovanas, Carolina, Ceiba, Culebra, Fajardo, Humacao, Juncos, Las Piedras, Loiza, Luquillo, Maunabo, Naguabo, Rio Grande, San Juan, Viegues, and Yabucoa for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-22897 Filed 9-27-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-843-DR]

South Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA-843-DR), dated September 22, 1989, and related determinations.

DATE: September 22, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated September 22, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of South Carolina, resulting from Hurricane Hugo on September 21-22, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93-288, as amended by Public Law 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Carolina to have been affected adversely by this declared major disaster:

The counties of Berkeley, Charleston, Dorchester, Georgetown, Horry, Orangeburg, and Sumter for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-22896 Filed 9-27-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet

Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540): Seabourn Cruise Line A/S and K/S Seabourn Cruise Line, 55 Francisco Street, San Francisco, CA 94133. Vessel: Seabourn Spirit.

Dated: September 25, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–22923 Filed 9–27–89; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Federal Supply Service (FBP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090–0003, Sale of Government Property. This Information Collection provides terms and conditions under which Government owned personal property is offered for sale, and provides the format whereby bids are submitted.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden: Respondents: 85000; annual responses: 1.0; average hours per response: 0.3300; burden hours: 28050.

FOR FURTHER INFORMATION CONTACT: Ed Hochard, (703) 557–0814.

COPY OF PROPOSAL: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 535–7691, or by faxing your request to (202) 786–9027.

Dated: September 19, 1989.

Emily C. Karam

Director, Information Management Division (CAI).

[FR Doc. 89–22892 Filed 9–27–89; 8:45 am]

BILLING CODE 6820-24-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of the Administrator (AKC), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090–0228, Nondiscrimination in Federal Financial Assistance Programs. This information is needed to ensure that recipients of Federal financial assistance distribute Federal surplus property in a nondiscriminatory manner.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden: Respondents: 55; annual responses: 1.0; average hours per response: 16.0000; burden hours: 880.

FOR FURTHER INFORMATION CONTACT: Thomas E. Henderson, (202) 566–1368.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 535–7691, or by faxing your request to (202) 786–9027.

Dated: September 19, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89–22893 Filed 9–27–89; 8:45 am]

BILLING CODE 6820-BR-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–643–N]

Medicare Program; Hospice Cap

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

ACTION: Notice.

SUMMARY: This notice announces an updated payment cap for hospice care under the Medicare program. The revised cap amount applies to payments made to a hospice during the period November 1, 1988 through October 31, 1989.

EFFECTIVE DATE: The payment cap is effective for the period November 1, 1988 through October 31, 1989.

FOR FURTHER INFORMATION, CONTACT: Randal Ricktor, (301) 966–4586.

SUPPLEMENTARY INFORMATION: Section 1812(a)(4) of the Social Security Act (the Act) provides the conditions for Medicare coverage for hospice care for terminally ill beneficiaries. Under the authority of section 1814(i) of the Act, hospices are paid on the basis of one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of the hospice. The four categories of payment rates are routine home care, continuous home care, inpatient respite care, and general inpatient care, as described in the code of federal regulations at 42 CFR 418.302.

Section 1814(i)(2) of the Act specifies that Medicare payment to a hospice for care furnished over the period of a year is limited by a payment cap. Each individual hospice's cap amount is calculated by multiplying the yearly cap by the number of Medicare beneficiaries who elected to receive and did receive hospice care from the hospice during the cap period (November 1 through October 31).

Section 1814(i)(2)(B) of the Act and § 418.309(a) of the regulations set the initial hospice cap amount for the period November 1, 1983 to October 31, 1984 at $6,500 and specify the manner in which the cap amount is adjusted for accounting years that end after October 1, 1984. The initial cap amount of $6,500 is adjusted for inflation or deflation for cap years that end after October 1, 1984 by using the percentage change in the medical care expenditure category of the Consumer Price Index (CPI) for urban consumers, which is published by the Bureau of Labor Statistics (BLS). This adjustment is made using the change in the CPI from March 1984 to the fifth month of the cap year. The hospice cap amount for the period November 1, 1987 through October 31, 1988 was $8,406, which reflected the original hospice cap amount of $6,500 increased for inflation from March 1984 to the fifth month of the cap year (March 1988).

For purposes of the cap year that runs from November 1, 1988 through October 31, 1989, an index is needed to measure inflation (or deflation) from March 1984 to March 1989 (the fifth month of the cap year). Since this calculation is not made until after the month of March in each cap year, we cannot, as a practical matter, publish the hospice cap amount before the beginning of the period to which the cap applies.

Consistent with the methodology used in setting last year's cap, we have calculated the increase to the hospice

cap amount for the period of November 1, 1988 through October 31, 1989 by dividing the price level in the medical care expenditure category of the CPI for March 1989 by the level in the medical care expenditure category of the CPI for March 1984 and then multiplying that result by the initial cap amount.

BLS recently released figures that indicate a March 1989 price level in the medical care expenditure category of the CPI of 146.1. This figure divided by the March 1984 price level of 105.4 yields an index of 1.3861 (rounded). The new hospice cap is the product of $6,500 and 1.3861, that is $9,010. This cap amount applies to hospices for care furnished from November 1, 1988 through October 31, 1989.

This notice merely announces amounts required by legislation and § 418.309 and contains no change in the methodology used to formulate the hospice cap in effect for the period November 1, 1988 through October 31, 1989. Like prior hospice cap notices, this notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulation or policy. Therefore, no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Social Security Act.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) and 42 CFR 418.309.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: August 22, 1989.

Robert A. Streimer,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89-22885 Filed 9-27-89; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1989:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 15-17, 1989, 9:00 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open on November 15, 1989, 9:00 a.m.-10:00 a.m.

Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Bureau of Maternal and Child Health and Resources Development.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health Program Coordination and Systems Development, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on November 15, at 10:00 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6). Title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr.Ph.H., Executive Secretary. Maternal and Child Health Research Grants Review Committee, Room 9-12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443-2190.

Agenda Items are subject to change as priorities dictate.

Dated: September 21, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89-22861 Filed 9-27-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Arthritis Advisory Board; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on October 16, 1989. The Board will meet from 8:30 a.m. to approximately 11 a.m. at the University of North Carolina Multipurpose Arthritis Center, Chapel Hill, North Carolina, and from 1 p.m. to approximately 3:30 p.m. at the Duke University Specialized Center of Research, Durham, North Carolina. The meeting, which will be open to the public, is being held to provide insight into the operations of two types of arthritis and musculoskeletal diseases centers. Notice of the meeting room will be posted in the Centers lobbies.

Mr. John R. Abbott, Executive Secretary, National Arthritis Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-0801, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: September 22, 1989.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 89-22947 Filed 9-27-89; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute: Opportunity for a License for the Preclinical and Clinical Development of Fluoro-dideoxyadenosine/dideoxyinosine as an Antiviral Agent(s) Useful in the Treatment of Acquired Immunodeficiency Syndrome (AIDS)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks a licensee who can effectively pursue the preclinical and clinical development of 9-(2,3-Dideoxy-2-fluoro-β-D-*threo*-pentofuranosyl)-adenine (fluoro-ddA) and 9-(2,3-Dideoxy-2-fluoro-β-D-*threo*-pentofuranosyl)-hypoxanthine (fluoro-ddI) as a drug(s) for the treatment of AIDS. Scientists at the National Cancer Institute (NCI) have established that this compound is effective in inhibiting *in vitro* growth of HIV, the etiologic agent of AIDS. The Government will grant the selected company an exclusive royalty-bearing license under U.S. Patent Application Serial No. 39,402 ("Acid Stable Purine Dideoxynucleosides Active Against the Cytopathic Effects of Human Immunodeficiency Virus").

ADDRESS: Dr. Wyndham Wilson, Special Assistant for Preclinical Science, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A49, 9000 Rockville Pike, Bethesda, MD 20892 (301/496-6404) may be addressed for further information, including a copy of the patent application.

EFFECTIVE DATE: In view of the high priority for developing new drugs for the treatment of AIDS, all proposals must be received by November 13, 1989.

SUPPLEMENTARY INFORMATION: The Government seeks a sponsor, who in accordance with requirements and regulations governing the licensing of Government owned inventions (37 CFR part 404), has the most meritorious plan for the development of fluoro-ddA/ddI to a marketable status to meet the needs of the public and with the best terms for the Government. Specifically,

responders are sought who will be able to:

(1) Synthesize bulk pharmaceutical product necessary for the treatment of 500–1,000 patients with HIV infection in Phase I, II and III developmental studies.

(2) Perform the preclinical toxicology and pharmacology testing without guaranteed assistance from the Government.

(3) Perform formulation for oral and intravenous use, vialing, quality control testing, bioavailability testing and distribution of the drug for Phase I and Phase II and, if appropriate, Phase III clinical trials both in the NIH intramural program and in the extramural AIDS Clinical Trials Groups (ACTGs) established by the National Institute of Allergy and Infectious Diseases (NIAID). These clinical trials may be performed under the sponsorship of an Investigational New Drug (IND) to be held by the NCI or NIAID. Prior to being released for commercial distribution, the drug will have to be granted a product license by the Food and Drug Administration (FDA).

(4) Perform clinical studies. The NIAID may conduct studies of fluoro-ddA/ddI in the ACTGs and the company will be expected to provide drug free of charge to the National Institutes of Health (NIH) for studies conducted in the ACTGs and in the NIH intramural program.

(5) Provide data management support for both the intramural and extramural studies of fluoro-ddA/ddI necessary for the submission of a NDA to the FDA.

(6) Share the cost of intramural and extramural clinical monitoring studies (pharmacokinetics, patient immune profiles and viral outgrowth studies) necessary for the demonstration of clinical efficacy of fluoro-ddA/ddI for the treatment of AIDS.

(7) Agree to provide Fluoro-ddA/ddI to the public at a reasonable price.

The criteria that senior Government scientists will use to choose the industrial will, in addition to those set forth by 37 CFR 404.7 (a)(1) (ii)–(iv), include:

(1) Prior manufacturing capabilities in nucleoside analogs.

(2) Experience in preclinical and clinical drug development with special emphasis on the development of antiviral compounds.

(3) Experience in the evaluation, monitoring and interpretation of data for investigational biologic and virologic assays under an IND.

(4) Experience in the evaluation, monitoring and interpretation of data from Phase I and Phase II clinical studies for an IND.

(5) Demonstrated expertise in monitoring drug levels using state-of-the-art methods for measuring nucleoside drugs in blood, urine and CSF.

(6) A willingness to cooperate with the Public Health Service in the collection, evaluation, publication and maintenance of data from clinical trials and tests of investigational biologic assays.

(7) Demonstrated competence in developing oral formulation and sustained-release oral formulations.

(8) Ability to produce, package, market and distribute antiviral pharmaceutical products in the United States.

(9) Willingness to sustain the cost of fluoro-ddA/ddI drug development as outlined above (i.e., bulk drug synthesis, data management, etc.).

(10) Agreement to adhere to VHHS rules and policies involving human/animal subjects.

(11) Submit a developmental plan which includes appropriate milestones and deadlines for preclinical and clinical development.

Dated: September 20, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89–22920 Filed 9–27–89; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–90–4320–10–1784]

Montrose District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR subpart 1784, that a meeting of the Montrose District Grazing Advisory Board will be held on October 31, 1989 in Montrose, Colorado.

DATE: A meeting is scheduled October 31, 1989.

FOR FURTHER INFORMATION CONTACT: Bill Hensley, Bureau of Land Management, 2465 South Townsend, Montrose, CO 81401; telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: The Board will convene at 10:00 a.m. on October 31, 1989, in the conference room of the Montrose District BLM Office in Montrose, Colorado. Agenda items will include: minutes of the previous meeting, election of officers, public presentations and requests, range improvement project review, new Board project proposals, updates on current issues, and arrangements for the next meeting. The meeting will adjourn at 4:30 p.m.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the above address prior to the meeting date. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: September 8, 1989.

Alan L. Kesterke,

District Manager.

[FR Doc. 89–22902 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–JB–M

Realty Action; Exchange of Public Lands in Lassen Modoc and Siskiyou Counties, CA

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: CACA 20891; notice of realty action, exchange of public lands in Lassen, Modoc and Siskiyou Counties, California.

SUMMARY: The following described public lands in Siskiyou and Lassen Counties have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, California

T. 48 N., R. 1E.,
Sec. 27: NE¼SW¼, SW¼SE¼.
Sec. 33: E½NW¼, NE¼SW¼, SW¼SE¼.
T. 46 N., R. 1W.,
Sec. 28: E½E½.
T. 39 N., R. 9E.,
Sec. 33: SW¼SE¼.
A total of 440.00 acres.

In exchange for these lands, the Federal Government will acquire a tract of nonfederal land in Modoc County from The Trust for Public Lands, 116 New Montgomery Plaza, Fourth Floor, San Francisco, California 94105.

The land is described as follows:

Mount Diablo Meridian, California

T. 41 N., R.13 E.,
Sec. 28: E½SW¼, W½SW¼.
A total of 160.00 acres.

All mineral rights on the public lands and the private lands will be exchanged.

The purpose of the exchange is to acquire non-federal land that contains a permanent stream, for recreational values and riparian habitat protection. These values for outweigh the values found on the isolated parcels of Federal lands to be exhanged. The exchange will benefit the general public and the local argicultural economy, and provide improved management of Federal and private lands. The exchange is consistant with Bureau planning and has been discussed with Lassen, Modoc, and Siskiyou Counties. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final land appraisal.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 43 USC 945).

Certain parcels of public lands may be patented subject to valid existing rights, such as County or State Highways authorized under RS 2477.

The publication of this notice in the Federal Register shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be consummated before the end of that period.

Detailed information concerning the exchange, including the environmental assessment and the record of non-federal participation, is available for review at the Bureau of Land Management's District Office, 705 Hall Street, Susanville, California 96130, and at the Alturas Resource Area Office, 120 South Main Street, Alturas, California 96101.

DATE: The publication date of this notice in the Federal Register will commence the 45 day comment period. On or before November 13, 1989, interested parties may submit comments to the District Manager.

ADDRESSES: Comments should be sent to the Susanville District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130.

Herrick E. Hanks,

District Manager

[FR Doc. 89-22906 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-09-4212-14; N-51785]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described public lands near Arden and Boulder Junction, Clark County, Nevada has been determined to be suitable for direct sale to the Union Pacific Railroad Company to be used as a site for yard, auto and lumber facilities in conjunction with a site for fueling facilities and crew change on adjacent private land, at not less than the fair market value. Authority for the sale is section 203 of Public Law 94-579, the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 22. S, R. 60 E.,
Sec. 23, SW¼NE¼SE¼NE¼, E½SW¼ SE¼NE¼, SW¼SE¼SE¼NE¼;
Sec. 26, W½NE¼SW¼NE¼, W½SW¼ NE¼, SE¼SE¼NE¼NW¼, E½NE¼ SE¼NW¼, SW¼NE¼SE¼NW¼, SE¼ SW¼SE¼NW¼, SE¼SE¼NW¼, NE¼ SW¼, E½NE¼SW¼SW¼, W½SE¼ SW¼SW¼, W½NE¼SE¼SW¼, NW¼ SE¼SW¼, E½SW¼SE¼SW¼.

Aggregating 127.50 acres (gross)

This land is not required for any federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interest being offered for conveyance have no known mineral value. Acceptance of a sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. Oil, gas, sodium, potassium and saleable minerals.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County/ the City of Las Vegas.

2. Those rights for railroad purposes which have been granted to L.A. and S.L. Railroad Co. by Permit No CC-0360 under the Act of March 3, 1875, and to S.P., L.A. and S.L. Railroad Co. by Permit Nos. CC-017551 and Nev-064615 under the Act of March 3, 1875.

3. Those rights for power transmission purposes which have been granted to Valley Electric Association by Permit No. Nev-059100 under the Act of March 4, 1911.

4 Any valid, existing rights.

Upon publication of this notice in the **Federal Register,** the above described lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain vacate, or modify this reality action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Public Lw 94-579, or other applicable laws.

Dated: September 21, 1989.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 89-22907 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-HC-M

[WAOR 45406; OR-130-09-4212-13: GP9-335

Realty Action: Exchange of Public Lands in Stevens County, WA

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Williamette Meridian

T. 32 N., R. 38 E.,
Sec. 9, SW¼NE¼NW¼
T. 35 N., R. 38 E.,
Sec. 3, Lot 4
Sec. 6, Lots, 9 & 11, MS996

Sec. 7, Lot 6
Sec. 9, SW¼NW¼, SW¼NE¼
T. 34 N., R. 39 E.,
Sec. 20, SW¼SW¼
Sec. 28, SW¼SW¼
T. 38 N., R. 41 E.,
Sec. 18, SW¼SE¼
Sec. 19, SE¼SE¼
Sec. 20, SE¼NE¼, SW¼SW¼
Sec. 29, NW¼NW¼, SE¼SW¼, E½SE¼
Sec. 30, NW¼NE¼
T. 40 N., R. 41 E.,
Sec. 24, S½NE¼
T. 40 N., R. 42 E.,
Sec. 18, S½SE¼

The area described above aggregates approximately 731 acres in Stevens County, Washington.

In exchange for all or part of these lands, the Federal Govenment will acquire all or part of the following described private lands from Arden Tree Farms, Inc.:

Williamette Meridian

T. 29 N., R. 37 E.,
Sec. 1, Lots 3, 4, & 5
T. 31 N., R. 39 E.,
Sec. 3, S½SW¼
Sec. 4, Lots 1, 2, 3, 4, S½N½, E½SE¼
Sec. 8, SE¼NE¼SE¼, SE¼SE¼
Sec. 9, W½SE¼NW¼, W½SW¼
Sec. 17, MS735
Sec. 29, SW¼
T. 39 N., R. 40 E.,
Sec. 20, SE¼NW¼

The area described above aggregates approximately 937 acres in Stevens County, Washington.

The purpose of the land exchange is to facilitate resource management opportunities in Huckleberry Mountains Management Area as identified in the Spokane District's Resource Management Plan. The private lands being offered have very important values for recreation, wildlife habitat, riparian and forest management. The public interest will be highly served by making this exchange.

The value of the lands to be exchanged is appropriately equal, and the acreage will be adjusted to equalize the values upon completion of the final appraisal of the lands.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

3. All other valid existing rights, including but not limited to, any mining claim, right-of-way, permit, or lease of record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202.

For a period of 45 days, interested parties may submit comments to the Spokane District Manager at the above address. Any adverse comments will be reviewed by the State Director. In absence of any adverse comments, this realty action will become a final determination of the Department of the Interior.

Date of issue: September 21, 1989.

Joseph K. Buesing,

District Manager.

[FR Doc. 89-22904 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-33-M

[CO-930-09-4214-10; C-39289]

Proposed Amendment to Withdrawal of Public Land for Cheney Reservior Disposal Site; Colorado

September 21, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy has filed an application to amend the Cheney Reservior Disposal Site Withdrawal to include an additional 40 acres of public land. This addition will allow for the enlargement of the site characterization study for this site. This notice provides an opportunity for public meeting and public comment on this 40-acre parcel and closes the land to surface entry and mining for up to two years. The land remains open to mineral leasing.

DATE: Comments or requests for public meeting on this proposed action must be received on or before December 27, 1989.

ADDRESS: Comments or requests for public meeting should be addressed to the State Director, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Doris Chelius, 303-236-1752.

SUPPLEMENTARY INFORMATION: On September 20, 1989, the U.S. Department of Energy filed application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Ute Principal Meridian

T. 3 S., R. 2 E.,
Sec. 14, W½E½NW¼.

The area described aggregates 40 acres in Mesa County.

The purpose of the proposed amendment is to add 40 acres to the existing Cheney Reservoir Disposal Site withdrawal located near Grand Junction. This site is being considered as a permanent disposal site for uranium mill tailings.

For a period of 90 days from the date of publication of this notice, persons who wish to submit comments in connection with this action or persons who desire to be heard at a meeting on this matter should submit their comments or requests in writing to the Colorado State Director at the address shown above. If it is determined that a public meeting should be held, notice of the time and location of this meeting will be published in the **Federal Register** at least 30 days prior to the date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. This site will be used exclusively by Department of Energy for site characterization studies until final decision is made on the suitability of the Cheney Reservoir Site for the permanent disposal of uranium mill tailings.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 89-22905 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-40-M

[WY-930-09-4214-10; WYW 115104]

Public Meeting on Withdrawal; Snowy Range Recreation Area; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming meeting on a pending Forest Service withdrawal application. This meeting will provide the opportunity for public involvement in the proposed withdrawal of National Forest System land for the protection of recreational values near Laramie, Wyoming. All comments will be considered when a final

determination is made on whether this land should be withdrawn.

DATE: Meeting will be held on November 8, 1989, at 7:00 p.m..

ADDRESS: University of Wyoming, Classroom Building, Room 210, Laramie, Wyoming 82070.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–772–2072.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Snowy Range Recreational Area published March 16, 1989 (54 FR 11085), is hereby modified to allow for a public meeting as provided in 43 U.S.C. 1714 and 43 CFR part 2310.

This meeting will be open to all interested persons; those who desire to be heard in person and those who desire to submit written statements on this subject. All written comments should be submitted to the Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, by October 27, 1989.

Dated: September 15, 1989.

John A. Naylor,

Chief, Branch of Land Resources

[FR Doc. 89–22903 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: George Carden Circus, International, Inc., Springfield, MO, PRT 741057.

The applicant requests a permit to purchase in interstate commerce three female Asian elephants (*Elephas maximus*) of wild origin and export and reimport these elephants to and from Canada for Circus performances, during which the applicant will provide the public with information on this species ecological role and conservation needs.

Applicant: New York Zoological Society, Bronx, NY, PRT 741825.

The applicant requests a permit to import one male Great Indian rhinoceros (*Rhinoceros unicornis*) from the Metro Toronto Zoo, Canada, for captive breeding purposes. The rhino was born in captivity at the Mysore Zoo, India.

Applicant: U.S. Fish and Wildlife Service, Regional Dir., Region 6, Denver, CO, PRT 704930.

The applicant requests to amend their current permit to take various wildlife and plants for scientific purposes and the enhancement of propagation or survival in accordance with Recovery Plans, listing, or other Service work for those species.

Applicant: U.S. Fish and Wildlife Service, Region 2, Albuquerque, NM, PRT 676811.

The applicant requests to amend their current permit to include take of the Desert tortoise [*Xerobates (Gopherus) agassizii*] for scientific purposes and the enhancement of propagation or survival in accordance with Recovery Plans or other Service work for this species.

Applicant: Mark A. Fogley, Tulsa, OK, PRT 741694.

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by Mr. V.L. Pringle, Bedford, Cape Province, Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: Wildlife World Zoo, Lichfield Park, AZ, PRT 740833.

The applicant requests a permit to purchase one male and one female captive-bred jaguar (*Panthera onca*) from the Gladys Porter Zoo and the Greater Baton Rouge Zoo for the purpose of public display and education.

Applicant: Yerkes Regional Primate Center, Atlanta, GA 30329, PRT 741878.

The applicant requests a permit to import and reexport one male captive-born white handed gibbon (*Hylobates lar lar*) from Society Zoologique de Granby, Granby Quebec, Canada, for the purposes of scientific research of reproductive behaviors and physiology and for enhancement of propagation and survival of the species through breeding.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: September 25, 1989.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–22937 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1010–0071), Washington, DC 20503, telephone (202) 395–7313; with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070.

Title: Reduction of Royalty or Net Profit Share, 30 CFR 203.50.

OMB Approval Number: 1010–0071.

Abstract: Respondents provide the Minerals Management Service (MMS) with information that enables MMS to decide whether to grant relief in the form of a reduction or elimination of any royalty or net profit share on an entire leasehold, or any deposit, tract, or portion thereof that is segregated for royalty purposes.

Bureau Form Number: None.

Frequency: Annual (so long as reduction is in effect).

Description of Respondents: Federal OCS lessees and operators.

Estimated Completion Time: 115.8.

Annual Responses: 163.

Annual Burden Hours: 18,880.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: August 22, 1989.

Carolita Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 89–22898 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–MR–M

Memorandum of Understanding

AGENCIES: Minerals Management Service, Department of the Interior; U.S. Coast Guard, Department of Transportation.

ACTION: Final document.

SUMMARY: The Minerals Management Service (MMS) and the U.S. Coast Guard (USCG) have signed a new Memorandum of Understanding (MOU) to promote the safety of activities and facilities on the Outer Continental Shelf (OCS) of the United States associated with the exploration, development, and production of mineral resources; to avoid duplication of effort; and to promote consistent, coordinated, and less burdensome regulation of these facilities. This MOU conforms to the OCS Lands Act, as amended, and reflects changing Agency roles, new technological and regulatory changes, and the changes of Agency designation from U.S. Geological Survey to MMS.

DATE: This MOU is effective August 29, 1989.

ADDRESSES: A copy of the MOU may be obtained from the following offices:

Chief, Offshore Inspection and Enforcement Division, Minerals Management Service, 381 Elden Street, MS–647, Herndon, Virginia 22070–4817.

Manager, Offshore Activities Branch, U.S. Coast Guard (G–MVI–4/24), 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. M. L. Courtois, Chief, Offshore Inspection and Enforcement Division, Minerals Management Service, 381 Elden Street, MS–647, Herndon, Virginia 22070–4817, telephone (703) 787–1576.

Dated: September 14, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

The MOU between MMS and USCG is revised in its entirety to read as follows:

Memorandum of Understanding between the Minerals Management Service of the Department of the Interior and the United States Coast Guard of the Department of Transportation Concerning Regulation of Activities and Facilities on the Outer Continental Shelf of the United States

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to promote the safety of personnel, activities, and facilities on the Outer Continental Shelf (OCS) of the United States associated with the exploration, development, production, and processing of mineral resources, to promote conservation of those resources and protection of the environment, to minimize duplication of effort, and to promote consistent, coordinated and less burdensome regulation of these facilities. This MOU does not apply to deepwater ports as licensed by the Secretary of Transportation under the Deepwater Port Act of 1974.

II. Definitions

For purposes of this MOU, the following definitions apply:

Act. The Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372).

Deepwater Port. A facility licensed by the Secretary of Transportation under the Deepwater Port Act of 1974.

Vessel. Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water. This term does not include atmospheric or pressure vessels used for the containment of liquids or gases.

OCS. The submerged lands which are subject to the Act.

OCS Activity. Any offshore activity associated with exploration for, development of, production of, or processing of mineral resources of the OCS.

OCS Facility. Any artificial island, platform, installation, vessel, or other device used for any OCS activity. This term does not include vessels transiting the OCS, but does include U.S. and foreign flag marine rigs, vessels, and other structures. The following are types of OCS facilities:

1. OCS Production Facility. Any facility designated the lessee of an OCS Block (hereafter called lessee) for the purpose of producing or supporting the production of the mineral resources on that block. This definition also includes gravel and ice islands and caisson retained islands engaged in OCS activities even though they may be used for purposes other than production.

2. OCS Drilling Facility. Any facility designated by the owner or charterer to be used exclusively for exploration or development drilling of OCS mineral resources. This definition does not include gravel and ice islands and caisson retained islands engaged in OCS activities even though they may be used only for drilling of OCS mineral resources.

3. OCS Terminal. Any OCS facility which is intended for use as a port or terminal for transferring produced oil or gas or other OCS mineral resources to or from a vessel.

III. Agency Authorities on the OCS

A. General:

1. The Minerals Management Service (MMS) within the Department of the Interior, is responsible for management of mineral leasing on the OCS and the regulation of all mineral exploration, drilling, completion, workover, and production activities on leased or leasable land.

2. The United States Coast Guard (USCG) within the Department of Transportation regulates to promote the safety of life and property on OCS facilities and vessels engaged in OCS activities, and the safety of navigation.

B. Statutory authorities of the MMS include the following:

1. Providing for the prevention of waste and the conservation of the natural resources of the OCS, and the protection of correlative rights.

2. Requiring suspension or temporary prohibition of any operation or activity on a lease if there is a threat of serious or irreparable harm or damage to life, property, mineral deposits or to the marine, coastal, or human environment.

3. Reviewing alleged or observed violations of safety regulations issued under the Act.

4. Reviewing and approving exploration plans, development and production plans, and applications for permits to drill as necessary for prompt and efficient exploration, development, and production of a lease area.

5. Reviewing and approving applications for remedial work on completed wells.

6. Approving pipeline rights-of-way and rights-of-use and easements.

7. Providing for the inspection of drilling and production operations to ensure compliance with applicable requirements.

8. Ensuring compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under the Act significantly affect the air quality of any State.

9. Administering applicable pollution laws contained in title 43 of the U.S.C. as implemented by title 30 of the Code of Federal Regulations (CFR) part 250.

10. Exercising the Secretary of the Interior's responsibilities for the assessment, compromise, and collection of civil penalties under section 24(b) of the Act.

C. Statutory authorities of the USCG on the OCS include the following:

1. Promoting the safety of life and property on OCS facilities and adjacent waters.

2. Administering applicable vessel safety and inspection laws contained in titles 46 and 43 of the U.S.C.

3. Administering applicable pollution laws contained in titles 33 and 43 of the U.S.C as implemented by 33 CFR parts 135, 136, 151–156.

4. Determining which OCS facilities and vessels require a USCG Certificate of Inspection (COI) or USCG Letter of Compliance (LOC) and administering applicable regulations to ensure compliance with the conditions of the COI or LOC.

5. Providing for inspection of OCS facilities and vessels engaged in OCS activities to ensure compliance with applicable USCG requirements.

6. Promulgating regulations addressing hazardous working conditions related to activities on the OCS.

7. Reviewing alleged or observed violations of occupational safety and health regulations under the Act.

8. Administering applicable navigation safety laws contained in titles 33 and 43 of the U.S.C., including those applicable to aids to navigation and designation of shipping safety fairways and traffic separation schemes.

D. Similar statutory authorities involving both Agencies include the following:

1. Establishing minimum requirements or standards of design, construction, alteration, and repair for OCS facilities.

2. Enforcing regulations promulgated pursuant to the Act, including authority to utilize by agreement the services of personnel or facilities of other Federal Agencies.

3. Investigating and making public reports on deaths, serious injuries, fires, and oil spillage occurring as a result of OCS operations.

4. Requiring the use of the best available and safest technologies on OCS drilling and production operations as set forth in section 21(b) of the Act.

IV. Responsibilities

To accomplish the purposes of this MOU, both Agencies agree to observe the following guidelines with respect to overseeing OCS facility design and construction, systems and equipment, and operations.

A. Facility design and construction requirements, including plan approval:

1. The MMS exercises technical review and approval responsibility for design, fabrication, and installation of all OCS production facilities, as described in 30 CFR 250.132, 250.133, and 250.140. The USCG issuance of a COI or LOC does not preclude additional requirements being imposed by the MMS. However, the MMS will coordinate the review and approval as necessary with the USCG so that MMS requirements do not compromise USCG certification or compliance requirements.

The MMS verifies the following for all OCS facilities:

a. Site-specific considerations, such as oceanographic, meteorological, geological, geotectonic, and geophysical conditions including bottom conditions and the capability of the seabed and the mooring system to support or hold the position of the facility to be installed and operated.

The MMS establishes requirements and verifies the following for OCS production facilities:

b. Structural integrity involving design, fabrication, and installation;

c. Location of drilling, production, well control, and safety systems and equipment; and

d. Modification and repair related to structural integrity.

2. The USCG exercises technical review and approval responsibility for design and construction of OCS drilling facilities, vessels engaged in OCS activities, and other facilities which are required to possess a USCG COI or LOC. The USCG also has review and approval responsibility for OCS drilling facilities while in transit, where applicable. The USCG will coordinate the review and approval as necessary with the MMS so that USCG requirements for certification or compliance do not compromise MMS requirements.

The USCG establishes requirements for the following on all OCS drilling facilities (excluding gravel and ice islands and caisson retained islands), vessels engaged in OCS activities, and those other facilities that are required to receive a USCG COI or LOC:

a. Structural integrity involving design, fabrication, and installation;

b. Stability and buoyancy in both transit and operational mode, where applicable;

c. Modification and repair requirements related to structural integrity; and

d. General arrangement.

The USCG establishes requirements for the following on all OCS facilities:

e. Structural fire protection including specifying fire endurance capabilities of bulkheads, decks and escape routes, testing and classification of materials, and requirements for ventilation systems;

f. Workplace safety;

g. Evacuation procedures and related escape routes; and

h. Lifesaving equipment.

B. Systems and Equipment:

Systems approved by one Agency which are interconnected to systems approved by the other Agency must be applicable to both Agencies.

1. The MMS establishes requirements and verifies compliance with those requirements for systems and equipment for drilling, completion, production, well control, and workover, on all OCS facilities. Additionally, the MMS establishes requirements to ensure that site-specific conditions (including seafloor, oceanographic, and other environmental conditions) are considered in the design and testing of mooring and positioning systems and in establishment of well shut-in and drilling suspension procedures for all OCS facilities.

Systems and equipment for which the MMS establishes requirements, as necessary, on all OCS facilities include the following:

a. Blowout preventer and other well-control equipment;

b. Drilling and production safety systems;

c. Emergency Shutdown System (ESD) to initiate facility shutdown, activated manually or by gas sensors, fire detectors (heat, smoke, or flame), or fire loop in wellhead, production, and living quarters areas;

d. Subsurface and surface well-control equipment;

e. Wellhead, flowline, pipeline, and well test equipment including safety valves and pressure sensors;

f. Dehydration equipment and gas compressor units used in production operations;

g. Hydrogen sulfide control equipment, gas detection systems, and personnel protection;

h. Production and production-associated piping systems including incoming and departing pipelines;

i. Pumps used to transfer liquids within the production process systems and into pipelines;

j. Odorant treatment of gas piped into buildings, portable and permanent living quarters, and other enclosures;

k. Subsea completions;

l. Wellhead fire protection systems, including deluge and sprinkler systems in enclosed well bay areas;

m. Gas-detection systems for drilling, production or gas-transmission systems or equipment;

n. Oil and gas sale and metering equipment for production from OCS leases;

o. Containment systems for overflow from equipment associated with drilling and production;

p. Pressure, atmospheric, and fired vessels and piping used for conducting drilling and production operations; and

q. Those systems installed in compliance with the applicable pollution prevention and control regulations contained in 30 CFR Part 250, Subpart C.

Other systems and equipment for which the MMS is responsible on all OCS production facilities, other than those determined to require a USCG COI or LOC, include the following:

r. Electrical system design and equipment including designation of classified locations;

s. Engine exhaust insulation and spark arrestors;

t. Helicopter deck installations including helicopter refueling facilities; and

u. Cranes, booms or other material handling equipment.

2. The USCG establishes systems and equipment requirements, as appropriate, for lifesaving equipment on all OCS facilities. The USCG establishes requirements for systems and equipment related to the issuance of COI's and LOC's where required by USCG regulations. The USCG also establishes requirements for personnel safety systems and equipment to mitigate occupational safety or health hazards. The USCG will not, however, establish requirements for drilling, production, or workover equipment that would conflict with MMS requirements.

Systems and equipment for which the USCG establishes requirements, as necessary, on all OCS facilities include the following:

a. Lifesaving systems and equipment;

b. General alarms;

c. Personnel protection equipment, excluding equipment for protection from hydrogen sulfide;

d. Fire detection, control and extinguishing systems and equipment, including structural fire protection, not already addressed by paragraph IV. B.1. c. and m.;

e. Living quarters;

f. Communications;

g. Navigation lights, obstruction lights, and sound signals; and

h. Systems and equipment associated with commercial diving operations covered by 46 CFR subchapter V.

Other systems and equipment for which the USCG establishes requirements, as necessary, on OCS Drilling facilities, vessels engaged in OCS activities, those other facilities that are required to receive a USCG COI or LOC, and OCS terminals include the following:

i. Cranes, booms, or other material handling equipment;

j. Electrical system design and equipment including designation of classified areas;

k. Boilers, pressure vessels, piping and machinery not covered under IV.B.1 of this MOU;

l. Mooring systems including design, rating, and facility compatibility, but not site-specific requirements;

m. Helicopter deck installations including refueling facilities; and

n. Those systems installed in compliance with the applicable provisions of the pollution prevention regulations contained in 33 CFR parts 151–156.

C. Operations

1. The MMS administers procedures including training, drills, inspections, and emergency procedures on all OCS facilities with respect to the following:

a. Drilling, workover, completion, and production operations including well control;

b. Pollution prevention except for transfers to or from a vessel (as vessel is defined in section II. of this MOU);

c. Safe welding, burning on nonstructural members, and hot tapping procedures;

d. Control of hydrogen sulfide;

e. Pipeline operations associated with an OCS facility; and

f. Well-head and platform removal.

Other procedures which the MMS administers on OCS production facilities include the following:

g. Structural inspection and repair;

h. Safe welding and burning procedures on structural members;

i. Helicopter operations;

j. Firefighting, as specified in IV.B.1.m.; and

k. Transfer of materials and personnel on or off the facility by crane or other means.

2. The USCG administers requirements including those for training, drills, inspections, and emergency procedures on all OCS facilities for the following:

a. Emergency egress from a facility including use of lifesaving and other general emergency equipment;

b. Handling, transfer, and stowage of explosives, radioactive, flammable (other than produced hydrocarbons), and other hazardous materials;

c. Transfer of petroleum and other products from or to a vessel (as vessel is defined in section II. of this MOU);

d. Vehicle and vessel operations;

e. Occupational safety and health of personnel;

f. Diving operations; and

g. Pollution response and compensation.

Other requirements which the USCG administers on OCS drilling facilities, vessels engaged in OCS activities, and on those other facilities that are required to receive a USCG COI or LOC include the following:

h. Firefighting, as specified in IV.B.2.d.;

i. Helicopter operations;

j. Structural inspection and repair;

k. Safe welding and burning procedures on structural members;

l. Stability and buoyancy considerations; and

m. Transfer of materials and personnel on or off the facility by crane or other means.

V. Inspections

A. Each Agency will provide for the conduct of scheduled and unannounced inspections, as necessary, to ensure compliance with its own requirements. If, in the course of a routine inspection, deficiencies falling within the responsibility of the other Agency are apparent, the deficiencies will be reported to the other Agency for action. This is not intended, however, to prevent any inspector from either Agency taking such action as is considered necessary to prevent serious or irreparable harm to persons, property, or the environment on the OCS. Such action, however, will be subsequently reported to the other Agency.

B. The MMS administers procedures for requiring shutdown of drilling and production operations and may initiate such procedures upon request by the USCG.

C. The USCG issues COI's and LOC's to those OCS facilities and vessels requiring them.

VI. Investigations

A. *Responsibilities:*

Investigation and public report by the MMS or the USCG are required for fires, oil pollution, deaths, and injuries associated with OCS activities. In addition, the Agencies investigate certain incidents relating to other regulatory responsibilities, e.g. loss of well control, sinking, capsizing, or major damage to a vessel or facility. To avoid duplication of effort and to simplify administration, the primary Agency regulating a particular facility, system or operation will be responsible for leading the investigation and reporting on incidents involving that facility, system, or operation.

Where only one Agency has an investigative interest in an incident, that Agency will investigate and report. Where both Agencies have investigative interest in an incident, one Agency will assume lead responsibility with supporting participation by the other

Agency. Where investigations involve both Agencies, assumption of lead Agency responsibility will be determined by the circumstances of the particular incident, using the following ranking order for types of incidents:

1. *Collisions.* The USCG will normally be the lead Agency.

2. *Blow Outs, Fires, and Explosions.* The MMS will normally be the lead Agency for incidents of fires or explosion involving drilling or production operations. The USCG participation will be requested in all investigations of fires or explosions that involve death or injuries or that occur on OCS drilling facilities, vessels, equipment, or operations for which the USCG is responsible under paragraphs IV.B.2. or C.2. of this MOU.

3. *Deaths and Injuries.* The USCG will normally be the lead Agency for all incidents involving death or injuries. The MMS participation will be requested in investigations of all deaths and injuries associated with oil or gas drilling or production operations or equipment, including hydrogen sulfide exposure.

4. *Pollution.* The MMS will normally be the lead Agency for incidents involving pollution from all OCS facilities. The USCG participation will be requested in all investigations of pollution.

5. *Facilities, Material, and Equipment.*

a. The USCG will normally be the lead Agency for incidents involving damage to OCS drilling facilities and vessels engaged in OCS activities, or damage to propulsion, auxiliary, or emergency systems and equipment covered under IV.B.2. of this MOU.

b. The MMS will normally be the lead Agency for incidents involving damage to OCS production facilities. The USCG participation will be requested in incidents involving those OCS production facilities which require a USCG COI or LOC.

B. Conduct of Investigations:

1. Where the lead Agency identified by the ranking order in VI.A.1. through 5. determines not to investigate, that Agency shall notify the other agency of its intent.

2. In all cases, the lead Agency or the Agency conducting an investigation is responsible for preparing, reviewing, approving, and releasing the investigation report in accordance with the normal procedures of that Agency.

3. The specific procedures for participation in a joint Agency investigation shall be determined on a case-by-case basis by mutual agreement, with designation of the lead Agency determined using the procedures identified in paragraphs VI.A.1. through 5. Prior to public release of a joint Agency report of investigation, the lead Agency will forward a copy of the report to the supporting Agency for comment. The lead Agency will file any supporting Agency comments with the final report. When the supporting Agency's conclusions or recommendations differ from those of the lead Agency, each Agency's conclusions or recommendations will be included with the report in a mutually acceptable manner determined on a case-by-case basis.

4. Following completion of an Agency's investigation, the final report will be forwarded to the other Agency upon specific request, but need not be routinely forwarded.

VII. Oil Spill Contingency Plans

Exploration Plans or Development and Production Plans are submitted to the MMS for review and approval. The USCG will provide a technical review of that portion of the Plan which addresses the adequacy of the oil spill contingency plan. The criteria by which to judge the adequacy of a plan may be developed by a Regional Technical Review Board and will be mutually agreed upon by the MMS and the USCG. The assistance of the Regional Technical Review Board may be requested by either the USCG or the MMS. Membership on the Regional Technical Review Board shall include both headquarters and regional representatives of both the MMS and the USCG and any other Government technical experts requested by either Agency.

VIII. Exchange of Services and Personnel

To the extent its own operations and resources permit, each Agency will provide the other Agency with such assistance, technical advice and support, including transportation, as may be requested. Such exchange of services and use of personnel shall be on a nonreimbursable basis and may be extended to areas beyond the OCS where one Agency's expertise will benefit the other Agency in application and enforcement of its safety regulations.

IX. Cooperation in Standards and Regulation Development

A. Both Agencies will exchange data and study results, participate in research and development projects of mutual interest, and exchange early drafts of rulemaking notices to avoid duplicative or conflicting requirements.

B. Both Agencies will review current standards, regulations, and directives, and will propose revisions to them as necessary in keeping with the provisions of this MOU.

C. Both Agencies will review reporting and data collection requirements imposed on operators of OCS facilities and, wherever feasible, eliminate or minimize duplicate reporting and data collection requirements.

X. Implementation

A. Each Agency will review its internal procedures and, where appropriate, will revise them to accommodate the provisions of this MOU. Each Agency will also designate one senior official who will be responsible for continuing coordination and implementation of the provisions of this MOU.

B. On the effective date of this agreement, the USCG/U.S. Geological Survey MOU concerning regulation of activities and facilities on the OCS of the United States, dated December 18, 1980, is cancelled.

XI. Savings Provision

Nothing in this MOU shall be deemed to alter, amend, or affect in any way the statutory authority of the MMS or the USCG.

XII. Effective Date

This MOU is effective upon signature. It may be amended at any time by mutual agreement of both Agencies and may be terminated by either Agency upon a 30—day written notice.

Signed at Washington, DC, this 29th day of August 1989.

P.A. Yost,

Commandant, U.S. Coast Guard, Department of Transportation.

Barry A. Williamson,

Director, Minerals Management Service.

[FR Doc. 89-22644 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Elf Aquitaine Petroleum has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5392 and 5393, Blocks 317 and 318, respectively, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to

be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on September 20, 1989. Comments must be received on or before October 13, 1989, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595). Those practices and procedures are set out in revised § 250.34 of title 30 of the CFR.

Dated: September 21, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89–22908 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Meeting of National Park System Advisory Board

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1982), that a meeting of the National Park System Advisory Board will be held at the Altoona Sheraton Hotel, 1 Sheraton Drive, Altoona, Pennsylvania (telephone 814–946–1631) on October 18, 1989. For those driving to Altoona, the Sheraton Hotel is at the Plank Road exit of U.S. Route 220.

The general business session will start at 8:00 a.m., Wednesday morning, October 18 and is planned to conclude by 5:30 p.m. the same day. If sufficient business comes before the Board, they may continue into the evening, but it is unlikely.

The Board will consider potential National Historic Landmark nominations, plus a variety of matters relating to the National Park System and other related areas. The meeting will follow an orientation tour and briefings on America's Industrial Heritage Project (AIHP), a partnership park arrangement involving federal, state, local and private participation. In addition to partnership park arrangements, the Board will discuss urban park issues, education and volunteerism in the National Park System, and other topics. At 1:30 p.m. the Board will take up National Historic Landmark matters for approximately two hours, with the remainder of the day given over to other reports and discussion.

The business meeting will be open to the public. Space and facilities to accomodate members of the public are limited and persons will be accomodated on a first-come, first-served basis.

Anyone may file with the Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact Mr. David L. Jervis, National Park Service, P. O. Box 37127, Washington, DC 20013–7127 (telephone 202–343–4030).

Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in Room 1220, Main Interior Building, 18th and C Streets, NW., Washington, DC

Carol F. Aten,

Chief, Office of Policy.

[FR Doc. 89–22945 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 312)]

Burlington Northern Railroad Co.—Abandonment—in Walker County, AL; Findings

The Commission has found that the public convenience and necessity permit the Burlington Northern Railroad Company to abandon its approximately 8.5-mile line of railroad between Dora (milepost 708.10) and Debardeleben (milepost 717.50), located in Walker County, AL, and related side track.

A certificate will be issued authorizing abandonment unless, within 15 days after this publication, the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: September 8, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Vice Chairman Simmons and Commissioner Lamboley dissented with separate expressions.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22866 Filed 9–27–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub.-No. 316X)]

CSX Transportation, Inc.—Abandonment Exemption—In Floyd County, KY

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 8.6-mile line of railroad between milepost 16.5, at Clear Creek Junction, and milepost 25.1, at East Weeksbury, in Floyd County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic

on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 28, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by October 10, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by October 18, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 3, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 21, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-22936 Filed 9-27-89; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 444]

Electronic Filing of Tariffs; Notice to all Parties

On October 17, 1989, Transportation Data Exchange, Inc. (TDX) will demonstrate its National Rate Management System to the Commission. The presentation will be held in Hearing Room A of the Commission's offices at 12th Street and Constitution Avenue, NW., Washington, DC, beginning at 10:00 a.m.

TDX indicates that its National Rate Management System is an electronic process designed to support all rate functions from a single data base, including publishing, accounting and price quotation functions, and to exchange data with carrier and shipper data processing systems.

Because the above-titled rulemaking proceeding in which the railroad owners of TDX are participating is currently pending before the Commission, all parties of record are being advised of this demonstration. Parties of record and the public may attend and observe the demonstration.

Decided: September 19, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-22935 Filed 9-27-89; 8:45 am]

BILLING CODE 7035-012-M

[Docket No. AB-301 (Sub-No. 5X)]

Southrail Corp.—Abandonment Exemption—in Chickasaw County, MS; Notice of Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 7.5-mile line of railroad between milepost 274.0, at Woodland, and milepost 281.5, at Houston, in Chickasaw County, MS.

Applicant has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 28, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by October 10, 1989.[3] Petitions for reconsideration and

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

requests for public use conditions under 49 CFR 1152.28 must be filed by October 18, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C. 1350 New York Avenue, N.W., Suite 800 Washington, DC 20005.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 3, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Acting Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 13, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22567 Filed 9–27–89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By notice dated January 25, 1989, and published in the **Federal Register** on February 7, 1989, (54 FR 6040), Janssen, Inc., HC–02, Box 19250, Gurabo, Puerto Rico 00658–9629, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, section 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: September 19, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89–22871 Filed 9–27–89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 26, 1989, 2:00 p.m.–5:00 p.m., Executive Council Conference Room, AFL–CIO, 815 16th Street, NW., Washington, DC 20006.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Director, Labor Advisory Committee Group,

Phone: (202) 523–2752.

Signed at Washington, DC this 19th day of September 1989.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 89–22939 Filed 9–27–89; 8:45 am]

BILLING CODE 4510-28-M

Bureau of Labor Statistics

Business Research Advisory Council; Meetings and Agenda

The regular Fall meetings of the Board and Committees of the Business Research Advisory Council will be held on October 11 and 12, and November 16, 1989. The Business Research Advisory Council advises the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, October 11, 1989

10:00 a.m.—Committee on Price Indexes, Room 2736, General Accounting Office Building, 441 G Street, NW., Washington, DC

1. Status Report on Producer Price Indexes I11a. Monthly pricing
2. Status report on International Price Program
   a. Computer pricing
   b. Escalation clauses
3. Consumer Price Index
   a. Discussion of medical care
4. Other business

1:30 p.m.—Committee on Compensation and Working Conditions (formerly Wages and Industrial Relations), Room 2736, General Accounting Office Building, 441 G Street, NW., Washington, DC

1. White-Collar Pay Program: 1989 Survey Results and Plans for 1990 Survey
2. Highlights from the 1988 Employee Benefits Survey and Plans for the 1990 Survey
3. Employment Cost Index: A Change in the Base Year
4. Other business

Thursday, October 12, 1989

9:30 a.m.—Committee on Economic Growth

Agenda to be announced.

9:30 a.m.—Committee on Employment and Unemployment, Room 2734, General Accounting Office Building, 441 G Street, NW., Washington, DC.

1. Resources for Labor Statistics
2. Status Updates:
   a. Current Population Survey Redesign
   b. Business Establishment List Project
   c. Job Vacancy Statistics Options
3. Discussion: Trends in Employment of Older Workers
4. Other business

1:00 p.m.—Board of the Business Research Advisory Council, Room 2736, General Accounting Office Building, 441 G Street, NW., Washington, DC.

1. Chairperson's opening remarks
2. Commissioner's remarks
3. Committee reports
   a. Price Indexes

b. Compensation and Working Conditions
c. Economic Growth
d. Employment and unemployment
4. Other business
5. Chairperson's closing remarks

Thursday, November 16, 1989

1:30 p.m.—Committee on Occupational Safety and Health Statistics, Room N–3437 A & B, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC.

1. 1988 Annual Survey Results
2. Program Redesign, status report
a. Pilot projects
b. Guidelines
c. Illnesses
d. Fatalities
e. Fiscal Year 1990 funding
3. Work Injury Reports
4. Supplementary Data System
5. Other business

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, DC. the 22nd day of September 1989.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 89–2291 Filed 9–27–89; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 4, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 9, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 18th day of September 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition number	Articles produced
ACE Schiffli Embroidery (ACTWU)	Fairview, NJ	9/18/89	9/6/89	23,367	Embroidery.
ARCO Oil & Gas/Onshore Production (Workers)	Beeville, TX	9/18/89	9/1/89	23,368	Oil & Gas.
All American Corp. (ACTWU)	Fairview, NJ	9/18/89	9/6/89	23,369	Schiffli Embroidery.
Applied Press Technology (Workers)	Ellwood City, PA	9/18/89	9/8/89	23,370	Steel Washers.
BC Five (ACTWU)	N. Bergen, NJ	9/18/89	9/6/89	23,371	Schiffli Embroidery.
BP Exploration, Inc. Southwest Freeway Office (Company)	Houston, TX	9/18/89	9/11/89	23,372	Oil & Gas.
BP Exploration, Inc. San Felipe Office (Company)	Houston, TX	9/18/89	9/11/89	23,373	Oil & Gas.
Barbara Embroidery (ACTWU)	Fairview, NJ	9/18/89	9/6/89	23,374	Schiffli Embroidery.
Bipolar Integrated Technology (Workers)	Beaverton, OR	9/18/89	9/8/89	23,375	Bipioar Integrated.
Brooks Foundry Co., Inc. (GMP)	Albion, MI	4/24/89	2/27/89	23,376	Grey Iron Counter-.
Buffalo Refrigeration Co. (Workers)	Buffalo, NY	9/18/89	9/5/89	23,377	Warehousing & Cold Storage Serv.
Clint Hurt Drilling & Associates, Inc. (Workers)	Midland, TX	9/18/89	8/23/89	23,378	Oil & Gas.
Collette Toy (Workers)	Long Island City, NY	9/18/89	9/5/89	23,379	Toys.
Continental Airlines (Workers)	Houston, TX	9/18/89	8/29/89	23,380	Flag Carrier.
Decalta Internatioinal Corp. (Company)	Denver, CO	9/18/89	9/5/89	23,381	Oil & Gas.
Deutz of America Corp. (Workers)	Richmond, IN	9/18/89	9/1/89	23,382	Warehousing & Repair.
Evart Products Co. (Workers)	Evart, MI	9/18/89	9/7/89	23,383	Components.
Eyelet Embroidery (ACTWU)	Edgewater, NJ	9/18/89	9/6/89	23,384	Embroidery & Lace.
FMC Corp (Workers)	Odessa, TX	9/18/89	9/5/89	23,385	Oil-Well Valve Servicing.
Gailord South (Div. of Gailord Classics, Inc. (Workers)	Bristol, VA	9/18/89	9/5/89	23,386	Ladies' Blouses & Skirts.
General Motors-BOC Chicago (UAW/GM	Willow Springs, IL	9/18/89	9/5/89	23,387	Metal Stampings.
Harrison Well Serv. (Company)	Mt. Carmel, IL	9/18/89	8/21/89	23,388	Oil & Gas.
Hale Mfg. Co. (Workers)	Putnam, CT	9/18/89	9/5/89	23,389	Synthetic Yarns.
J&K Fashions (ILGWU)	Orange, NJ	9/18/89	8/7/89	23,390	Ladies' Coats.
Maine Electronics (Workers)	Lisbon, MA	9/18/89	8/25/89	23,391	Printed Circuit Boards.
Marso & Rodenborn Mfg., Co. (Workers)	Fort Dodge, IA	9/18/89	9/6/89	23,392	Gloves.
Marathon Oil Co./Northeastern Production Reg. (Workers)	Bridgeport, IL	9/18/89	9/6/89	23,393	Oil & Gas.
National Semiconductor (Company)	Danbury, CT	9/18/89	8/18/89	23,394	Computers.
National Standard Co. (Company)	Niles, MI	6/15/89	6/15/89	23,395	Wire Drawers.
Pennsoil Product Co./Exploration & Production Div./Bradford, PA Div. (Workers).	Chipmonk, NY	9/18/89	9/1/89	23,396	Oil & Gas.
Pyote Well Service (Workers)	Wickett, TX	9/18/89	8/17/89	23,397	Oil Wells.
Revelations (Workers)	Exeter, PA	9/18/89	9/7/89	23,398	Shoes & Boots.
Slawson Exploration Co., Inc. (Workers)	Oklahoma City, OK	9/18/89	7/23/89	23,399	Oil & Gas.
St. Raymond Corp. (Workers)	Pejepscot, ME	9/18/89	9/6/89	23,400	Paper.
Struthers Thermo Flood (Workers)	Winfield, KS	9/18/89	8/31/89	23,401	Steam Generators.
Suburban Sports-wear (ILGWU)	Orange, NJ	9/18/89	8/7/89	23,402	Ladies' Coats.
Swaco Geolograph Co. (Company)	Houston, TX	9/18/89	8/1/89	23,403	Oilfield Equipment.
W.A. Krueger, Co. (Workers)	Scottsdale, AZ	9/18/89	9/7/89	23,404	Printing Equipment.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition number	Articles produced
W.A. Krueger Co. (Workers)	Brookfield, WI	9/18/89	9/7/89	23,405	Printing Equipment.
(The) William Powell Co. (USWA)	Cincinnati, OH	9/18/89	9/7/89	23,406	Industrial Valves.
Bogert Oil Co., Drilling Div., Explor. & Produc, Div. (Workers)	Oklahoma City, OK	9/18/89	9/1/89	23,407	Oil & Gas.

[FR Doc. 89-22940 Filed 9-27-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-22,993]

Continental Laboratories, Inc., Billings, MT; Negative Determination Regarding Application for Reconsideration

By a letter of July 21, 1989, one of the petitioners with the support of a Congressman requested administrative reconsideration of the Department's negative determination for trade adjustment assistance for workers at Continental Laboratories, Inc., Billings, Montana. The denial notice was issued on July 13, 1989 and published in the **Federal Register** on August 11, 1989 (54 FR 33096).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances;

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that the decreased employment criterion of the Group Eligibility Requirements of the Trade Act was met. The petitioner premises this allegation on the fact that most workers do not work a full six months and revenues decreased.

Workers at Continental Laboratories provide mud-logging services to the oil and gas industry.

In order for a worker group to be certified eligible to apply for trade adjustment assistance, it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributing importantly" to worker separations. In the subject case neither the decreased employment nor the sales and/or production criterion was met during the period applicable to the petition. Sales of mud-logging services for the Rocky Mountain Region and the corporation increased in fiscal year (FY) 1988 compared to FY 1987 and in FY 1989 compared to FY 1988.

Also, worker separations and sales declines in the early 1980s would not form a basis for certification in 1989. In determining the base period for the statutory worker group requirements, the Department considers employment, sales, production and import data only in the year of and in the year immediately prior to the date of worker separations. Section 223(b)(1) of the Trade Act does not permit the certification of workers beyond the one year period prior to the date of the petition. Accordingly, there is no useful purpose in collecting data for the early 1980s.

Other investigation findings show that the work is seasonal—from Fall to Spring with a slack period in the Summer. Seasonal unemployment would not form a basis for certification under the Trade Act.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 15th day of September 1989.

Stephen A. Wandner,
Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-22938 Filed 9-27-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-23, 007, Dallas, Texas et al.]

Hunt Energy Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-23,007 Dallas, Texas, TA-W-23,007A, All Other Locations in Texas, TA-W-23,007B, All Locations in Oklahoma, TA-W-23,007C, All Locations in Louisiana, TA-W-23,007D, All Locations in Alabama, TA-W-23,007E, All Locations in Mississippi, TA-W-23,007F, All Locations in North Dakota, TA-W-23,007G, All Locations in New Mexico.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 28, 1989 applicable to all workers of Hunt Energy Corporation, Dallas, Texas. The notice was published in the Federal Register on August 22, 1989 (54 FR 34834).

The Department is amending the certification to show the correct name of the worker group as Hunt Energy Corporation and not HECI Exploration Company. The Department is changing the impact date to May 2, 1988, one year prior to the date of the petition.

Further, based on new information from the company, additional workers were separated from Hunt Energy Corporation in several locations in the States of Texas, Louisiana, Oklahoma, Alabama, Mississippi, North Dakota and New Mexico. The notice for Hunt Energy Corporation, therefore, is amended by including workers in the States of Louisiana, Oklahoma, Alabama, Mississippi, North Dakota and New Mexico and in other locations of Texas.

The amended notice applicable to TA-W-23,007 is hereby issued as follows:

All workers of Hunt Energy Corporation, Dallas, Texas: and in all other locations of Texas and in all locations of Louisiana, Oklahoma, Alabama, Mississippi, North Dakota and New Mexico who became totally or partially separated from employment on or after May 2, 1988 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 13th day of September 1989.

Robert O. Deslongchamps,
Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-22942 Filed 9-27-89; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-67]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Medicine Advisory Committee.

DATES: October 16, 1989, 9 a.m. to 5 p.m., and October 17, 1989, 9 a.m. to 5 p.m.

ADDRESSES: National Council on the Aging (NCOA), West Wing, Suite 100, Room 141 C, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Janis Stoklosa, Code EBM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1540).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range planning of aerospace medicine research. The Committee will meet to discuss the Life Sciences Status, Budget Impacts, Accomplishments and Issues; Human Exploration Initiative; Space Flight/Space Station Program Planning; and the National Academy of Sciences Space Biology and Medicine Board Activities. The Committee is chaired by Dr. Harry C. Holloway and is composed of 24 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 people including members of the Subcommittee).

Type of Meeting: Open.

Agenda:

Monday, October 16, 1989

9 a.m.—Welcome and Chairman's Remarks.

9:30 a.m.—Life Sciences Status, Budgets Impacts, Accomplishments and Issues.

11 a.m.—Human Exploration Initiative.

5 p.m.—Adjourn.

Tuesday, October 17, 1989

9 a.m.—Space Flight/Space Station Program Planning Current Space Station Configuration.

11 a.m.—National Academy of Sciences Space Biology and Medicine Board Activities.

12:30 p.m.—NASA Advisory Committee Activities.

2:30 p.m.—Aerospace Medicine Advisory Committee Discussion.

5 p.m.—Adjourn.

Dated: September 22, 1989.

Philip D. Waller,

Deputy Director, Management Operations Office.

[FR Doc. 89-22900 Filed 9-27-89; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-327]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of two exemptions, one temporary and one permanent, from the requirements of section III.D.1(a) of appendix J to 10 CFR part 50 to the Tennessee Valley Authority (the licensee) for the Sequoyah Nuclear Plant, Unit 1. The unit is located at the licensee's site in Hamilton County, Tennessee. The temporary and permanent exemptions were requested by the licensee in its letters dated May 1 and 5, 1989, respectively.

Environmental Assessment

Identification of Proposed Action

The temporary and permanent exemptions would allow the licensee relief from the provisions of section III.D.1(a) of appendix J that require that (1) the set of three Type A, or containment integrated leak rate, tests shall be performed at approximately equal intervals during each 10-year service period and (2) the third test of each set shall be conducted when the unit is shutdown for the 10-year unit inservice inspection (ISI). In the two requests, the licensee has requested temporary and permanent exemptions for Unit 1 to (1) conduct the third test of the first 10-year service period during the Unit 1 Cycle 4 refueling outage and (2) separate the third test of each 10-year service period from the 10-year ISI. The first request is for a temporary exemption for only the upcoming test so that it may be conducted during the Unit 1 Cycle 4 refueling outage instead of during a special outage to conduct the test. The second request is for a permanent exemption so that the third test of each 10-year service period and the 10-year ISI can be scheduled separately.

For the temporary exemption, appendix J to 10 CFR part 50 requires that a set of three tests shall be performed at approximately equal intervals during each 10-year service period. The NRC staff has determined that the "approximately equal interval" is 40 ± 10 months. The licensee is requesting a temporary exemption to allow the third test for Unit 1 in its first 10-year service period to be conducted at an interval greater than 50 months from the second test. The additional interval while the unit is operating until it shuts down for its Cycle 4 refueling outage is no more than three months.

The measured overall leak rate for the first test for Unit 1 was 0.09429 percent per day. Unit 1 entered its Cycle 3 refueling outage on August 22, 1985, and the second test of the first 10-year service period was conducted on December 15, 1985. The measured overall leak rate for the second test was 0.05388 percent per day. Both the first test and the second test were significantly less than the maximum allowable leak rate of 0.25 percent per day for Unit 1.

Unit 1 was in an extended shutdown from August 22, 1985 until its restart in November 1988. In this shutdown, TVA stated that no modifications were made on the containment boundary. In addition, the local leak tests on all penetration and valves requiring appendix J Type B and Type C testing were acceptably completed. The surfaces of the containment liner and shield building were inspected for abnormal degradation before the restart of Unit 1 and none was observed. The leak rate for the test in December 1985 should not degrade beyond the maximum allowed leak rate in the not more than three months of additional plant operation beyond the 50 months allowed, before the shut down of Unit 1 to conduct the third test.

For the permanent exemption, appendix J to 10 CFR part 50 requires that the third test of each 10-year service period shall be conducted when the unit is shut down for the 10-year ISI. The licensee is requesting an exemption to permanently decouple the third test from the 10-year ISI. The third test for Unit 1 for the first 10-year service period is scheduled for the Unit 1 Cycle 4 refueling outage for the unit. The 10-year ISI is not related to the integrity of the containment pressure boundary and is currently scheduled in accordance with section XI of the American Society of Mechanical Engineers (ASME) Code and with 10 CFR 50.55a(g)(4) for 1994. The first 10-year ISI for Unit 1 is, therefore, scheduled for a future refueling outage

other than the Unit 1 Cycle 4 refueling outage. Each future 10-year ISI will, therefore, be scheduled for a different outage than the outage for the third test of any 10-year service period.

The Need for the Proposed Action

The proposed temporary and permanent exemptions are required to permit the licensee to (1) conduct the thrid test for Unit 1 during a scheduled Unit 1 refueling outage instead of during a forced outage and (2) uncouple the third test during a 10-year service period from the 10-year ISI.

Environmental Impacts of the Proposed Action

With respect to the requested temporary and permanent exemptions, the relief from the above requirements of Appendix J would permit the licensee to conduct the third test in the Unit 1 Cycle 4 refueling outage. With regard to potential radiological environmental impacts, the proposed temporary and permanent exemptions would not allow the licensee to operate Unit 1 longer than allowed by the operating license for the unit. Neither the probability of accidents nor the radiological releases from accidents will be increased. The proposed temporary and permanent exemptions do not increase the radiological effluents from the facility and do not increase the occupational exposure at the facility. Therefore, the Commission concludes that there are no significant radiological impacts associated with the proposed temporary and permanent exemptions.

With regard to potential nonradiological environmental impacts, the proposed temporary and permanent exemptions involve systems located within the restricted areas as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed temporary and permanent exemptions.

Therefore, the proposed temporary and permanent exemptions do not significantly change the conclusions in the licensee's "Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant, Units 1 and 2," (FES) dated February 21, 1974. The Commission concluded that operation of the Sequoyah units will not result in any environmental impacts other than those evaluated in the FES in its letter to the licensee dated September 17, 1980 which granted the Facility Operating License DPR-77 for Unit 1.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the proposed temporary and permanent exemptions, any alternative to these exemptions will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested temporary and permanent exemptions. This would not reduce environmental impacts as a result of Unit 1 operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Sequoyah Nuclear Plant, Units 1 and 2," dated February 21, 1974.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's requests that support the proposed temporary and permanent exemptions. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed temporary and permanent exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the licensee's request for the two exemptions dated May 1 and 5, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 22nd day of September 1989.

For the Nuclear Regulatory Commission.

Suzanne Black,

Assistant Director for Projects, TVA Projects Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89-22929 Filed 9-27-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-00571 and 030-19502; License Nos. 52-13598-01 and -03 EA 89-33]

Order Imposing Civil Monetary Penalty; Mayaguez Medical Center, Mayaguez, Puerto Rico

I

Mayaguez Medical Center, Mayaguez, Puerto Rico 00708 (licensee), is the holder of License Nos. 52-13598-01 and 52-13598-03 issued by the Nuclear Regulatory Commission (Commission or NRC) on March 12, 1970 and February 24, 1982, respectively. The licenses authorize the medical use of radioactive materials for diagnostic and therapeutic purposes in accordance with the conditions specified in the licenses.

II

An NRC safety inspection of the licensee's activities under the licenses was conducted on January 25, 1989. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the licensee by letter dated April 18, 1989. The Notice states the nature of the violations, the provisions of the NRC requirements that the licensee had violated, and the amount of the civil penalty proposed for each of the violations. Responses to the Notice dated April 28, May 15, August 3 and August 4, 1989, were received from the licensee. In its response of April 28, 1989, the licensee denied Violations A, B, D, F, G(1), G(2), and I, and admitted the other violations. In addition, in its responses dated May 15 and August 3, 1989, the licensee requested that the proposed civil penalty be mitigated for several stated reasons, including the contention that in paying the civil penalty, the quality of health care provided to the indigent population the hospital primarily serves would be lowered.

III

After consideration of the licensee's responses and the statement of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support has determined, as set forth in the appendix to this Order, that (1) Violations A-E, G(1), G(3)-J occurred as stated, (2) Violations F and G(2) should be withdrawn, and (3) a civil penalty in the amount of $500 should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295) and 10 CFR 2.205, *it is hereby ordered that:*

The licensee pay a civil penalty in the amount of $500 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II, 101 Marietta Street, NW. Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in Violations A, B, D, G(1), G(3) and I of the Notice of Violation and Proposed Imposition of Civil Penalty referenced in sections II and III above, and

(b) Whether, on the basis of such violations and the additional violations set forth in the Notice of Violation that the licensee admitted, this Order should be sustained.

Dated at Rockville, Maryland, this 20th day of September 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix—Evaluations and Conclusions

On April 18, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during a routine NRC inspection. Mayaguez Medical Center (licensee) responded to the Notice on April 28, May 15, August 3 and 4, 1989, and denied Violations A, B, D, F, G(1), G(2), G(3), and I. The licensee also requested mitigation of the civil penalty. The NRC's evaluations and conclusion regarding the licensee's responses are as follows:

I. Violation A

Restatement of Violation

10 CFR 35.204(a) states that a licensee may not administer to humans a radiopharmaceutical containing more than 0.15 microcurie of molybdenum–99 per millicurie of technetium-99m.

Contrary to the above, between September 28, 1988 and January 20, 1989, according to licensee measurements, the licensee administered radiopharmaceuticals to humans containing between 0.162 and 0.221 microcuries of molybdenum–99 per millicurie of technetium-99 on at least eight occasions.

Summary of Licensee Response

The licensee acknowledged that molybdenum-99 levels in excess of the NRC limit were recorded. However, the licensee stated that the hospital's medical physicist considered the readings were the results of instrument error and did not represent a hazard to the patient based on his personal experiences and consultation with other laboratories using the same generator. The licensee indicated that they were attempting to get a replacement calibrator and have their own calibrator repaired when the violation was noted by the inspector.

NRC Evaluation of Licensee's Response

The theory developed by the licensee's medical physicist, that the readings in excess of the NRC limit were the result of instrument error, was eventually found to be correct. However, the high readings continued to reoccur over a period of four months. During this period, the licensee failed to take positive action to determine the cause or to effect appropriate corrective action, and continued to administer radiopharmaceuticals to patients that, according to the recorded measurements made by the licensee at the time, contained molybdenum in excess of the NRC limit. With regard to the contention by the licensee that the medical physicist was aware of the high molybdenum readings and corrective action was underway at the time of the inspection, it is the staff's position that the licensee is confusing those actions that took place after the violation was brought to the attention of the physicist with those that took place before the violation was identified. At the time the violation was identified, the medical physicist indicated that he was not aware of the high molybdenum readings nor did he indicate that corrective action was being taken.

II. Violation B

Restatement of Violation

10 CFR 35.50(d) requires the licensee to mathematically correct dosage readings for any linearity errors exceeding ten percent if the dosage is greater than 10 microcuries.

Contrary to the above, the linearity tests conducted by the licensee from April 1, 1987 to January 25, 1989, all exhibited errors in excess of ten percent and corrections were not made by the licensee for dosages greater than 10 microcuries.

Summary of Licensee s Response

The licensee stated that linearity tests conducted since September 14, 1988 exhibited errors around and above 10 percent with doses greater than 150 millicuries, but that dosages within the normal range administered to patients (10–25 microcuries) were in good agreement. The licensee further stated that cross checks with other calibrators in the area showed doses between 10 and 35 millicuries were in agreement and that count rates obtained during imaging indicated proper doses were administered.

NRC Evaluation of Licensee's Response

The violation stated that during the period of April 1, 1987 to January 25, 1989, the licensee failed to correct the dosage when linearity errors greater than 10 percent were determined. Although the licensee's response indicated that linearity errors in the range of doses normally administered (10–25 millicuries) were all less than 10 percent since September 14, 1988, records provided with the licensee's response indicate at least one instance in May 1987 where the linearity error was 37 percent for a known activity of 22.7 millicuries; dosage readings for dosages administered to patients following this test were not mathematically corrected.

III. Violation D

Restatement of Violation

10 CFR 35.70 (d) and (g) require the licensee to establish radiation dose rate and removable contamination trigger levels for surveys for contamination and ambient radiation exposure rate.

Contrary to the above, as of January 25, 1989, no trigger levels for dose rate surveys or removable contamination surveys had been established by the licensee.

Summary of Licensee's Response

The licensee stated that they have established dose rate and removable contamination trigger levels, in that a wall detector is set to alarm at 8 mr/hr and a contamination reading twice the background reading is considered contamination. The licensee also stated that at least annually laboratory personnel received instructions on the purpose of the monitor and the definition of contamination.

NRC Evaluation of Licensee s Response

The trigger levels required by 10 CFR 35.70(d) refer to data obtained from a survey instrument that can be used to survey all areas where radiopharmaceuticals are routinely prepared for use or administered (i.e., a protable radiation survey instrument). The trigger levels required by 10 CFR 35.70(g) refer to removable contamination (i.e., data obtained from wipe tests). Establishing an alarm level for a radiation monitor mounted on the wall of the laboratory does not fulfill either requirement. As established in 10 CFR

35.70(d) and (g), a trigger level is the contamination level at which the person performing the survey will immediately inform the Radiation Safety Officer. Merely setting a wall detector to alarm or instructing personnel on the definition of contamination does not fulfill the requirement to establish trigger levels.

IV. Violation F

Restatement of Violation

10 CFR 35.22(a)(2) states that the Radiation Safety Committee must meet at least quarterly.

Contrary to the above, the Radiation Safety Committee did not meet during the fourth quarter of 1988.

Summary of Licensee's Response

The licensee stated that meetings were held on January 25, April 15, July 11, and September 7, 1988, for a total of four meetings in 1988. The licensee admitted that no meeting was held between September 7, 1988 and January 27, 1989. The licensee further stated that the laboratory was closed from August 1 to November 21, 1988, for the receipt of new equipment. In a letter dated August 4, 1989, the licensee clarified that the facility was not completely closed during the period August 1, 1988 through November 21, 1988, but only operated on a limited basis.

NRC Evaluation of Licensee s Response

10 CFR 35.22(a)(2) requires the Radiation Safety Committee (RSC) to meet quarterly. RSC meetings held four times per year do not meet the requirement unless one such meeting is held each quarter. The regulations require the RSC to hold a meeting to review the program during the forth quarter even though operations were minimal during this period, and the RSC did not do so. However under the circumstances of the case including that four meetings were held in 1988, and the limited activities conducted in the fourth quarter, this violation is withdrawn. Nevertheless, meetings are expected to be held as required in the future.

V. Violation G(1)

Restatement of Violation

License Condition 19 of License Number 52–13598–03 requires the licensee to conduct its program in accordance with the statements, representations and procedures contained in the documents, including enclosures, referenced in the license application dated November 3, 1981 and letters dated October 30, 1979, January 19, 1981, January 27, 1982, January 23, 1987, March 25, 1987, and July 2, 1987.

(1) Appendix 0 to Regulatory Guide 10.8 (October 1980), enclosed as a part of the license application, requires licensee management to conduct a formal review of the radiation safety program annually. This review shall include reviews of operating procedures and past exposure records, inspections, and consultation with radiation protection staff or outside consultants.

Item 7 of the application requires the licensee to follow Appendix B of Regulatory Guide 10.8 (October 1980). Appendix B of Regulatory Guide 10.8 requires the Radiation Safety Committee (Medical Isotopes Committee) to review the entire radiation safety program at least annually to determine that all activities are being conducted safely and in accordance with NRC regulations and the conditions of the license. The review shall include an examination of all records, reports from the Radiation Safety Officer, results of NRC inspection, written safety procedures, and adequacy of the institution's management control system.

Contrary to the above, the required annual reviews of the radiation safety program were not conducted by licensee management or the Radiation Safety Committee between January 1, 1986 and January 25, 1989.

Summary of Licensee's Response

The licensee stated that annual reviews of the radiation safety program were conducted. Copies of the Radiation Safety Committee (RSC) meeting minutes were attached to the response for review. The licensee also indicated that the program was reviewed as a part of the license renewal process.

NRC Evaluation of Licensee s Response

The minutes of the RSC provided by the licensee did not indicate that management or the RSC reviewed the entire radiation safety program, but rather selected aspects of the program. Specifically, the RSC meeting minutes did not indicate that the RSC examined all records and reports from the Radiation Safety Officer (RSO), results of NRC inspections, written safety procedures, and the adequacy of the institution's management control system.

VI. Violation G(2)

Restatement of Violation

Item 10 of the application requires the licensee to follow appendix D of Regulatory Guide 10.8. Appendix D, section 2, requires the licensee to test the dose calibrator for linearity at installation and quarterly thereafter.

Contrary to the above, the licensee did not test the dose calibrator for linearity in the second and fourth quarters of 1988.

Summary of Licensee's Response

The licensee stated that the linearity tests for the dose calibrator were performed in the second and fourth quarters of 1988 and provided test data to support that position.

NRC Evaluation of Licensee's Response

The staff reviewed the test data provided by the licensee and acknowledge that a linearity test was performed in the second quarter of 1988 on June 13, 1988. However, the test data provided failed to support the licensee's contention that a linearity test was performed in the fourth quarter of 1988 since the last set of test data is from the September 1988 time period. For the reasons given for Violation F, this violation is being withdrawn. Testing is expected to be properly done in the future.

VII. Violation G(3)

Restatement of Violation

In the letter dated January 27, 1982, the licensee stated that tyroid uptake measurements would be performed on all personnel who handle liquid therapy doses of iodine-131.

Contrary to the above, during the 1988 the licensee performed inadequate uptake measurements on the individual who administered four liquid therapy doses of iodine-131 in that the equipment used was not calibrated to permit an accurate assessment of the individual's uptake of iodine-131.

Summary of Licensee's Response

The licensee stated that the assessment of the Individual's uptake of iodine-131 after handling therapy dose was carried out using the gamma camera with a pin hole collimator, that the physicist administered all therapeutic doses of iodine-131, and that the physicist used the dual probe picker uptake system to check himself and records are kept of each assessment.

NRC Evaluation of Licensee s Response

The staff does not dispute the fact that thyroid counts were taken using the gamma camera or the uptake system. The violation relates to the fact that thyroid uptake measurements were inadequate because the licensee failed to calibrate the measurement system. The licensee s response failed to address this issue. Calibration is performed by measuring the counts for an iodine-131 reference source of known activity using appopriate geometry The result of the thyroid uptake measurement is obtained by mathematically comparing those counts to the counts obtained from the individual's thyroid gland.

VIII. Violation I

Restatement of Violation

10 CFR 35.632(a)(3) requires that full measurements on each teletherapy unit be performed at intervals not to exceed one year 10 CFR 35.632(b)(3) requires that the measurements include a determination of unformity of the radiation field and its dependence on the orientation of the useful beam.

Contrary to the above, the licensee did not determine the uniformity of the radiation field and its dependence on the orientation of the useful beam during the calibration performed in September 1988, and the prior calibrator was performed in August 1987

Summary of Licensee s Response

The licensee stated that the uniformity of the radiation field is checked during each full calibration and always during new source installation, and that a new source was installed in September 1988. The licensee also stated that the NRC reviewed the data during the Enforcement Conference held on February 16, 1989.

NRC Evaluation of Licensee's Response

The staff agrees that the licensee determined the uniformity of the radiation field during calibration performed in August 1987 and September 1988 for a single orientation of the useful beam. However, the licensee uses the teletherapy unit in a number of different orientations, and the licensee failed to determine the uniformity of the radiation field and its dependence on the orientation of the useful beam.

IX. Request for Mitigation of Civil Penalty

Summary of Licensee's Request for Mitigation

The licensee requested reconsideration of the proposed civil penalty based on the following:

(1) Some of the violations were not present at the time of the inspection and information needed was present, but because of a language barrier between the inspector and the technologist, was not given to the inspector.

(2) Some of the violations, specifically, instrumentation problems, were previously detected by the Mayaguez Medical Center staff.

(3) None of the violations represented a health hazard to patients or employees, nor were they willfully committed.

(4) The severity level of most violations is very low, i.e., Severity Level IV and V.

(5) Violations that needed immediate correction have been taken care of, most of them the same day.

(6) The NRC staff gave the licensee the impression that none of the violations were a maior safety hazard.

(7) The hospital is a government facility whose services are rendered to indigent patients and the civil penalty represents a hardship.

NRC Evaluation of Licensee's Response

The staff disagrees that violations were not present at the time of the inspection and that a language barrier prevented the inspector from getting the information needed to demonstrate compliance with NRC regulations. The NRC inspector was accompanied by a representative of the Puerto Rico Health Department who was bilingual. It is our position that communications between the inspector and the licensee's staff were fully adequate and that the violations actually existed.

Although some of the violations may have been identified previously by the licensee, it is the NRC position that the criteria in the NRC Enforcement Policy that permits lincensees to receive credit for identifying violations was not met in that the violations continued to occur over a number of months and the licensee failed to take prompt, agressive action to correct the violations and achieve compliance.

While it is true that the individual violations would have been classified at Severity Level IV or V, collectively they indicate a serious lack of management oversight and control of licensed activities. Supplement VI of the NRC Enforcement Policy categorizes at Severity Level III a breakdown in the control of licensed activities involving a number of violations that represent a potentially significant lack of attention or carelessness toward licensed responsibilities. It is the NRC staff position that, collectively, the violations were correctly considered a Severity Level III problem.

The NRC staff acknowledges that the licensee promptly began addressing some of the violations after the NRC identified them; however, these violations should have been identified and corrected internally during reviews conducted by licensee management, the Radiation Safety Committee, and the Radiation Safety Officer. The NRC expects and requires licensees to take prompt and aggressive action to correct violations whenever they are identified.

As previously stated, none of the violations in and of itself represents a major safety hazard; however, collectively they do represent a serious lack of management oversight and control. It is the NRC staff position that a major safety hazard could have resulted if the lack of management oversight had not been identified by the NRC, causing the licensee to take corrective action.

The NRC Enforcement Policy recognizes that a licensee's ability to pay is a proper consideration in determining the amount of civil penalty. The licensee's financial information submitted in its August 3, 1989, letter provides evidence that imposition of a civil penalty in the amount proposed may result in a reduction in services provided to indigent patients, in view of the hospital's current significant budgetary deficit. In light of this situtation, and that two violations are being withdrawn, the penalty is being mitigated 90 percent.

X. NRC Conclusion

The NRC staff has carefuly reviewed the licensee's response and the financial information submitted by the licensee and has concluded that the Violations A-E, G(1), and G(3)-J occurred as stated. However, the NRC has determined that in light of the licensee's ability to pay, the proposed civil penalty should be mitigated to $500 equally assessed among the 13 violations.

[FR Doc. 89-22927 Filed 9-27-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632-0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on August 29, 1989 (54 FR 35740). Individual authorities established or revoked under Schedule A, B, or C between August 1, 1989, and August 31, 1989, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions were established:

Federal Deposit Insurance Corporation

All Liquidations Graded, temporary field positions concerned with the work of liquidating the assets of closed banks or savings and loan institutions, of liquidating loans to banks or savings and loan institutions, or of paying the depositors of closed insured banks or savings and loan institutions. New appointments may be made under this authority only during the 5-year period following a bank or savings and loan institution closing and/or establishment of a consolidated liquidation site. Effective August 10, 1989.

Schedule B

No Schedule B's for the month of August.

Schedule C

Air Force

One Secretary (typing) to the Assistant to the Vice President for National Security Affairs. Effective August 10, 1989.

Agriculture

One Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective August 2, 1989.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective August 9, 1989.

One Confidential Assistant to the General Counsel. Effective August 18, 1989.

One Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective August 18, 1989.

One Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service. Effective August 22, 1989.

One Staff Assistant to the Assistant Secretary for Congressional Relations. Effective August 23, 1989.

One Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service. Effective August 25, 1989.

One Confidential Assistant to the Administrator, Office of International Cooperation and Development. Effective August 29, 1989.

Agency for International Development

One Supervisory General Business Specialist (Director, Office of Private Sector Development) to the Assistant

Administrator, Bureau for Asia and Near East. Effective August 9, 1989.

One Public Affairs Specialist to the Director, Office of Public Liaison. Effective August 22, 1989.

Department of the Army

One Secretary (Stenography) to the Assistant Secretary of the Army (Civil Works). Effective August 3, 1989.

Council of Economic Advisors

One Secretary to the Chairman. Effective August 15, 1989.

Department of Commerce

One Confidential Assistant to the Director, Minority Business Development. Effective August 2, 1989.

One Private Secretary to the Deputy Assistant Secretary for Congressional Affairs. Effective August 7, 1989.

One Confidential Assistant to the Director, Office of Executive Programs. Effective August 9, 1989.

One Director of Congressional Affairs to the Under Secretary for International Trade. Effective August 9, 1989.

One Confidential Assistant to the Assistant Secretary for Export Administration. Effective August 9, 1989.

One Special Assistant to the Deputy Assistant Secretary for Export Administration. Effective August 9, 1989.

One Special Assistant to the Assistant Secretary for Export Administration. Effective August 10, 1989.

One Director, Office of Congressional Relations to the Assistant Secretary for Economic Development. Effective August 16, 1989.

One Executive Assistant to the Assistant Secretary for International Economic Policy. Effective August 17, 1989.

One Confidential Assistant to the Director, Office of Executive Programs. Effective August 17, 1989.

One Confidential Assistant to the Deputy Under Secretary for Travel and Tourism. Effective August 17, 1989.

One Confidential Assistant to the General Counsel. Effective August 17, 1989.

One Congressional Liaison Assistant to the Deputy Director, Office of Congressional Affairs. Effective August 17, 1989.

One Congressional Liaison Assistant to the Deputy General Counsel. Effective August 17, 1989.

One Private Secretary to the Deputy Director, Congressional Affairs. Effective August 22, 1989.

One Special Assistant to the Assistant Secretary for Communcations and Information. Effective August 22, 1989.

One Special Assistant to the Assistant Secretary for Communications and Information. Effective August 22, 1989.

One Congressonal Liaison Assistant to the Deputy Assistant for Congressional Affairs. Effective August 23, 1989.

One Confindential Assistant to the Deputy Assistant for Trade Development. Effective August 23, 1989.

One Confindential Assistant to the Director, Office of Public Affairs. Effective August 23, 1989.

One Confindential Assistant to the Deputy Assistant for Automotive Affairs and Consumer Goods. Effective August 23, 1989.

One Private Secretary to the Assistant Secretary for Communications and Information. Effective August 29, 1989.

One Congressional Liaison Officer to the Assistant Secretary, Congressional and Intergovernmental Affairs. Effective August 31, 1989.

One Confidential Assistant to the Deputy Counselor to the Secretary. Effective August 31, 1989.

Department of Defenese

One Confidential Assistant to the Special Secretary of Defense (Legislative Affairs). Effective August 3, 1989.

One Deputy to the Protocol Officer. Effective August 3, 1989.

One Personal and Confidential Assistant to the Director, Net Assessment. Effective August 4, 1989.

One Personal and Confidential Assistant to the Deputy Secretary of Defense. Effective August 17, 1989.

One Confidential Assistant to the Comptroller. Effective August 18, 1989.

Department of Energy

One Staff Assistant to the Assistant Secretary, Management and Administration. Effective August 2, 1989.

One Speechwriter to the Director, Office of Public Affirs. Effective August 2, 1989.

One Staff Assistant to the Assistant Secretary, Management and Administration. Effective August 2, 1989.

One Staff Assistant to the Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies. Effective August 2, 1989.

One Staff Assistant to the Chief of Staff to the Secretary. Effective August 3, 1989.

One Staff Assistant to the Chief of Staff of Secretary. Effective August 4, 1989.

One Staff Assistant to the Chief of Staff to the Secretary. Effective August 4, 1989.

Two Public Affairs Specialists to the Director, Office of Public Affairs. Effective August 4, 1989.

One Special Assistant to the Secretary. Effective August 9, 1989.

One Confidential Assistant to the Administrator, Economic Regulatory Adminsitration. Effective August 15, 1989.

One Special Assistant to the Deputy Under Secretary, Office of Policy, Planning and Analysis. Effective August 18, 1989.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for House Liaison. Effective August 23, 1989.

Two Legislative Affairs Specialists to the Deputy Assistant Secretary for Senate Liaison. Effective August 23, 1989.

One Deputy to the Director, Division of Congressional Affairs, Federal Energy Regulatory Commission. Effective August 25, 1989.

One Director, Office of Consumer and Public Liaison, to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective August 25, 1989.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for House Liaison. Effective August 25, 1989.

One Confidential Assistant to a Member, Federal Energy Regulatory Commission. Effective August 25, 1989.

One Intergovernmental Affairs Specialist to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective August 29, 1989.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison. Effective August 29, 1989.

One Public Affairs Specialist to the Director, Office of Public Affairs. Effective August 29, 1989.

Department of Education

One Director, Interagency Operations staff, to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective August 1, 1989.

One Director, Scheduling and Briefing Staff, to the Chief of Staff-Counselor to the Secretary. Effective August 4, 1989.

One Special Assistant to the Deputy Assistant Secretary for Higher Education. Effective August 17, 1989.

One Confidential Assistant to the Assistant Secretary for Vocational and Adult Education. Effective August 23, 1989.

One Confidential Assistant to the Director, Intergovernmental Affairs. Effective August 23, 1989.

One Special Assistant for Media Relations to the Associate Administrator for Public Affairs. Effective August 23, 1989.

One Director, Office of the Executive Secretariat, to the Administrator. effective August 23, 1989.

One Special Assistant to the Commissioner, Public Buildings Service Effective August 23, 1989.

One Confidential Assistant to the Deputy Assistant Secretary for Policy and Planning. Effective August 25, 1989.

One Special Assistant to the Chief of Staff/Counselor to the Secretary. Effective August 31, 1989.

Environmental Protection Agency.

One Special Assistant to the Chief of Staff/Counselor to the Secretary. Effective August 31, 1989.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for Water. Effective August 9, 1989.

One Staff Assistant to the Director, Office of Community and Intergovernmental Relations. Effective August 22, 1989.

One Special Assistant to the Associate Administrator for International Activities. Effective August 22, 1989.

One Congressional Liaison Specialist to the Director, Office of Congressional Liaison. Effective August 31, 1989.

Federal Maritime Commission

One Secretary (Stenography) to a Commissioner. Effective August 2, 1989.

General Services Administration

One Special Assistant to the Associate Administrator for Public Affairs. Effective August 15, 1989.

One Staff Assistant to the Acting Administrator. Effective August 24, 1989.

One Assistant for Special Projects to the Administrator. Effective August 24, 1989.

Two Confidential Assistants to the Regional Administrator. Effective August 24, 1989.

One Special Assistant to the Deputy Administrator. Effective August 31, 1989.

Department of Health and Human Services

One Confidential Assistant to the Director, Office of Community Services. Effective August 3, 1989.

One Confidential Assistant to the Associate Administrator for Communications. Effective August 9, 1989.

One Special Assistant to the Director, Office of Consumer Affairs. Effective August 29, 1989.

One Special Assistant for Legislative Affairs to the Director, Office of Child Support Enforcement. Effective August 29, 1989.

One Special Assistant to the Director, Office of Policy, Planning and Legislation. Effective August 31, 1989.

Department of Housing and Urban Development

One Assistant to the Deputy Assistant Secretary for Congressional Relations. Effective August 3, 1989.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective August 10, 1989.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective August 17, 1989.

One Special Assistant to the Assistant Secretary for Public and Indian Housing. Effective August 17, 1989.

One Legislative Officer to the Deputy Assistant Secretary for Legislation. Effective August 25, 1989.

One Special Assistant to the Assistant Secretary for Housing. Effective August 29, 1989.

One Staff Assistant to the Assistant Secretary for Policy Development and Research. Effective August 31, 1989.

Department of the Interior

One Confidential Assistant to the Secretary. Effective August 3, 1989.

One Special Assistant to the Solicitor. Effective August 3, 1989.

One Special Assistant to the Assistant Secretary, Policy, Budget and Administration. Effective August 4, 1989.

One Special Assistant to the Commissioner of Reclamation. Effective August 9, 1989.

One Assistant Director, Legislative and Congressional Affairs to the Director, National Park Service. Effective August 9, 1989.

One Special Assistant to the Director, U.S. Fish and Wildlife Service. Effective August 9, 1989.

One Special Assistant to the Associate Director for Information and analysis, Bureau of Mines. Effective August 9, 1989.

One Special Assistant to the Assistant Secretary, Policy, Budget and Administration. Effective August 9, 1989.

One Special Assistant to the Director, Office of Surface Mining and Reclamation and Enforcement. Effective August 9, 1989.

One Special Assistant to the Director, External Affairs Office. Effective August 9, 1989.

One Special Assistant to the Director, Bureau of Land Management. Effective August 9, 1989.

One Confidential Assistant to the Deputy Director, Minerals Management Service. Effective August 15, 1989.

U.S. International Trade Commission

One Staff Assistant (Legal) to the Commissioner. Effective August 23, 1989.

Department of Justice

One Special Assistant to the Deputy Attorney General. Effective August 4, 1989.

One Attorney Advisor (Special Assistant) to the Assistant Attorney General. Effective August 9, 1989.

Department of Labor

One Special Assistant to the Assistant Secretary for Employment Standards. Effective August 2, 1989.

One Executive Assistant to the Assistant Secretary for Congressional Affairs. Effective August 2, 1989.

One Staff Assistant to the Assistant Secretary for Labor Management Standards. Effective August 3, 1989.

One Special Assistant to the Assistant Secretary for Labor Management Standards. Effective August 18, 1989.

One Special Assistant to the Assistant Secretary for Occupational Safety and Health. Effective August 18, 1989.

One Special Assistant to the Director, Women's Bureau. Effective August 19, 1989.

One Special Assistant to the Director, Women's Bureau. Effective August 29, 1989.

One Staff Assistant to the Assistant Secretary for Occupational Safety and Health. Effective August 29, 1989.

Two Special Assistants to the Director, Women's Bureau. Effective August 29, 1989.

One Staff Assistant to the Assistant Secretary, Occupational Safety and Health. Effective August 29, 1989.

National Aeronautics and Space Administration

One Secretary (Stenography) to the Administrator. Effective August 18, 1989.

One Secretary (Stenography) to the Deputy Administrator. Effective August 22, 1989.

Department of the Navy

One Special Assistant to the Under Secretary. Effective August 2, 1989.

National Credit Union Administration

One Executive Assistant to the Vice Chairman. Effective August 15, 1989.

National Transportation Safety Board

One Special Assistant to the Vice Chairman of the Board. Effective August 15, 1989.

Office of Personnel Management

One Executive Assistant to the Director. Effective August 9, 1989.

One Executive Liaison for Administration and Special Projects to the Director. Effective August 29, 1989.

Pension Benefit Guaranty Corporation

One Special Assistant to the Executive Director. Effective August 8, 1989.

President's Commission on White House Fellowships

One Associate Director to the Director. Effective August 17, 1989.

Small Business Administration

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective August 3, 1989.

One Special Assistant to the Administrator. Effective August 25, 1989.

Department of State

One Special Assistant to the Legal Advisor. Effective August 10, 1989.

One Staff Assistant to the Coordinator of Intergovernmental Affairs. Effective August 15, 1989.

One Special Assistant to the Ambassador-at-Large for Refugee Affairs. Effective August 22, 1989.

One Foreign Affairs Officer (Protocol Visits) to the Chief of Protocol. Effective August 22, 1989.

One Special Programs Assistant to the Director, Human Rights Legislation and Public Diplomacy, Bureau of Human Rights and Humanitarian Affairs. Effective August 22, 1989.

United States Tax Court

Three Trial Clerks to a Judge. Effective August 2, 1989.

Department of Transportation

One Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation. Effective August 2, 1989.

One Special Assistant to the Assistant Secretary for Budget and Programs. Effective August 2, 1989.

One Special Assistant to the Administrator, National Highway Traffic Safety Administration. Effective August 9, 1989.

One Chief of Staff to the Administrator, Federal Railroad Administration. Effective August 9, 1989.

One Special Assistant to the Administrator for Research and Special Programs Administration. Effective August 10, 1989.

One Staff Assistant to the Director, Office of Small and Disadvantaged Business Utilization. Effective August 23, 1989.

One Staff Assistant to the Deputy Secretary. Effective August 31, 1989.

Department of Treasury

One Special Assistant to the Assistant Secretary, Economic Policy. Effective August 11, 1989.

One Secretary (Stenogrphy) to the Commissioner of the Internaal Revenue Service. Effective August 23, 1989.

One Special Assistant to the Under Secretary (International Affairs). Effective August 28, 1989.

One Executive Director, African Development Bank, to the Assistant Secretary, International Affairs. Effective August 28, 1989.

One Special Assistant to the Deputy Assistant Secretary (Law Enforcement). Effective August 29, 1989.

United States Information Agency

One Chief, Voluntary Visitor Division, to the Director, Office of International Visitors. Effective August 3, 1989.

One Programs Officer to the Associate Director, Bureau of Programs. Effective August 17, 1989.

One Special Assistant to the Director, Television and Film Service. Effective August 24, 1989.

Office of the United States Trade Representative

One Confidential Assistant to the Deputy United States Trade Representative. Effective August 9, 1989.

One Special Assistant to the Assistant Secretary for Finance and Planning. Effective August 15, 1989.

One Special Assistant to the Assistant Secretary for Human Resources and Administration. Effective August 31, 1989.

Authority: 5 U.S.C. 3301, 3303; E.O. 10555, 3 CFR 19454–1958 Comp., P. 218.

U.S. Office of Personnel Managment.

Constance Berry Newman,

Director.

[FR Doc. 89–22924 Filed 9–17–89; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Coast Guard Academy Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Thursday and Friday, October 12 and 13, 1989. The open session on Thursday will be from 1:00 p.m. to 3:30 p.m. Another open session will be on Friday from 10:00 a.m. to 11:50 a.m. The agenda for this meeting consists of the following items:

1. Recruiting and Admissions
2. Athletics
3. Faculty and Curricula
4. Library

The Coast Guard Academy Advisory Committee was established in 1937 by Public Law 75–38 to advise on the course of instruction at the Academy and to make recommendations as necessary. Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than 5 October 1989. Any members of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Dean William Sanders, Dean of Academics, U.S. Coast Guard Academy, New London, CT 06320, (203) 444–8275.

Issued in Washington, DC on September 19, 1989.

G.D. Passmore,

Rear Admiral, U.S. Coast Guard, Chief, Office of Personnel and Training.

[FR Doc. 89–22857 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement: SR 90, Added Access—Vicinity Interstate 5 to Vicinity West Shore of Lake Washington, King County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Barry F. Morehead, Federal Highway Administration, Evergreen Plaza Building, Suite 501, 711 South Capitol Way, Olympia, Washington 98501, Telephone: (206) 753–2120; Dennis B. Ingham, Assistant Secretary for Program Development, Washington State Department of Transportation, Highway Administration Building, Olympia, WA 98504, Telephone: (206) 753–7355, or Ronald Q. Anderson, Washington State Department of Transportation, District 1,

15325 SE. 30th Pl., Bellevue, WA 98007–6538, Telephone: (206) 562–4000.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), will prepare an EIS on a proposal to provide additional access to SR 90 from the vicinity of SR 5 to the vicinity of the West Shore of Lake Washington.

Alternatives generated as a result of comments received during coordination with governmental agencies, private organizations and the public will be studied in the draft EIS. Preliminary design alternatives from previous studies shall include, but not be limited to, the following:

1. Westbound off-ramp alternatives from SR 90 to Lake Washington Blvd.
2. Westbound off-ramp alternatives from SR 90 to 23rd Avenue S.
3. Westbound off-ramp alternatives from SR 90 to M.L. King, Jr. Way S.
4. Eastbound on-ramp alternatives to SR 90 from M.L. King, Jr. Way S.
5. Westbound on-ramp alternatives to SR 90 from Rainier Avenue S.
6. Eastbound off-ramp alternatives from SR 90 to Rainier Avenue S.
7. Eastbound off-ramp alternatives from SR 90 to 35th Avenue S.
8. Eastbound on-ramp alternatives to SR 90 from 35th Avenue S.
9. No-build alternatives at each of the access locations.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies as well as citizens and organizations that have expressed interest in this project. A series of meetings with the public, interested community groups and governmental agencies will be held between November 1989 and July 1990. In addition, a public hearing will be held subsequent to publication of the draft EIS. Public notices related to the proposal which identify the date, time, place of meetings and note the length of review periods will be published when appropriate. A formal agency scoping meeting and public scoping meeting/open house will be held in November 1989.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program)

Richard C. Kay,

Area Engineer, Olympia, Washington.

[FR Doc. 89–22917 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Announcement of Fourth Meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee

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

ACTION: Meeting announcement.

SUMMARY: This notice announces the fourth meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the February 1988 meeting to examine research questions regarding cashworthiness and crash avoidance for vehicles over 10,000 pounds GVWR.

DATE AND TIME: The two-day meeting is scheduled for Wednesday, October 11, 1989, from 10:00 a.m. until 5:00 p.m. and for Thursday, October 12, 1989, from 9:00 a.m. until 4:00 p.m.

ADDRESS: The meeting will be held at the Shilo Station Family Restaurant, 16435 Square Drive (Route 36 exit from Route 33), Marysville, Ohio.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. The MVRSAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

This meeting of the subcommittee will focus on a discussion of the appropriateness of alternative test procedures for evaluating the braking performance of heavy vehicles with and without antilock. In addition, the type of data being acquired in the on-going evaluation of 200 antilock equipped tractors in fleet service will be reviewed to ensure that the appropriate data are being retrieved and retained so that at the completion of the evaluation study accurate determinations can be made with regard to the reliability and life-cycle costs of these devices. Finally, the status of the development of antilock brake systems will be updated.

The initial day of the meeting will begin with a NHTSA presentation of their experience with various brake test procedures for evaluating the test track performance of heavy vehicles with and without antilock installed.

Following the presentation, an open discussion of test procedures will take place. Questions such as vehicle maneuver, test surface, vehicle speeds and/or procedures to determine appropriate speeds, "full dump" versus driver modulated brake applications, controlled brake application (e.g., with an electro-mechanical device) versus driver applied, configuration of control trailer, etc., will be covered. In the afternoon, the subcommittee members and the attendees at the meeting will travel to NHTSA's Vehicle Research and Test Center in East Liberty, OH (transportation to and from the meeting site will be provided) to observe actual vehicle tests using the various test procedures.

On the second day, following conclusion of the discussion of test procedures, there will be a series of presentations by representatives of antilock brake system manufacturers which will provide a report on their philosophy of applying antilock to heavy vehicles, preferred configuration, and the current status of their production and/or prototype antilock systems. Finally, NHTSA will discuss the maintenance, driver/mechanic feedback, antilock performance data from the on-board instrumentation, and other data being routinely acquired in the current fleet study. The discussion following the presentation will focus on the appropriateness and completeness of these data with regard to their usefulness in eventually addressing the question of antilock reliability on vehicles in U.S. trucking operations.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman.

A public reference file (Number 88–01—Heavy Truck Subcommittee has been established to contain the products of the subcommittee and will be open to the public during the hours of 8:00 a.m. to 4:00 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in Room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: William A. Leasure, Jr., Chairman, Heavy Truck Subcommittee, Office of Research and Development, 400 Seventh

Street, SW., Room 6220, Washington, DC 20590, telephone: (202) 366–5662.

Issued on: September 22, 1989.

Howard M. Smolkin,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 89–22911 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–59–M

Office of Hearings

[Docket 45663]

Robert O. Nay et al.; Hearing

In the matter of Robert O. Nay, Emerald Tours, Ltd. (Virginia), World Classics, Ltd., and Emerald Tours, Ltd. (Illinois); Enforcement Proceeding.

Notice is hereby given that the hearing in the above-entitled matter will resume on October 2, 1989, at 10:00 a.m. (local time), Room 5332, Department of Transportation, 400 7th Street, SW., Washington, DC, before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, DC, September 22, 1989.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 89–22888 Filed 9–27–89; 8:45 am]

BILLING CODE 4910–62–M

Sunshine Act Meetings

Federal Register
Vol. 54

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 ELECTION COMMISSION

DATE AND TIME: Tuesday, October 3, 1989, 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

[54 FR 31286]

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, October 4, 1989, 10:00 a.m.

By direction of the Federal Election Commission, the Open Hearing scheduled for October 4, 1989, concerning Loans From Lending Institutions to Candidates and Political Committees, has been cancelled.

DATE AND TIME: Thursday, October 5, 1989, 10:00 p.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions—
Draft AO 1989–16
Mary C. Rich on behalf of MBank PAC and Deposit Insurance Bridge Bank PAC
Draft AO 1989–18
William C. Clohan, Jr., on behalf of the Association of Independent Colleges and Schools PAC
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376–3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 89–23077 Filed 9–26–89; 2:19 pm]
BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Committee on Employee Benefits of the Federal Reserve System; Meeting

TIME AND DATE: 4:00 p.m., Monday, October 2, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Budget review of the Office of Employee Benefits.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 25, 1989.

William W. Wiles,
Secretary of the Board.
[FR Doc. 89–22982 Filed 9–25–89; 8:45 am]
BILLING CODE 6210–01–M

Federal Register

Thursday
September 28, 1989

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

High Density Traffic Airports Slot Allocation and Transfer Methods; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 25758; Amdt. No. 93-59]

High Density Traffic Airports Slot Allocation and Transfer Methods

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule: partial suspension of effective date.

SUMMARY: On August 22, 1989, the FAA published a final rule which made several technical amendments to the regulations pertaining to the allocation and transfer of air carrier and commuter operator slots at Kennedy International Airport, LaGuardia Airport, O'Hare International Airport, and Washington National Airport. Among other revisions, the final rule changed the definition of aircraft authorized for operations in "scheduled commuter" slots from any aircraft with a maximum passenger seating capacity of less than 56 seats to propeller-driven aircraft with less than 75 seats. This action delays the effectiveness of the rule only insofar as it would prohibit turbojet aircraft with a maximum certificated seating capacity of less than 56 seats to operate the scheduled commuter slots.

EFFECTIVE DATE: September 21, 1989.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the amendment number of the document.

Background

The High Density Traffic Airports Rule (14 CFR part 93, subpart K) limits the number of operations during certain hours or half hours at four airports: Kennedy International, LaGuardia, O'Hare International, and Washington National. The final rule published on August 22, 1989, (54 FR 34904; corrected 54 FR 37303, September 8, 1989) amended § 93.123(c) of subpart K of the Federal Aviation Regulations to change the maximum passenger seating capacity authorized for operations in scheduled commuter slots from "less than 56 [seats]" to "less than 75 [seats]," with the addition of a limitation to reciprocating the turboprop aircraft.

After the publication of the final rule, the FAA received new information that certain aircraft manufacturers had plans to produce turbojet commuter aircraft with a 50 seat capacity. Such aircraft could have been operated using commuter slots under the old High Density Rule, but would be restricted under the Amendment 93-57 to operation with air carrier slots, even though the aircraft are intended for use in commuter markets.

In consideration of the commuter-oriented nature of the planned 50-seat aircraft, and the fact that such aircraft would have been permitted to use commuter slots under the prior rule, the FAA believes it appropriate to suspend the effectiveness of the new rule to the extent it would prohibit such operations, pending further review of this issue.

Regulatory Evaluation

The delay of effective date for the amended § 93.123(c) contained in this rulemaking with respect to the maximum passenger seating capacity authorized for operations using commuter slots preserves the status quo and will have no effect on the actual operations of carriers currently using aircraft having fewer than 56 seats in these slots. Accordingly, no further regulatory evaluation will be prepared.

Regulatory Flexibility Analysis

As discussed above under Regulatory Evaluation, the impact on all operators will be minimal, and there will be no disproportionate impact on smaller operators. Accordingly, the FAA has determined that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

For the reasons set forth above, the FAA has determined that this amendment is not a "major rule" under Executive Order 12291; and is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that under the criteria of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Determination

The amendment set forth herein would 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 regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 93

Aviation safety, Air traffic control.

Suspension of Effectiveness

Accordingly, part 93 of the Federal Aviation Regulations (14 CFR part 93) is amended as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. 106 (Revised Pub. L. 97-449, January 12, 1983).

§ 93.123 [Amended]

2. The effective date of Amendment 93-57, to the extent it relates to aircraft with a maximum certificated seating capacity of less than 56 seats, is suspended indefinitely. Amendment 93-57 retains an effective date of September 21, 1989, with respect to aircraft with a maximum certificated seating capacity of 56 or more seats. Therefore, the following note is added to the end of § 93.123:

Note: The effective date of paragraph (c), to the extent it defines turbojet aircraft with a maximum certificated seating capacity of less than 56 seats as air carrier aircraft, is suspended indefinitely.

Issued in Washington, DC, on September 21, 1989.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 89-22835 Filed 9-22-89; 4:54 pm]

BILLING CODE 4910-13-M

federal register

Thursday
September 28, 1989

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Pygmy Sculpin, Cracking Pearly Mussel, Rhus Michauxii, and Eastern and Western Prairie Fringed Orchids; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Pygmy Sculpin Determined To Be Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the pygmy sculpin, *Cottus pygmaeus*, to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This fish is known to exist in only Coldwater Spring and the spring run in Calhoun County, Alabama. Groundwater contamination and restricted population represent major threats to this small sculpin. Water sampling has revealed low levels of trichloroethylene in Coldwater Spring.

EFFECTIVE DATE: October 30, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 316, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: James Stewart at the above address, (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The pygmy sculpin was first collected from Coldwater Spring, Calhoun County, Alabama, in 1963 and described in 1968 (Williams 1968). This species rarely exceeds 45 millimeters (1.8 inches) in total length. The head is large, body moderately robust and the lateral line is incomplete. Coloration varies by sex, maturity, and breeding condition, while pigmentation is generally consistent (Williams 1968). Pigmentation generally consists of up to three dorsal saddles and mottled or spotted fins. Juveniles have a grayish black body with three light colored saddles. With maturity, the body color becomes lighter, with the grayish black color that remains forming two dark saddles. In juveniles, the head is black, changing to white with small scattered melanophores in adults. In breeding males, the dark spots in the spinous dorsal fin enlarge and become more intense and the fin margin becomes reddish orange. The entire body becomes suffused with black pigment which almost completely conceals the underlying pattern. The breeding color of females tends to be slightly darker than in non-breeding females.

The only known population of pygmy sculpins is in Coldwater Spring and the spring run. Coldwater Spring is impounded to form a pool of over one acre, 2 to 4 feet deep (McCaleb 1973). The spring run is up to 60 feet wide and 500 feet long to where it is joined by Dry Creek. Below this confluence, the stream is known as Coldwater Creek until it joins Choccolocco Creek. The spring flows from the brecciated zone of the Jacksonville fault in the Weisner formation (Williams 1968, McCaleb 1973, Scott *et al.*, 1987). The average flow is 32 million gallons per day with a fairly constant temperature of 16 to 18 degrees centrigrade (61° to 64°F). The bottom is gravel and sand with large rocks where the spring boils occur. Large mats of vegetation are present in the spring pool and along the edges of the spring run. Water excess to needs of the Anniston Water Department flows over a low weir dam that is approximately 22 feet wide, to form the spring run. The downstream limit of the pygmy sculpin population occurs at the confluence of Dry Creek. Ths small stream drains the area of Anniston Army Depot and of a clay mining operation. Water quality degradation has been a long-term problem in Dry Creek. Historic records are not available to document if the pygmy sculpin occurred below the confluence of dry Creek prior to the water quality degradation.

The City of Anniston owns Coldwater Spring, the spring run, and approximately 240 surrounding acres. The spring pool serves as the primary water supply for Anniston. The average daily withdrawal by Anniston is 16.5 million gallons with an average spring flow of 31.2 million gallons (Scott *et al.* in 1987). The recharge area for Coldwater Spring is estimated at 90 square miles. This area includes portions of Anniston Army Depot, Fort McClellan, the Cities of Anniston and Jacksonville, several smaller towns, and private lands.

Previous Service actions on this species include a notice of review on March 18, 1975 (40 FR 12297); a proposal to list the pygmy sculpin and three other fishes as endangered with critical habitat on November 20, 1977 (42 FR 60765); notice of extension of the comment period and public hearing on February 6, 1978 (43 FR 4872); notice of withdrawal of critical habitat on March 6, 1979 (44 FR 12382); reproposal of critical habitat and notice of public meeting on July 27, 1979 (44 FR 44418); notice of withdrawal of proposed rule on January 24, 1980 (45 FR 5782); notices of review on December 30, 1982 (47 FR 58454), and September 18, 1985 (50 FR 37958); and proposed rule on February 7, 1989 (54 FR 5986). The pygmy sculpin was placed in category 3C for the 1982 notice and in category 1 for the 1985 notice. Category 3C candidates are defined as taxa that have proven to be more abundant or widespread than was previously believed and/or those that are not subject to any identifiable threat. In the 1985 notice, category 1 candidates are defined as comprising taxa for which the Service currently has information on hand to support the biological appropriateness of proposing to list as endangered or threatened.

The November 1977 listing proposal was based on threats to the pygmy sculpin from restricted distribution, pollution in Coldwater Creek, the effects of aquatic vegetation control, the potential for excessive water pumping to meet future demands, and no commitment from the Anniston Water Works and Sewer Board to protect the sculpin.

Public meetings on the 1977 proposal were held in Birmingham, Alabama, on March 15, 1978, and in Anniston, Alabama, on August 28, 1979. Numerous individuals spoke at these meetings both for and against the proposal. The opposition was based upon the fear of economic impacts and loss of the spring as a water supply. Some individuals expressed doubt that the pygmy sculpin was confined to just Coldwater Spring. Former Governor Wallace opposed the proposal to list the pygmy sculpin and three other fish species based upon questions concerning the listing procedures, and the potentially adverse economic impact that he perceived would result from the listing of two species other than the pygmy sculpin. The Anniston Water Works and Sewer Board opposed the proposal because they did not believe there was sufficient data to support the listing. The Service discontinued efforts to list the species, and, on November 29, 1979, 2 years after publication in the **Federal Register**, the species had not been listed and was therefore automatically withdrawn from proposed status in accordance with provisions of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and 50 CFR part 424. The most recent proposed rule and this final rule determination is based upon new threats to the species.

Summary of Comments and Recommendations

In the February 7, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information

that might contribute to the development of a final rule. The comment period expired on April 10, 1989. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the "Gadsden Times" on February 17, 1989, in "The Anniston Star" on February 19, 1989; and in the "Montgomery Advertiser/Alabama Journal" on February 25, 1989, which invited general public comment.

Comments were received from a Federal agency, a local government agency and one private organization and are discussed in the following summary. The State of Alabama provided a comment in support of the proposed listing during the Service's pre-proposal coordination but did not comment during the proposed rules comment period.

The Anniston Army Depot did not consider listing of the pygmy sculpin to be appropriate since, in their view, the species was not threatened by any activities of their installation and that, in their view, their past and present actions have enhanced the species' protection. The Service agrees that removal of toxins that could degrade water quality in the Coldwater Spring's aquifer is beneficial to this species and we support the Depot's efforts in this regard. We disagree with the Depot's position that the species is not presently threatened by their activities. Cleanup of the shallow aquifer involves the removal of large quantities of groundwater that could affect flows at Coldwater Spring. After treatment, this water is released on the surface representing a loss of flow to the spring. While the cleanup of contaminants is necessary, it is important that spring flows not be significantly impacted. Since September 1987, the Depot has been very cooperative in providing the Service information on cleanup activities, and the Service expects to continue this cooperation. The determination to list this species is based on several factors other than just those involving the Depot, as discussed below in the section titled "Summary of Factors Affecting the Species."

The City of Anniston Water Works and Sewer Board recommended the special rule allow the removal of all spring flow above 3 cubic feet per second and they provided water flow data that documents these flow levels are not adverse to the pygmy sculpin. The Service concurs and has so amended the special rule. The 6 cubic feet per second specified in the proposed rule was based upon records of previous minimum flows that apparently were adequate for the sculpin. However, low flows measured during the recent drought indicate that sculpin survival was not affected when spring outflow was reduced to half the amount of previously recorded minimums. The change in outflow has no bearing upon sculpin survival in the impounded springhead.

The Wildlife Information Center, Inc., commented that the Service yielded to local and State political influence and that the species should be listed as endangered with critical habitat. The Service's decision to propose the threatened classification for the pygmy sculpin was based on a scientific evaluation of the threats to the species. Although the pygmy sculpin's habitat is vulnerable to degradation, threats to the species' survival do not appear to be imminent. Therefore, the Service believes that the category of threatened is biologically more accurate for this species than the category of endangered, as these terms are defined in the Endangered Species Act (Act). It should be noted that the degree of protection afforded to threatened species by section 7(a)(2) of the Act is the same that is given to endangered species.

Critical habitat was not designated for the pygmy sculpin because the Service believes that no additional benefits would accrue in this case from such a designation. Because the area occupied by the pygmy sculpin is limited, any adverse effects to its habitat from Federal activities would likely jeopardize its survival and be considered a violation of section 7(a)(2).

It should be emphasized that the listing proposal was based solely on the Service's evaluation of biological factors, as required by the Act. After the Service notified interested parties that the pygmy sculpin was under review for possible listing, the Alabama Department of Conservation and Natural Resources agreed that listing the pygmy sculpin would be appropriate, and it did not express a preference as to endangered or threatened status. On September 17, 1987, the Service also made a presentation on the merits of a listing proposal to the Commissioners of the Anniston Water and Sewer Board (Board), which owns the species' entire range. At the meeting and in a subsequent letter to Senator Howell Heflin of Alabama, the Board expressed its general agreement to listing the species. The Board made no distinction between a designation of endangered or threatened.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the pygmy sculpin (*Cottus pygmaeus*) should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the pygmy sculpin (*Cottus pygmaeus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The pygmy sculpin is known to exist in only Coldwater Spring and the spring run. It has never been collected below the confluence of Dry Creek after water from these two streams has completely mixed. Thus, its present range is also the known historic range. However, the historic range may have extended downstream of the Dry Creek confluence prior to the occurrence of environmental pollution, as discussed in Factor E.

The pygmy sculpin and its habitat are threatened by the proposed construction of a highway bypass from Interstate Highway 20 to the City of Anniston. The Alabama Highway Department has identified three alternate routes for the proposed Anniston Bypass. The early planning preferred route is along the side of Coldwater Mountain immediately above and to the east of Coldwater Spring. The second alternate is to the west of Coldwater Spring. The third alternate is an enlargement of the existing road immediately adjacent to and west of Coldwater Spring and the spring run (Carwile *in litt.*). All three of these proposed routes pass through the recharge area for Coldwater Spring (Scott *et al.* 1987). Water in subsurface aquifers moves along fissures, faults and cracks in reaching the aquifer and in returning to the surface. The recharge area for Coldwater Spring is estimated at 90 square miles and includes Coldwater Mountain. Construction of alternate one will be along the side of Coldwater Mountain and will undoubtedly require the use of explosives in carving out the roadway. This use of explosives might result in the shifting and closing of cracks and fissures which allow water to surface at Coldwater Spring.

An additional threat posed by the completion of alternate one is the accidental spillage of toxic substances. Coldwater Mountain is so steep and the underlying rock formations of such relatively low permeability that the susceptibility for contamination from the mountain is low. However, parallel to Coldwater Mountain and in the valley, is the Jacksonville Fault. The valley has a thick residual mantle with underlying cavernous carbonate rocks over the Fault. This area is highly susceptible to contamination because sinkholes and depressions on the land surface are common in parts of this recharge area (Scott *et al.* 1987). Any accidental spill from the proposed roadway into this highly permeable area would likely result in rapid contamination of Coldwater Spring to the detriment of the pygmy sculpin. Alternates two and three are to the west of Coldwater Spring and do not pose the same magnitude of threat as alternate one. However, they are still within a portion of the recharge area and the potential for contamination by accidental spillage does exist.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Coldwater Spring and the spring run are owned and protected from trespassing and collecting by the Anniston Water Works and Sewer Department. As long as this protection exists, this species should not be overutilized.

C. Disease or Predation

Although the pygmy sculpin may be a prey species for larger carnivorous fish and water snakes, and may be afflicted by diseases and parasites common to fish, there is no evidence to indicate that natural mortalities from these sources are a problem at present.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of Alabama requires a scientific collector's permit if species such as the pygmy sculpin is to be collected. This species is listed as threatened by the Alabama Nongame Conference (Mount 1986) and is designated a nongame species by the State of Alabama. As a nongame species, it is unlawful to possess more than four individuals without a scientific collection permit. The difficulty of enforcing the permit requirement and the priority demands for law enforcement officers' time virtually eliminate any protection for this species. Therefore, the most effective protection is provided by a Cooperative Agreement between the Anniston Water Works and Sewer Board and the Service that no action will be taken which would endanger the pygmy sculpin. While this good faith agreement provides protection from actions under the control of the Board, it does not provide protection from water contamination and construction projects discussed in Factors A and E, or from other factors beyond the Board's control.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Water contamination is occurring in surface water and the subsurface aquifer and is affecting both Coldwater Spring and Dry Creek. Water sampling on and adjacent to the Anniston Army Depot indicates hexavalent chromium is discharged to Dry Creek and that chlorinated hydrocarbons are in the ground water at the Depot (Schalla *et al.* 1984). Schalla *et al.* conclude that the migration of chlorinated hydrocarbon is not of immediate concern but may have long-range impacts. Trichloroethylene occurs in strong concentrations (up to 120,000 parts per billion) in test wells on the Depot and up to 3.4 parts per billion in Coldwater Spring (Environmental Science and Engineering, Inc. 1986). Sampling in 1986 did not find phenols and hexavalent chromium in Coldwater Spring, yet these chemicals may be migrating in the aquifer since they are found in test wells 2 and 4 on the Depot. Shallow ground water in the area of these wells likely contributes to the recharge of the Jacksonville fault zone (Kangas 1987). Kangas' assessment indicates that water is lost from the shallow aquifer between the Depot boundary and test well 2. This indicates that water from the Depot's shallow aquifer is sinking to a deeper aquifer and possibly surfacing at Coldwater Spring. The 90 square mile recharge area includes several potential contamination sources, including a chemical manufacturing industry, Fort McClellan, the City of Anniston, at least one landfill, and the proposed highway connecting Interstate 20 and State Highway 202.

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 make this rule final. Based on this evaluation, the preferred action is to list the pygmy sculpin as threatened. The determination of threatened status for the pygmy sculpin was based on a scientific evaluation of the threats to the species. Although the pygmy sculpin's habitat is vulnerable to degradation, threats to the species' survival do not appear to be imminent. Therefore, the Service believes that the category of threatened is biologically more accurate for this species than the category of endangered, as these terms are defined in the Endangered Species Act. Critical habitat is not designated for reasons given in that section.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the same time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species owing to lack of benefit from such designation. No additional benefits would accrue from a critical habitat designation that do not already accrue from the listing. The only landowner, the City of Anniston, is aware of the pygmy sculpin's occurrence and has provided protection for several years under a Conservation Agreement with the Service. 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 the pygmy sculpin.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recover 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 individiuals. 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 taking and harm 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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to

destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement with this species is expected to include the Federal Highway Administration relative to highway construction, and the Environmental Protection Agency and Department of Defense relative to pollution of the subsurface aquifer.

The Act and implementing regulation found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

A special rule is provided to clarify the continued use of Coldwater Spring as a municipal water supply for the City of Anniston, Coldwater Spring and the spring run contain the only known population of this species. The withdrawal of substantial quantities of water from the spring has not adversely impacted this species, as evidenced by the continued stable population in the spring and spring run. Under the conditions of the special rule, the use of this spring by the City of Anniston is harmless to the pygmy sculpin and continues the protection provided to the species by having a continuous presence on the property.

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

Environmental Science and Engineering, Inc. 1986. Off-post investigation of Anniston Army Depot summary of preliminary results. Report to U.S. Army Toxic and Hazardous Materials Agency. 35 pp and appendices.

Kangas, M.J. 1987. Draft Anniston Army Depot endangerment assessment. Contract Report to Anniston Army Depot. 66 pp and appendix.

McCaleb, J.E. 1973. Some aspects of the ecology and life history of the pygmy sculpin, *Cottus pygmaeus* Williams, a rare spring species of Calhoun County, Alabama (Pisces: Cottidae). Thesis to Auburn Univ. 82 pp.

Mount, R.H. 1986. Vertebrate animals of Alabama in need of special attention. Alabama Agri. Exp. Sta. 124 pp.

Schalla, R., G.L. McKown, J.M. Meuser, R.G. Parkhurst, C.M. Smith, F.W. Bond, and C.J. English. 1984. Source identification, contaminant transport simulation, and remedial action analysis, Anniston Army Depot, Anniston, Alabama. Report to Anniston Army Depot. 55 pp.

Scott, J.C., W.F. Harris, and R.H. Cobb. 1987. Geohydrology and susceptibility of Coldwater Spring and Jacksonville Fault areas to surface contamination in Calhoun County, Alabama. U.S. Geological Survey, Tuscaloosa, AL. Water-resources Investigations Report 87–4031. 29 pp.

Williams, J.D. 1968. A new species of sculpin, *Cottus pygmaeus*, from a spring in the Alabama River Basin. Copeia 1968:334–342.

Author

The primary author of this rule is James H. Stewart (see **"ADDRESSES"** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
*	*	*	*	*	*	*	
Sculpin, pygmy	*Cottus pygmaeus*	U.S.A. (AL)	Entire	T	364	NA	17.44(u)
*	*	*	*	*	*	*	

3. Add the following paragraph (u) as special rule to § 17.44.

§ 17.44 Special rules—fishes.

* * * * *

(u) Pygmy sculpin (*Cottus pygmaeus*). The City of Anniston Water Works and Sewer Board will continue to use Coldwater Spring as a municipal water supply. Pumpage may remove all spring flow in excess of 3 cubic feet per second (1,938,000 gallons per day).

Dated: September 14, 1989.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-22846 Filed 9-27-89; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB23

Endangered and Threatened Wildlife and Plants; Designation of the Cracking Pearly-Mussel as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service designates the cracking pearly mussel (*Hemistena (=Lastena) lata*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). This species, which was once known from the Ohio, Cumberland, and Tennessee River systems, is presently known to survive only at a few shoals in the Clinch, Powell, and Elk Rivers, and possibly a short reach of the Tennessee and Green Rivers. The species' range has been seriously restricted by the construction of impoundments and by other impacts to its habitat. Due to the species' limited distribution, any factors that adversely modify habitat or water quality in the river reaches it now inhabits could further threaten the species.

EFFECTIVE DATE: October 30, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Asheville Field Office, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

The cracking pearly mussel (*Hemistena (=Lastena) lata*) was initially described by Rafinesque (1820). This freshwater mussel has a thin, medium-size, elongated shell (Bogan and Parmalee 1983). The shell's outer surface is brownish green to brown and often has broken dark green rays. The nacre (inside of shell) color is pale bluish to purple. Because of its rarity, little is known of the mussel's biology. The species inhabits moderate-size streams on gravel riffles where it is often deeply buried in the substrate (Bogan and Parmalee 1983). Like other freshwater mussels, it feeds by filtering food particles from the water. It has a complex reproductive cycle in which the mussel larvae parasitize fish. The mussel's life span, fish species its larvae parasitize, and other aspects of its life history are unknown.

The cracking pearly mussel has undergone a substantial range reduction. It was historically distributed in the Ohio, Cumberland, and Tennessee River systems (Stansbery 1970, Kentucky Nature Preserves Commission 1980, Bogan and Parmalee 1983, Bates and Dennis 1985). The loss of populations occurring in these river systems was probably due to direct impacts of impoundments, pollution and habitat alteration, and the indirect impacts associated with the reduction or elimination of its larval host species by these same factors. Based on personal communications with knowledgeable mussel experts (Steven Ahlstedt and John Jenkinson, Tennessee Valley Authority, 1987; Arthur Bogan, Philadelphia Academy of Sciences, 1987; Richard Neves, Virginia Polytechnic Institute and State University, 1987; David Stansbery, Ohio State University, 1987) and a review of current literature on the species (see above, plus Ahlstedt 1986), the species is definitely known to survive in only three river reaches—the Clinch River, Hancock County, Tennessee, and Scott County, Virginia; the Powell River, Hancock County, Tennessee, and Lee County, Virginia; and the Elk River, Lincoln County, Tennessee.

Although the species has not been collected in the Green River since 1966, and a survey of the Green River in Hart and Edmonson Counties in 1987 failed to collect the species, there is a possibility that an isolated population may still exist in the Green River (Richard Hannan, Kentucky Nature Preserves Commission, personal communication, 1988). Another small population may also still exist in the Tennessee River below Pickwick Dam in Hardin County, Tennessee (Paul Yokley, Jr., University of North Alabama, personal communication, 1988). Live specimens have not been taken below Pickwick Dam since the 1970s, but a few relic shells have been taken in the 1980s, indicating that a small population may still be holding on in a short reach of the Tennessee River.

All of the known populations and the populations that may exist in the Green and Tennessee Rivers are threatened and are located in areas bordered primarily by private lands. The Powell River is severely threatened by the impacts of coal mining. The Clinch River, although in much better condition, is also impacted by coal mining, and in the past has experienced extensive fish and mussel kills caused by toxic spills from a riverside power plant. The Elk River mussel fauna has been impacted by cold-water discharges from Tims Ford Reservoir, and the Green River has had a history of water quality problems from oil and gas production in the watershed. The Tennessee River below Pickwick Dam has been impacted by gravel dredging, channel maintenance work, and the upstream reservoir.

The cracking pearly mussel was recognized by the Service in the May 22, 1984, **Federal Register** (49 FR 21664) as a category 2 species that was being considered for possible addition to the Federal List of Endangered and Threatened Wildlife and Plants. Category 2 is for those species for which the Service has some information indicating that the taxa may be under threat, but sufficient information is lacking to prepare a proposed rule. The service has met and been in phone contact with various Federal and State agency personnel concerning the species' status and the need for the protection provided by the Endangered Species Act. On January 14, 1988, and May 16, 1988, the Service also notified appropriate Federal, State, and local governmental agencies by mail that a status review was being conducted and that the species might be proposed for listing. No negative comments were received.

On February 17, 1989, the Service published in the **Federal Register** (54 FR 7225) a proposal to list the cracking pearly mussel as an endangered species. That proposal provided information on the species' biology, status, and threats to its continued existence.

Summary of Comments and Recommendations

In the February 17, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports and information that might contribute to development of the final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and interested parties were contacted and requested to comment. A legal notice was published in the following newspapers: "Elk Valley Times," Fayetteville, Tennessee, March 1, 1989; "Kingsport Times News," Kingsport, Tennessee, March 5, 1989; "Hart County News," Munfordville, Kentucky, March 9, 1989; and "Savannah Courier," Savannah, Tennessee, March 9, 1989.

A total of eight comments was received. Six respondents (Tennessee Valley Authority, Kentucky Department of Fish and Wildlife Resources, Kentucky Nature Preserve Commission, Ohio Department of Natural Resources, Virginia Commission of Game and Inland Fisheries, and one petition containing 96 signatures) supported the proposed rule. Two Federal agencies, the U.S. Soil Conservation Service and the Department of the Army, Corps of Engineers, indicated that the listing would not likely affect their activities.

Summary of Factors Affecting the Species

After a through review and consideration of all information, the Service has determined that the cracking pearly mussel should be classified as an endangered species. Procedures found at 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 were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the cracking pearly mussel (*Hemistena* (=*Lastena*) *lata*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

The cracking pearly mussel was once fairly widely distributed in the Ohio River Basin. It ranged in the Ohio River from Ohio downstream to Illinois (Bogan and Parmalee 1983). In Indiana and Illinois it was historically known from the White, Wabash, and Tippecanoe Rivers (Kevin Cummings, Illinois State Natural History Survey Division, and Max Henschen, Mollusk Technical Advisory Committee, personal communications, 1988). Kentucky records (Kentucky Nature Preserves Commission 1980; Richard Hannan, personal communication, 1988) show that the species once inhabited the upper Cumberland, Big South Fork, Green, and Kentucky Rivers. The cracking pearly mussel has historically been taken in Tennessee from the Tennessee, Cumberland, Powell, Clinch, Holston, Elk, Duck, and Buffalo Rivers (Bogan and Parmalee 1983, Ahlstedt 1986, Bates and Dennis 1985). In Alabama, this mussel existed in the Tennessee River (Bogan and Parmalee 1983). Portions of the Powell, Clinch, and Holston Rivers in Virginia are also reported to have supported the species (Bogan and Parmalee 1983; Charles Sledd, Virginia Commission of Game and Inland Fisheries, and Michael Lipford, Virginia Department of Conservation and Historic Resources, personal communications, 1988).

Based on a literature review (see above) and personal contacts with knowledgeable Federal, State, and independent biologists, the species is presently known to be surviving only in the Clinch River, Hancock County, Tennessee, and Scott County, Virginia; the Powell River, Hancock County, Tennessee, and Lee County, Virginia; and the Elk River, Lincoln County, Tennessee. The species may also still survive in the Green River, Hart and Edmonson Counties, Kentucky (Richard Hannan, personal communication, 1988), and in a short reach of the Tennessee River below Pickwick Dam, Hardin County, Tennessee (Paul Yokley, Jr., personal communication, 1988).

The Powell River's population was sampled in 1979 by the Tennessee Valley Authority (Ahlstedt 1986). They surveyed 78 sites over about 97 river miles and found the cracking pearly mussel at only three sites. The Powell River watershed is mined extensively for coal, and coal mining impacts to the river are evident. The upper reaches of the Powell River are significantly impacted. The lower river reaches, which still contain a relatively diverse mussel fauna, have large deposits of coal fines and silt (Ahlstedt 1986). In 1973 the section of the Powell River inhabited by the cracking pearly mussel experienced a mussel kill that may have resulted in a loss of 5 percent of the mussel population (Ahlstedt and Jenkinson 1987).

The Clinch River population of the cracking pearly mussel is the largest and covers the greatest river length. Ahlstedt (1986) reported the species from 16 of the 141 sites sampled in a 1978–83 Tennessee Valley Authority survey that covered about 174 river miles. Although this river and its mussel fauna are apparently healthier than the Powell, the Clinch River has been adversely affected by pollution. Charles Sledd (personal communication, 1988) stated that land use practices along the Clinch have contributed to the loss of water quality and decline in mussel populations. The Clinch River also experiences some impacts from coal mining, and the river has been subjected to two mussel kills that resulted from toxic substance spills from a riverside coal-fired power plant.

The cracking pearly mussel was taken at only 2 of 108 sites over the 172 miles of the Elk River surveyed in 1980 by the Tennessee Valley Authority (Ahlstedt 1986). The river, according to Ahlstedt (1986), has a considerable amount of suitable habitat for freshwater mussels, and a large number of relic shells was present. However, Ahlstedt (1986) reported that cold-water releases from Tims Ford Reservoir and pollution from an unknown source in the lower Elk River have impacted the mussel fauna, and mussel density has been reduced.

The cracking pearly mussel has not been taken since 1966 from the Green River, and a 1987 mussel survey did not find the species (Ronald Cicerello, Kentucky Nature Preserves Commission, personal communication, 1988). However, suitable habitat appears to be available in the Green River, and an isolated population may still exist there (Richard Hannan, personal communication, 1988). In the Tennessee River, live specimens were taken in the 1970s below Pickwick Dam, but only relic shells have been taken in recent years. According to personal communication with Dr. Paul Yokley, Jr., (1988), this species, which apparently existed only in small numbers in this river reach, could possibly still survive there.

If populations still persist in the Tennessee River below Pickwick Dam in Tennessee and the Green River in Kentucky, these populations are at risk. The Green River's mussel fauna has been seriously depleted. Ortmann (1926) reported finding 66 species of mussels in the Green River. Isom (1974) reported only 27 species present. The Green River has been degraded by oil and gas exploration and production and by alterations of stream flow from an upstream reservoir. Any population below Pickwick Dam in the Tennessee River is potentially threatened by gravel dredging, channel maintenance, and operation of Pickwick Dam. This river reach also experienced a mussel die-off in 1985 and 1986 (Ahlstedt and Jenkinson 1987).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

This freshwater mussel species is not commercially valuable, but because of its rarity it could be sought by collectors. Thus, because of the species' restricted range, taking could be a threat to its continued existence. Federal listing would help control any indiscriminate taking of individuals.

C. Disease or Predation

Although the cracking pearly mussel is undoubtedly consumed by predatory animals, there is no evidence that predation threatens the species. However, freshwater mussel die-offs,

possibly due to disease, have been reported in recent years throughout the Mississippi River basin, including the Tennessee River and its tributaries (Ahlstedt and Jenkinson 1987). Significant losses have occurred to some populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The States of Kentucky, Tennessee, and Virginia prohibit taking fish and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. However, these States' laws do not protect the species' habitat from the potential impacts of Federal actions. Federal listing would provide the species additional protection under the Endangered Species Act by requiring a Federal permit to take the species and by requiring Federal agencies to consult with the Service when projects they fund, authorize, or carry out may adversely affect the species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The Powell River and Elk River populations are small, and if the species continues to exist in the Green River and Tennessee River, these populations must also be very limited. All the populations are geographically isolated from each other. This isolation restricts the natural interchange of genetic material between the populations, and the small population size reduces the reservoir of genetic variability within the populations. It is likely these populations, with the possible exception of the Clinch River, are now below the generally accepted level (Soulé 1980) required to maintain long-term genetic viability.

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 make this rule final. Based on this evaluation, the preferred action is to list the cracking pearly mussel (*Hemistena* (=*Lastena*) *lata*) as an endangered species. Historical records reveal that the species, although now rare, was once widely distributed in the Ohio River drainage. Presently only three small, isolated populations, and possibly two others, are known to survive. These populations are all threatened by a variety of factors, including gravel dredging, coal mining, oil and gas resource development, and other factors that adversely impact the aquatic environment. Due to the species' history of population losses and the vulnerable nature of the populations, threatened status does not appear appropriate for this species. See the following section for a discussion of why critical habitat is not being proposed for the cracking pearly mussel.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for the cracking pearly mussel, owing to the lack of benefits from such designation. The U.S. Army Corps of Engineers, the Tennessee Valley Authority, and the National Park Service are the three Federal agencies most involved, and they, along with the State natural resources agencies in Tennessee, Kentucky, and Virginia, are already aware of the location of the remaining populations that would be affected by any activities in these river reaches. These Federal agencies have conducted studies in these river basins and are knowledgeable of the fauna and of their projects' impacts.

No additional benefits would accrue from critical habitat designation that would not also accrue from the listing of the species. In addition, this species is so rare that taking for scientific purposes or private collections could be a threat. The publication of critical habitat maps and other information accompanying critical habitat designation, such as the location of inhabited river reaches, could increase that threat. The location of populations of this species has consequently been described only in general terms in this proposed rule. More precise locality data is available to appropriate Federal, State, and local governmental agencies through the Service office described in the **"ADDRESSES"** section.

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 prohibition against taking and harm 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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The Service has notified Federal agencies which may have programs that affect the species. Federal activities that could occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for hydroelectric facility construction and operation, reservoir construction, river channel maintenance, stream alteration, wastewater facilities development, and road and bridge construction. It has been the experience of the Service, however, that nearly all section 7 consultations have been resolved so that the species has been protected and the project objectives have been met. In fact, the areas inhabited by the cracking pearly mussel are also inhabited by other mussels that have been federally listed since 1976. The Service has a history of successful section 7 conflict resolutions that have protected the species and provided for project objectives being met throughout these areas.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes to enhance the

propagation or survival of the species and/or for incidental take in connection with otherwise lawful activities.

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

Ahlstedt, S.A. 1986. Cumberland Mollusk Conservation Program. Activity 1: Mussel Distribution Surveys. Tennessee Valley Authority, Norris, Tennessee. January 1986. 125 pp.

Ahlstedt, S.A., and J.J. Jenkinson. 1987. A Mussel Die-off in the Powell River, Virginia and Tennessee, in 1983. *In:* Proceedings of the Workshop on Die-offs of Freshwater Mussels in the United States. June 23–25, 1986. Davenport, Iowa. Richard Neves, Editor. Pp. 21–28.

Bates, J.M., and S.D. Dennis. 1985. Mussel Resource Survey—State of Tennessee. Tennessee Wildlife Resources Agency Technical Report No. 85–3. P. 125.

Bogan, A.E., and P.W. Parmalee. 1983. Tennessee's Rare Wildlife, Volume II: The Mollusks. 123 pp.

Isom, Billy G. 1974. Mussels of the Green River, Kentucky. Trans. Kentucky Acad. Sci., 35(1–2):55–57.

Kentucky Nature Preserves Commission. 1980. Kentucky Natural Area Plan—Appendix A. (*Hemistena* (=*Lastena*) *lata*) (Rafinesque).

Ortmann, Arnold E. 1926. The Naiades of the Green River Drainage in Kentucky. Annals Carnegie Mus., 17:167–188.

Rafinesque, Constantine S. 1820. Monographie des Coquilles Bivalves Fluviatiles de la Riviere Ohio, Contenant Douze Genres et Soixantehuit Especies. Ann. Gen. des Sci. Physiq. Brux., 5:287–322.

Soulé, M.E. 1980. Threshold for Survival: Maintaining Fitness and Evolutionary Potential. Pages 151–169 *In:* M.E. Soulé and B.A. Wilcox (eds.), Conservation Biology. Sinauer Assoc., Inc., Sunderland, Massachusetts.

Stansbery, David H. 1970. Eastern Freshwater Mollusks (I) The Mississippi and St. Lawrence River Systems. Malacologia, 10(1):9–22.

Author

The primary author of this proposed rule is Richard G. Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Pearly mussel, cracking	*Hemistena* (=*Lastena*) *lata*	U.S.A. (AL, IL, IN, KY, OH, TN, and VA)	NA	E	365	NA	NA

Dated: September 13, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89–22847 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB 23

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Rhus Michauxii (Michaux's Sumac)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Rhus michauxii* (Michaux's sumac), a dioecious shrub limited to 16 populations in North Carolina and Georgia, to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). *Rhus michauxii* is endangered by suppression of fire, conversion of habitat for silviculture and agriculture, industrial and residential development, highway construction and improvements, hybridization with other species, and geographic isolation of small, single-sex populations. This action implements Federal protection provided by the Act for *Rhus michauxii*.

EFFECTIVE DATE: October 30, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock, at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Rhus michauxii, described by C. S. Sargent (1895) from material collected in North Carolina, is a rhizomatous shrub. It is sometimes called "false poison sumac" because of its superficial resemblance of *Rhus vernix*. The erect stems grow from 0.2 to 0.4 meter in height, and the entire plant is densely pubescent. The narrowly winged or wingless rachis supports 9 to 13 sessile, oblong to oblong-lanceolate leaflets that are each 4 to 9 centimetes long, 2 to 5 centimeters wide, and acute to acuminate. The bases of the leaflets are rounded, and their edges are simply or doubly serrate. Flowering in this dioecious species occurs in June. The small flowers are borne in a terminal, erect, dense cluster, with each one being four- to five-parted and greenish-yellow to white. The fruit, which is a red,

densely short-pubescent drupe, 5 to 6 millimeters broad, is borne on female plants from August to September (Radford *et al.* 1964, Cooper *et al.* 1977, Sargent 1895). *Rhus michauxii* differs from other similar species of the genus by its short stature, dense overall pubescence, and evenly serrate leaflets.

Rhus michauxii is a species endemic to the inner coastal plain and lower piedmont of North Carolina, South Carolina, and Georgia, where it is currently known from 15 locations in North Carolina and 1 location in Georgia. The species occurs in sandy or rocky open woods, perhaps in association with basic soils (Cooper *et al.* 1977), and appears to be dependent upon some form of disturbance to maintain the open quality of its habitat. Artificial disturbances, such as railroad and highway right-of-way maintenance, are maintaining some of the openings historically provided by naturally occurring periodic fires. Thirty-two populations of *Rhus michauxii* have been reported historically from 23 counties in North Carolina, South Carolina, and Georgia. Sixteen of these populations remain in existence in North Carolina and Georgia. The following is a summary of the most current information for this species.

Georgia: Five populations were reported historically in the State from the counties of Cobb, Newton, Rabun, Columbia, and Elbert. Only the Elbert County population is known to remain, with just four plants surviving. The site is on land owned by the U.S. Army Corps of Engineers, leased to the Georgia Department of Natural Resources as part of the Board River Wildlife Management Area (T. Patrick, Georgia Heritage Inventory, personal communication, 1988). The Newton County population is believed to have been destroyed during the construction of a water tower. Causes for the disappearance of the populations in Rabun, Cobb, and Columbia Counties are not known.

South Carolina: Two populations were reported historically from Florence and Kershaw Counties. Although extensive searches have been conducted in these areas and other areas of potentially suitable habitat, the species is believed to have been extripated from the State.

North Carolina: Rhus michauxii was once known to occur at 25 sites in this State. The species has been extirpated at 10 of these localities, with the causes for extirpation being largely unknown. One population is believed to have been extirpated in each of the following counties. Orange, Wake, Wilson, Robeson, Moore, Lincoln, Franklin, Durham, Mechlenberg, and Hoke. The distribution of the 15 extant populations by county is as follows. Three populations remain in Hoke County. One of these sites, with several hundred female plants, is privately owned; another, with 23 plants, is located on Ft. Bragg Military Reservation and is owned by the U.S. Department of Defense; and the third, a severely disturbed site where only four plants remain, is partially in private ownership and partially owned by the Nature Conservancy.

Six populations occur in Richmond County. One of these (consisting of 2 plants) is privately owned, and 4 (3 with less than 50 plants each and one with 137 plants) are located on land administered by the North Carolina Wildlife Resources Commission as part of the Sandhills Gamelands. The sixth population, with only eight plants, is on Ft. Bragg Military Reservation, owed by the U.S. Department of Defense.

Two populations occur in Scotland County on the Sandhills Gamelands, which are administered by the North Carolina Wildlife Resources Commission. Both of these populations are large, with 1 covering an area of 76 meters by 137 meters, but containing only female plants. The other consists of 300 to 400 male plants.

One population survives in each of the following counties: Franklin, Davie, Robeson, and Wake. The Franklin County population is privately owned and contains over 250 plants of both sexes. The Davie County population, also in private ownership, consists of about 30 plants covering a 0.9-meter square area. The Robeson County population, in private ownership, consists of several hundred male plants. The Wake County population, owned by the City of Raleigh, consists of 279 plants of both sexes.

Many of these populations are in vulnerable locations, such as highway rights-of-way or on the edges of plowed fields. Those that are not adjacent to some maintained opening or that are not exposed to periodic disturbance are endagnered by natural succession.

On December 15, 1980, the Service published a revised notice of review for native plants, in the **Federal Register** (45 FR 82480); *Rhus michauxii* was included in that notice as a category 1 species. Category 1 species are those for which the Service presently has sufficient information on hand to support the biological appropriateness of their being listed as endangered or threatened species. Subsequent revisions of the 1980 notice have maintained *Rhus michauxii* in cagegory 1.

On January 6, 1989, the Service published in the **Federal Register** (54 FR 441) a proposal to list *Rhus michauxii* as an endangered species.

Summary of Comments and Recommendations

In the January 6, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the "Athens News" (Athens, Georgia) on January 28, 1989, in the "Fayetteville Times" (Fayetteville, North Carolina) on January 28, 1989, and in the "Raleigh News and Observer" (Raleigh, North Carolina) on January 29, 1989.

Eleven comments were received. Of these, seven respondents expressed support for the proposal, including the Natural Heritage Program of the North Carolina Department of Natural Resources and Community Development, the Plant Conservation Program of the North Carolina Department of Agriculture, the Georgia and South Carolina State offices of The Nature Conservancy, the Corps of Engineers (Wilmington District), the Georgia Department of Natural Resources, and the World Conservation Monitoring Centre. The remaining four comments offered additional information but stated no position on the proposal. All of the new information supplied by these 11 comments has been incorporated into appropriate sections of the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Rhus michauxii* should be classified as an endangered species. Procedures found at 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 were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Rhus michauxii* Sargent (Michaux's sumac) are as follows:

A. *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*

Rhus michauxii has been and continues to be endangered by destruction or adverse alteration of its habitat. Since discovery of the species, 50 percent of the known populations have been extirpated, partly as a result of conversion of habitat for silvicultural and agricultural purposes and for industrial and residential development. Fire suppression appears to be a problem for this species and will be discussed in detail under Factor E below. Of the 16 populations that have been extirpated, 1 is known to have been eliminated by industrial development and 1 by conversion of the site to pine plantation. Causes for extirpation of the others are unknown. Many of the remaining populations are on the edges of highway or railroad rights-of-way or cultivated fields. Fourteen of the 16 remaining populations are currently threatened by habitat alteration.

In addition to the major threats listed above, those populations on military land are potentially threatened by mechanized military training activities. Although this has not been a documented problem for this species thus far, some of the small sites occupied by the species could easily be destroyed by heavy, tracked vehicles such as tanks. Nontheless, populations probably persist on military lands and State gamelands where they have not survived on adjacent privately owned land because of the prescribed burning programs of the Defense Department and the North Carolina Wildlife Resources Commission, and periodic fires incidental to military training (J. Carter, North Carolina State University, personal communication, 1987; J. Moore, North Carolina Natural Heritage Program, personal communication, 1987). Activities associated with intensive timber management on publicly owned land, such as timber harvesting, road building, and conversion of habitat to pine plantation, if done in a manner not consistent with the protection of *Rhus michauxii* populations, could adversely affect the species, as has been the case on private lands in the past.

B. *Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Rhus michauxii is not currently a significant component of the commercial trade in native plants. However, because of its small and easily accessible populations, it is vulnerable to taking and vandalism that could result from increased publicity.

C. Disease or Predation.

Not applicable to this species at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

Rhus michauxii is afforded legal protection in North Carolina by North Carolina General Statutes, § 106–202.12 to 106–202.19 (Cum. Supp. 1985), which provide for protection from intrastate trade (without a permit) and for monitoring and management of State-listed species, and which prohibit taking of plants without written permission of landowners. *Rhus michauxii* is listed in North Carolina as endangered and of special concern (Sutter *et al.* 1983). The species is recognized in South Carolina as extirpated in the State and of national concern by the South Carolina Advisory Committee on Rare, threatened, and Endangered Plants in South Carolina; however, this State offers no official protection. The species is not listed by the State of Georgia where it was thought to have been extirpated until very recently. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitats, such as exclusion of fire. The Endangered Species Act would provide additional protection and encouragement of active management for *Rhus michauxii.*

E. Other Natural or Manmade Factors Affecting Its Continued Existence

As mentioned in the "Background" section of this rule, many of the remaining populations are small in numbers of individual stems and in area covered by the plants. Of the 16 remaining populations, 9 have less than 100 plants, with 3 of these containing less than a dozen plants each. The rhizomatous nature of the species indicates that there are many fewer individual plants in existence than stem counts would indicate. In addition, only two of the remaining populations contain both male and female plants. The dioecious nature of the species further increases the vulnerability of extremely small populations where plants of only one sex remain. Existing conditions at most of the occupied sites are indicative of low genetic variability within populations, which makes it more important to maintain as much habitat and as many of the remaining colonies, particularly those containing both sexes, as possible. The North Carolina Natural Heritage Program's response to the proposed rule stated that, because of the clonal nature of this species and the scarcity of populations containing both male and female plants, the remaining "populations" may actually consist of only about two dozen genetic individuals; "considering the profound threats to its habitat and that the total remaining population of Michaux's sumac is almost certainly below fifty, a stronger case for Federal listing can hardly be made." The North Carolina Plant Conservation Program's response echoed this assessment of the species' status and stated further that *Rhus michauxii* is one of the "* * * most endangered species in North Carolina * * *" and "* * * is severely threatened by suppression of fire, development, and geographic isolation of single sex populations."

Another potential threat to this species, particularly in populations where only a few plants remain, is hybridization with sympatric species such as *Rhus glabra* and *Rhus copallina.* Hardin and Phillips (1985) documented the existence of an intermediate form between *Rhus glabra* and *Rhus michauxii* in at least two sites from which *Rhus michauxii* had been reported. Much remains unknown about the demographics and reproductive requirements of this species. Fire or some other suitable form of distrubance, such as mowing or careful clearing, appears to be essential for maintaining the open habitat preferred by *Rhus michauxii.* Without such periodic disturbance, this type of habitat is gradually overtaken and eliminated by the shrubs and trees of the adjacent woodlands. As the woody species increase in height and density, they overtop the *Rhus michauxii,* which is shade-intolerant. The current distribution of the species is ample evidence of its dependence on disturbance. Of the 16 remaining populations, 11 are on roadsides or in the edges of artifically maintained clearings. Two others are in areas that have been exposed to periodic fire, another is in a natural opening on the rim of a Carolina bay (shallow, elliptical depression of unknown origin); the remaining two are in wooded sites and are declining in vigor (J. Moore, personal communication, 1988; T. Patrick, personal communication, 1988).

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 make this rule final. Based on this evaluation, the preferred action is to list *Rhus michauxii* as endangered. With half of the species' populations already having been eliminated and only 16 remaining

in existence (with most of these being very small in size and containing plants of only one sex), and based upon its dependence on some form of active management, it warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing most populations. As stated by Hardin and Phillips (1985), "*Rhus michauxii* is apparently on the verge of extinction * * *." Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Rhus michauxii* at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species" section, *Rhus michauxii* is vulnerable to 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 critical habitual descriptions and maps would make *Rhus michauxii* more vulnerable and would increase enforcement problems. All involved parties and principal landowners have been notified of the locations and importance of protecting this species. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Rhus michauxii*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery 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. Such actions are initiated by the Service following listing. 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 any critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. 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 affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Department of Defense has jurisdiction over portions of this species' habitat. Federal activities on these and other Federal and private lands that could impact *Rhus michauxii* and its habitat in the future include, but are not limited to, the following: silvicultural activities, including timber harvesting and conversion of sites to pine plantations by means of mechanical site preparation; mechanized military training operations; recreational development; power line construction and certain types of maintenance/improvements; highway construction and certain types of maintenance/improvements; and permits for mineral exploration and mining. The Service will work with the involved agencies to secure protection and proper management of *Rhus michauxii* while accommodating agency activities to the extent possible.

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. With respect to *Rhus michauxii*, 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 the species, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction of listed plants on Federal lands, and the removal, cutting, digging up, or damaging or destroying of these plants in knowing violation of any State law or regulation, including State criminal tresspass 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, since *Rhus michauxii* 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, Virginia 22203 (703/358-2104).

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

Cooper, J., S. Robinson, and J. Funderburg. 1977. Endangered and threatened plants and animals of North Carolina: proceedings of the symposium on endangered and threatened biota of North Carolina. North Carolina State Museum of Natural History, Raleigh, North Carolina. 61 pp.

Hardin, J., and L. Phillips. 1985. Hybridization in eastern North American Rhus (Anacardiaceae). Association of Southeastern Biologists Bulletin 32(3):99-106.

Radford, A., H. Ahles, and C.'Bell. 1964. Manual of the vascular flora of the Carolinas. University of North Carolina Press, Chapel Hill. 678 pp.

Sargent, C.S. 1895. New or little-known plants: *Rhus michauxii*. Garden and Forest 398:404-405.

Sutter, R., L. Mansberg, and J. Moore. 1983. Endangered, threatened, and rare plant species of North Carolina: a revised list. Association of Southeastern Biologists Bulletin 30:153-163.

Author

The primary author of this proposed rule is Ms. Nora Murdock, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, 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
* * * * * * *						
Anacardiaceae—Cashew family:						
Rhus michauxii	Michaux's sumac	U.S.A. (NC, SC, GA)	E	366	NA	NA
* * * * * * *						

Dated: September 13, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89–22848 Filed 9–27–89; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB23.

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Eastern and Western Prairie Fringed Orchids

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines *Platanthera leucophaea* (Eastern prairie fringed orchid), and *Platanthera praeclara* (Western prairie fringed orchid) to be threatened species under authority of the Endangered Species Act (Act) of 1973, as amended. Both species have been extirpated throughout much of their former ranges by conversion of habitat for crop fields, grazing, intensive and continuous hay mowing, drainage, fire protection activities, and subsequent decline of prairie habitat. *P. leucophaea* remains extant in approximately 52 populations in seven States and two Canadian Provinces; however, many of these are small, unprotected, and unmanaged populations. *P. praeclara* remains extant in about 37 populations in seven States and one Canadian Province; many of these are small hay meadow populations, where plants are annually cropped before seeds are dispersed. This section will implement Federal protection provided by the Act for *Platanthera leucophaea* and *P. praeclara.*

DATE: Effective date of this rule is October 30, 1989.

ADDRESS: The complete file for this rule is available for inspection by appointment during normal business hours at the Service's Regional Office of Endangered Species, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

FOR FURTHER INFORMATION CONTACT: James M. Engel, Endangered Species Coordinator at the above address (612/725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

The prairie fringed orchids, *Platanthera leucophaea* and *P. praeclara* are closely related members of the orchid family and are referred to as a species pair (Sheviak and Bowles 1986). Prior to description of *P. praeclara* the two species were considered as *P. leucophaea,* with a total range including 21 states and two provinces (Correll 1950, Luer 1975). Their joint distribution pattern extends from Oklahoma north to Manitoba, and east in a narrowing peninsula through the Great Lakes states to Maine. Populations also range westward through Nebraska in groundwater maintained habitats. *P. leucophaea* occurs primarily east of the Mississippi River, while *P. praeclara* is restricted to west of the Mississippi (Sheviak and Bowles 1986). Both species require full sunlight and usually inhabit tall grass calcareous silt loam or sub irrigated sand prairies. In the east, *P. leucophaea* also occupies calcareous wetlands, including open portions of fens, sedge meadows, marshes, and bogs (Bowles 1983).

The prairie fringed orchids are perennial herbs which regenerate from a fusiform tuber rootstock. Their tubers are dormant during winter and thus are adapted to dormant season prairie fires; such fires and high precipitation levels appear to promote flowering (Sheviak 1974, Roosa and Eilers 1979, Bowles 1983, Currier 1984). Leaves and an inflorescence (if flower primordia were set the prior year) usually emerge in May, and flowering begins by late June to early July. These species are characterized by large white flowers (the largest in the genus) arranged in an inflorescence that may reach 12 decimeters (47 inches) high with up to 40 flowers. The flowers are fragrant after sunset and adapted to pollination by night flying hawkmoths which ingest a high volume nectar resource from long nectar spurs (Bowles 1983). Pollination is required for seed production, while seedling establishment depends upon development of mycorrhizae with a favorable soil inhabiting fungus (reviewed in Bowles 1983). Differences in flower structures and pollination mechanics serve to isolate the species from hybridization; these features can be used to identify living or preserved specimens (Sheviak and Bowles 1986). The western species has larger flowers adapted to placing pollinia (pollen masses) on the compound eyes of visiting pollinators In contrast, the eastern species places pollinia on the proboscis of visiting moths.

Platanthera leucophaea has declined over 70 per cent from original county records and now has about 52 extant populations in seven states. Primarily due to the destruction of large grasslands east of the Mississippi River, extremely large or extensive populations of this orchid do not exist in the United States. In Canada, 12 populations are known from fens and prairies in 12 Ontario counties; one fen population is estimated at 2000 plants (Brownell 1984).

The plant is also known from New Brunswick, where it is considered rare (Hinds 1983). However, most of these populations are not representative of the once vast prairie habitat that supported most populations of this orchid.

Platanthera leucophaea is presumed extirpated from Oklahoma, where the type specimen was collected by Nuttall in 1819 near the confluence of the Kiamichi and Red Rivers; it may have occurred in similar floodplain habitat in adjacent Arkansas (Sheviak and Bowles 1986). This orchid reached its western range limit in Nebraska, where one historic record is known (W.J. Bailey, Jr., Nebraska Game and Parks Commission, *in litt.* 1988). It has not been relocated in Missouri (Morgan 1980), but one small population with three plants remains in Iowa. In the eastern United States, this orchid has not been relocated in New York, Pennsylvania, New Jersey, and Indiana; isolated disjunct populations still occur in Maine and Virginia (Bowles 1983). The Maine population occurs on private land, which is on the State's register of critical areas, in portions of an extensive fen that is undergoing some invasion by woody vegetation. Flowering plants appear erratically at this site. The current population appears to be about 20 adult individuals (Barbara Vickery, The Nature Conservancy, *in litt.* 1988). The small Virginia population occurs in a sedge meadow subject to light grazing. However, this population has not been observed since 1983 when three flowering stems were counted (S.M. Carbaugh, Virginia Department of Agriculture, *in litt.* 1988).

The eastern prairie fringed orchid is known historically from 23 Michigan counties; 18 populations (about half are protected) now are extant from nine counties, where 1322 flowering stems were counted in 1984 (Chapman and Crispin 1985). Southern Michigan populations are small and occur in isolated bog habitats; while several larger populations of over 100 plants occur in lakeside prairies bordering Saginaw Bay. Three large Michigan populations, totalling about 900 plants, occur on degraded upland prairies bordering Lake Erie. These sites are State owned, but extensive management is needed to maintain the orchids as their communities go through successional changes. A population near Bay City disappeared after severe flooding in 1986, and has not been observed since (G.T. Higgs, James Clements Airport Advisory Committee, *in litt.* 1988). The Saginaw Bay region continues to harbor the most viable populations in the state (Chapman and Crispin 1985). Frederick W. Case, Jr. (1987) states that *P. leucophaea* is possibly the region's most endangered orchid because of the destruction of its moist prairie habitat.

Platanthera leucophaea originally occurred in 11 Ohio counties and is now presumed extirpated from at least six. McCance (Ohio Department of Conservation, *in litt.* 1987) reported only two extant populations in 1987. The larger, containing about 60 flowering plants in 1987, was down from 367 plants in 1982. The other population contained 46 flowering plants in 1984, but only six plants were found in 1987. Smith (The Nature Conservancy, *in litt.* 1988) reports this population has further declined to two plants. Two other populations are known from sites frequently inundated by Lake Erie. One of these was located in 1987 when 24 plants were counted. Smith (1981) also observed this population in 1988 and counted 14 plants. The other site has not been relocated (C.R. Moseley, Jr. Ohio Department of Natural Resources, *in litt.* 1988). In Wisconsin, this orchid originally was known from 22 sites in 17 counties in the south and southeast portions of the state (Alverson 1981). Fourteen of these are known to be extirpated (J. Dobberpuhl, Wisconsin Department of Natural Resources, *in litt.* 1988). Nine small populations now occur in eight counties. One large population of several hundred plants occurs in a protected Lake Michigan border sand prairie in Kenosha County.

Illinois probably contained the largest and most extensive pre-settlement populations of the eastern prairie fringed orchid and also sustained the most drastic population decline of any state. Originally it was known from tall grass prairies in 33 counties across the northern two thirds of the State, an area now almost totally converted to agriculture (Bowles and Kurz 1981). Eighteen populations remain in eight counties concentrated in the Chicago region; two additional populations occur in cemetery prairies in eastern and western Illinois counties. Only two populations consist of over 100 plants; both are in a Lake Michigan border county. Most populations are offered some form of protection, and only eight occur on private unprotected land.

Platanthera praeclara has experienced over a 60 percent decline according to county records, with about 37 populations remaining in seven states (Bowles and Duxbury 1986). Apparently, it has been extirpated from South Dakota where it was originally known from two counties. Populations in the southern part of this orchid's range seldom are observed. The two Oklahoma populations occur in privately owned hay meadows and were only observed during their original discovery (Magrath and Taylor 1978). This orchid was widespread in eastern Kansas, where it was originally known from 14 counties. Now, populations are reduced to eight counties where it is believed to occur in seven privately owned hay meadows and one University of Kansas research area (R.E. Brooks, U. of Kansas, *in litt.* 1987). Two small populations currently are known to occur in northwest Missouri. One population of five plants occurs on a private tract, while a second, of about 25 plants, is in a hay meadow recently acquired by the state.

Populations in the northern and central portions of the western prairie fringed orchid's range are larger and more extensive, but still reduced in size and range. This orchid probably was most widespread in the deep loess soils of Iowa, where a total of about 600 plants currently exist. Now, 13 populations are known extant from 11 Iowa counties (D. Howell, Iowa Department of Natural Resources, pers. comm. 1987). Most populations are small, with the largest consisting of about 275 plants. Six of the Iowa populations are in public or private conservation ownership and are managed by burning or mowing.

Platanthera praeclara originally was widespread in eastern Nebraska (Bowles and Duxbury 1986). A questionable historic record from 1842 attributed to Wyoming is now considered to be from Western Nebraska (H. Marriott, The Nature Conservancy, *in litt.* 1987). Five populations are known from four counties. Two populations are small (less than 20 plants each) and disjunct in western Nebraska; one occurs on a railroad right-of-way, while the other is on Federal land (Valentine National Wildlife Refuge) administered by the U.S. Fish and Wildlife Service. The federally owned tract is undergoing brush invasion. Three other sites in eastern Nebraska are on private or public land managed for conservation. Four of the five sites in Nebraska receive some type of protection and management. The largest population consists of about 150 plants. Five other *Platanthera praeclara* sites in Nebraska are assumed extirpated as their status is unknown.

One large scattered population occurs in North Dakota with approximately 2000 plants (Bowles and Duxbury 1986). The North Dakota population represents the type locality for *Platanthera*

praeclara (Sheviak and Bowles 1986) and occurs primarily on Federally owned sand prairie managed by the U.S. Forest Service. The Forest Service has initiated a monitoring program for *P. praeclara* in order to establish some baseline data. Guidelines to protect the plant during haying operations and herbicide applications to control leafy spurge are in place. Research is needed to determine what effects current management has on the orchids, and if increases in grazing intensity would negatively affect their populations. Six populations occur in four Minnesota counties (Smith 1981). The largest is in protected ownership and is found at five sites with about 500 plants. This orchid recently was discovered in similar prairie habitat in Manitoba (Brownell 1984).

Federal Government action on these plants began as a result of Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report (Ayensu and DeFilipps 1978), designated as House Document No. 94–51, was presented to Congress on January 9, 1975. *Platanthera leucophaea*, which at that time was placed in the genus *Habenaria* and included in part the then undescribed *P. praeclara*, was listed as "threatened" in that document. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) of the Act (now section 4(b)(3)) and of its intention to review the status of 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. The 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. *Platanthera leucophaea* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (FR 17909). On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments to the Act. On December 15, 1980 (45 FR 82479), and September 27, 1985 (50 FR 39525), the Service published revised notices of review for native plants in the **Federal Register**. *Platanthera leucophaea* (including in part the then yet undescribed *P. praeclara*) initially was included in those notices as a category 1 species. Category 1 species are those for which biological information in the Service's possession warrants listing as endangered or threatened. Later, this orchid was dropped to category 2, indicating that further biological research and field study were needed to ascertain its status.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The deadline for a finding on those species, including *Platanthera leucophaea*, was October 13, 1983. On October 13, 1983, and again in 1984, 1985, 1986, and 1987, the petition finding was that listing of *Platanthera leucophaea* (including in part the then yet to be described *P. praeclara*) was warranted pending finding of further biological information but precluded by other pending listing actions, in accordance with section 4(b)3(B)(iii) of the Act. Such a finding requires that the petition be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The October 11, 1988 (53 FR 39621) proposal to classify *Platanthera leucophaea* and *P. praeclara* as threatened constituted the final required finding.

Summary of Comments and Recommendations

In the October 11, 1988, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, landowners, and other interested parties were contacted and requested to comment. Notices inviting public comment were published in the following newspapers: *Chicago Tribune*, Chicago, IL; *The Des Moines Register*, Des Moines, IA; *The Globe-Gazette*, Mason City, IA; *Sioux City Journal*, Sioux City, IA; *Waterloo Courier*, Waterloo, IA; *Lawrence Journal-World*, Lawrence, KS; *The Leavenworth Times*, Leavenworth, KS; *Ottawa Herald*, Ottawa, KS; *Topeka Capitol Journal*, Topeka, KS; *Bangor Daily News*, Bangor, ME; *The Bay City Times*, Bay City, MI; *Detroit Free Press*, Detroit, MI; *Three Rivers Commercial News*, Three Rivers, MI; *Austin Daily Herald*, Austin, MN; *Crookston Daily News*, Crookston, MN; *Rock County Stat-Herald*, Luverne, MN; *St. Joseph News-Press/Gazette*, St. Joseph, MO; *The Grand Island Independent*, Grand Island, NE; *The Lincoln Star* and *Lincoln Journal*, Lincoln, NE; *Valentine Newspaper*, Valentine, NE; *The Forum*, Fargo, ND; *The Ransom County Gazette*, Lisbon, ND; *Daily News*, Wahpeton, ND; *Tulsa Tribune*, Tulsa, OK; *Daily News Leader*, Staunton, VA; *Wisconsin State Journal*, Madison, WI; *The Janesville Gazette*, Janesville, WI; *The Milwaukee Journal*, Milwaukee, WI; *Oshkosh Northwestern*, Oshkosh, WI between October 25, and November 3; and in the *Sioux Falls Argus-Leader*, Sioux Falls, SD, on November 22, 1988. Twenty-four comments were received, none of which opposed the rule. A summary of substantive comments is presented below.

Comments were submitted by two Federal agencies, twelve State agencies, three conservation organizations, and seven individuals. Fourteen responses supported listing while the remainder did not express a position. The U.S. Forest Service commented that the area in North Dakota, within the Sheyenne Ranger District (Sheyenne National Grassland), containing an extensive population of *Platanthera praeclara* (Western Prairie fringed Orchid) has been grazed for about 100 years, and the continued existence of the species, and the possibility it may be increasing, indicates to them that there may not be a need to list the species. However, the Forest Service acknowledges that plants must be listed rangewide, and because the species is declining elsewhere within its range, does not oppose the listing. The Forest Service points out that while overgrazing may be contributing to the decline of the species, there does not appear to be strong evidence that grazing by itself is as detrimental to the species as cropland conversion. The Forest Service has recognized the need to integrate rare species management into management activities on the Sheyenne Ranger District and has developed guidelines to protect the plant during haying and pesticide application. The Forest Service looks forward to a cooperative recovery effort and is initiating an Interim Management Plan specifically for the enhancement of this species, until such time as research has provided the answers for further management. The Soil Conservation Service office in North Dakota commented that a litter buildup may suppress *P. praeclara*, and rotational grazing may be beneficial.

The Sheyenne Valley Grazing Association commented that the Service is proposing to list *Platanthera praeclara* without knowing all the facts about the species, what is ideal habitat, how mowing affects the plant, and if anything other than cropping is harmful to the species. In addition, the Grazing Association expressed concerns about the methods of listing plants, and if plants could be listed by population, the more healthy populations like the one on the Sheyenne National Grasslands would be unaffected. The Association does not oppose the listing, but believes even with listing we will not have all the answers. They want to be kept informed of the situation. The Service has completed range wide status surveys for *Platanthera praeclara* and *Platanthera leucophaea*. As as result of these surveys, and other biological documentation, the Service believes listing is appropriate. There might be instances where some populations of the plant may be in better condition than others, but range wide, both species have declined significantly and will continue to face threats of habitat destruction and alteration. By placing these species under the protection of the Act, the Service, and other cooperating Federal and State agencies will be able to complete recovery plans, initiate and complete research, and complete other management actions that will provide information to enhance both species' survival.

The remaining comments, from State agencies, private conservation organizations, and individuals provided new species status information, advice of additional state protection, or lack thereof, mentioned the existence of localized threats to the species, and offered editorial comments concerning the rule. These comments have been incorporated into this final rule as deemed appropriate. A letter from a private conservation group supporting the listing was signed by 28 members of the organization.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Platanthera leucophaea* (Nutt.) Lindl. and *Platanthera praeclara* Sheviak and Bowles should be classified as threatened species. Procedures found at section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Platanthera leucophaea* (Nutt.) Lindl. and *Platanthera praeclara* Sheviak and Bowles are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The prairie fringed orchids have declined significantly throughout their ranges due to conversion of most of their habitats to cropland, overgrazing, intensive hay mowing, drainage, and for fire protection; these and related threats continue. Many of the largest *Platanthera leucophaea* populations occur in habitats supporting successional vegetation. Without management these populations may decline in response to changing vegetation patterns. Many other populations are small and occur on small isolated prairie remnants, where seed set and reproduction is limited by dependence on chance visitation from pollinators. Over 35 percent of the known populations of *Platanthera praeclara* occur in hay meadows; these plants seldom are seen, and populations apparently are small. Hay mowing annually removes seed capsules and plant biomass before natural seed dispersal can occur. This prevents recruitment of seedlings into populations and probably weakens adult plants, resulting in gradual population decline through attrition (Bowles 1983, Bowles and Duxbury 1986). Changing land use also threatens hay meadow populations. At least four Kansas hay meadows known to support *Platanthera praeclara* populations have been converted to cultivated cropland since their discovery in the 1970's, while one Oklahoma hay meadow now is threatened with subdivision (Bowles and Duxbury 1986). The use of herbicides, especially on highway and railroad rights-of-way, continues to threaten these species in a number of instances (P.E. DeHond, Maine Planning Office, *in litt.* 1988, and L.G. Hiller,. Ft. Ranson, ND, *in litt.* 1988).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Native terrestrial orchids rarely are grown from seed; adult plants are often sought for scientific and commercial purposes, or for private gardens. Smaller populations of the prairie fringed orchids would be adversely affected by collecting. Because of higher human population densities in the east, the eastern prairie fringed orchid is subject to greater scientific and commercial pressures; at least one Michigan population was affected by removal of plants. However, because of the recent description of *Platanthera praeclara* (western prairie fringed orchid) and its usually small populations, over-collecting may also become a serious problem for this species. At least one instance of removal of a western prairie fringed orchid plant for commercial purposes has taken place in Minnesota.

C. Disease or Predation

No diseases are known to be adversely affecting either prairie fringed orchid species. All inflorescences were removed from one Minnesota population of *Platanthera praeclara* by an unknown herbivore, but the long term impact remains unknown. Conehead grasshoppers (Orthoptera: *Neoconocephalus*) occasionally are observed eating the flowers or fruits of these orchids. However, the major predator is man through use of this orchid's community for pasture or hay. Long term overgrazing or haying apparently leads to population decline because plants either are harvested or are not allowed to complete their life cycles.

D. The Inadequacy of Existing Regulatory Mechanisms

The prairie fringed orchids are formally or officially listed as endangered, threatened, or rare in ten states (IA, IL, ME, MI, MN, MO, NE, ND, OH, WI) throughout their range. However, only a few states where these species are extant offer protection to listed plants beyond that afforded by their presence on public lands. State laws of Illinois, Iowa, Minnesota, Michigan, and Missouri prohibit the removal and sale of listed plants. Michigan prohibits transport, buying, selling, possessing, or destroying in any manner. In Wisconsin, Ohio, and New York it is illegal to harvest endangered or threatened plants. Although *Platanthera leucophaea* and *P. praeclara* are offered various forms of recognition or protection under state laws, the Endangered Species Act offers possibilities for protection through section 6 by cooperation between States and the Service, and cooperation with other Federal agencies through section 7 (interagency cooperation) requirements. The plants are considered rare in Canada, but are not afforded any official designation or protection.

E. Other Natural or Manmade Factors Affecting Its Continued Existence.

Pollination of the prairie fringed orchids is required for seed set, and is accomplished only by hawkmoths (Sphingidae). As a result, long-term

population survival requires maintenance of hawkmoths. Any threat to these insects (such as the use of insecticides) or their habitats and food plants, is a threat to survival of prairie fringed orchids.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by these taxa, in determining to make this rule final. Based on this evaluation, the preferred action is to list *Platanthera leucophaea* and *Platanthera praeclara* as threatened species, because of the known loss of most of their populations and habitat, and continued threats to existing populations. For reasons detailed below, it is not considered prudent to propose designation of critical habitat.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of net benefit to the species involved (50 CFR 424.12). In the present case, the Service believes that designation of critical habitat would not be prudent because no benefit to the species can be identified that would outweigh the potential threat of vandalism or collection, which might be exacerbated by the publication of a detailed critical habitat description.

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. It also requires that recovery actions be carried out for all listed species. These recovery actions are initiated by the Service following listing. Some may be undertaken prior to listing, circumstances permitting. Potential habitat management actions that might benefit *Platanthera leucophaea* and *P. praeclara* include: evaluation and specific management actions on public lands to enhance orchid populations, land protection measures which will reduce frequent disturbance to both species' habitat, and a program for landowners to educate them about the nature of their orchid populations and how they might alter management of their property to benefit these species. The protection required by Federal agencies and applicable prohibitions are discussed 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)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible federal agency must enter into formal consultation with the service.

The Food Security Act of 1985 (Pub. L. 99–198) also provides at sections 1314 and 1318 opportunities for the Service and State conservation agencies to acquire restrictive easements beneficial to endangered and threatened species on lands acquired by the Farmers Home Administration in the course of farm foreclosures. Upon notification by the Farmers Home Administration of pending foreclosures, the Service is continually reviewing possible areas where restrictive easements would benefit endangered and threatened species.

No Federal involvement is expected for *Platanthera leucophaea* since the species is not known to occur on Federal lands. *Platanthera praeclara* is known to occur on lands under the jurisdiction of the U.S. Fish and Wildlife Service on the Valentine National Wildlife Refuge, in Nebraska. Grazing management plans on the refuge should consider the effects livestock has on the species. A population monitoring program for *P. praeclara* should be initiated. A widely scattered population of *P. praeclara* is found on the Sheyenne National Grassland, Custer National Forest, Ransom and Richland counties, North Dakota. This population extends over several thousand acres managed by the U.S. Forest Service which in turn leases the area to the Sheyenne Valley Grazing Association for livestock production. The Forest Service and the Grazing Association are aware of *P. praeclara*. The species is found on 25 of the 58 allotments within the Sheyenne National Grassland. In order to meet the intent of the Act, the U.S. Forest Service, in cooperation with the Service, the State of North Dakota, and the Sheyenne Valley Grazing Association, is initiating interim grazing management actions on the Sheyenne National Grasslands which is designed to safeguard *P. praeclara* until such time as recovery research has been completed that should provide results to guide us in future management. Research will soon be underway which will allow us to better understand which types of management actions within the Grassland area might be beneficial to *P. praeclara*. Cooperative discussions between the Forest Service, the Grazing Association, and the Service have been initiated. It will be necessary for the Forest Service to enter into consultation with the Service so that *Platanthera praeclara* plants are considered in the course of activities carried out by that agency. It has been the experience of the Service that the majority of section 7 consultations are resolved so that the species is protected and the project can continue.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. With respect to *Platanthera leucophaea* and *P. praeclara*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, will 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 these species in interstate or foreign commerce, or remove and reduce to possession these species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed 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 listed plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that some trade permits would be issued

because these plants belong to the orchid family, species of which now are sought for cultivation.

On July 1, 1975, *Platanthera leucophaea* was included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which is implemented through section 8A of the Act. The effect of this listing is that generally, both export and import permits are required before international shipment may occur. Such shipment is strictly regulated by CITES member nations to prevent it from being detrimental to the survival of the species, and generally, cannot be allowed if it is for primarily commercial purposes. If plants are certified as artificially propagated, however, international shipment requires only export documents under CITES, and commercial shipments may be allowed. 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 22203, (703/358–2093).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, 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** October 25, 1983 (48 FR 49244).

References Cited

Alverson, W.S. 1981. Report on the Wisconsin status of *Platanthera leucophaea*. Unpublished report. 17 pp.

Ayensu, R.E., and R.A. DeFilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund. 403 pp.

Bowles, M.L. 1983. The tallgrass prairie orchids *Platanthera leucophaea* (Nutt.) Lindl. and *Cyripedium candidum* Muhl. ex Willd.: Some aspects of their status, biology, and ecology, and implications toward management. Natural Areas Journal 3: 14–37.

Bowles, M.L. , and D. Kurz. 1981. Report on the Illinois status of *Platanthera leucophaea*. Unpublished report. 8 pp.

Bowles, M.L., and A. Duxbury. 1986. Report on the status of *Platanthera leucophaea* Sheviak & Bowles in Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. Unpublished report. 76 pp.

Brower, A.E. 1977. The prairie white fringed orchid *Habenaria leucophaea* (Nutt.) Gray in Maine and its relevance to the Critical Areas Program. Maine State Planning Office. Unpublished report.

Brownell, V.P. 1984. Report on the prairie fringed orchid (*Platanthera leucophaea*): a rare species in Canada. Unpublished report.

Case, F.W., Jr. 1987. Orchids of the Western Great Lakes Region. Cranbrook Institute of Science. Bulletin 48.

Chapman, K.A. 1981. Report on the Michigan status of *Habenaria leucophaea*. Biology Department. Unpublished report. 7 pp.

Chapman, K.A., and S.R. Crispin, 1985. Report on a comprehensive survey for *Platanthera leucophaea* in Michigan. Unpublished report. 20 pp.

Correll, D.C. 1950. Native orchids of North America north of Mexico. Chronica Botanica Co., Waltham, MA.

Currier, P.J. 1984. Response of prairie fringed orchid to fire and reduction in grazing (Nebraska). Restoration and Management Notes 2: No. 17.

Hauser, L.A., T.J. Crovello, and J.A. Bacone. 1981. Report on the Indiana status of *Platanthera leucophaea* (Nutt.) Lindl. Unpublished report. 6 pp.

Hinds, H.R. 1983. The rare vascular plants of New Brunswick. 23 pp.

Luer, C.A. 1975. The native orchids of the United States and Canada, excluding Florida. New York Botanical Garden.

Magrath, L.K., and J. Taylor. 1978. Orchids and other new and interesting plants from Oklahoma. Publication No. 2. Herbarium, Southeastern Oklahoma State University, Durant.

Morgan, S.M. 1980. Report on the Missouri status of *Platanthera leucophaea* (Nutt.) Lindl. Missouri Department of Conservation. 13 pp.

Roosa, S.J., and L.J. Eilers. 1979. Endangered and threatened Iowa vascular plants. State Conservation Commission. pp. 39.

Sheviak, C.J. 1974. An introduction to the ecology of the Illinois Orchidaceae. Illinois State Museum Scientific Paper 14.

Sheviak, C.J., and M.L. Bowles. 1986. The prairie fringed orchids: a pollinator-isolated species pair. Rhodora 88:267–290.

Smith, W.B. 1981. Report on the Minnesota status of *Platanthera leucophaea* (Nutt.) Lindl. Minnesota. Department of Natural Resources. 10 pp.

Spooner, D.M. 1981. Report on the Ohio status of *Platanthera leucophaea* (Nutt.) Lindl. Ohio Department of Natural Resources. 11 pp.

Tyrl, R.J., J.L. Gentry, Jr., P.G. Risser, and J.J. Crockett. 1978. Field Surveys and Status Evaluation on Proposed and Candidate Endangered and Threatened Plant Species in Oklahoma. Unpublished report. pp. 227–236.

Watson, W.C. 1983. Report of *Platanthera leucophaea* (Nutt.) Lindl. in Iowa. University of Northern Iowa. Unpublished report. 22 pp.

Author

The primary author of this rule is William F. Harrison (see **ADDRESSES** section). Preliminary documentation was prepared under contract by Marlin L. Bowles, The Morton Arboretum, Lisle, IL.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, and Marine mammals, Plants (agriculture).

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended 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. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Orchidaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic Range	Status	When listed	Critical habitat	Special rules
Scientific name	Common Name					
•	•	•	•		•	
Orchidaceae-Orchid family:						
•	•	•	•		•	
Platanthera leucophaea	Eastern prairie fringed orchid	U.S.A. (AR, IA, IL, IN, ME, MI, MO, NE, NJ, NY, OH, OK, PA, VA, WI), Canada (ON, NB).	T	367	NA	NA
Platanthera praeclara	Western prairie fringed orchid	U.S.A. (IA, MN, MO, NE, ND, OK, KS, SD), Canada (MB).	T	367	NA	NA
•	•	•	•		•	

Dated: September 14, 1989.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-22849 Filed 9-27-89; 8:45 am]

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federal register

Thursday
September 28, 1989

Part IV

Department of Housing and Urban Development

24 CFR Part 888

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; Final Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-89-1966; FR-2632]

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 notice.

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 1990 FMRs for the section 8 Existing Housing Program on May 19, 1989 (54 FR 21812) and solicited public comments. Today's notice announces final FY 1990 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, 1989.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Housing Voucher Division, Office of Elderly and Assisted Housing, telephone (202) 755-6477. 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) 755-5577. (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 in 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 19, 1989 (54 FR 21812), the Department proposed FMRs for section 8 existing housing for FY 1990. Today's notice contains an analysis and response to public comments and makes appropriate revisions to the proposed FMRs.

The FMRs for 1990 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 1990 FMRs published on May 19, 1989 (54 FR 21812), reflected estimated rent levels projected forward to April 1, 1990. 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 on 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 1990 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 1990 FMRs were calculated by updating FY 1989 FMRs one additional year to April 1, 1990, based on the most recent CPI data available on average annual changes for rentals and utilities. The proposed FY 1990 FMRs for manufactured home spaces were calculated by updating FY 1989 FMRs to April 1, 1990, 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, 1989. 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, 1989.

Public Comments

HUD received 209 comments covering 96 FMR areas in response to the publication of its proposed FY 1990 FMRs. Over 70 of these comments were letters supporting the Commonwealth of Massachusetts' submission for the Boston PMSA. In addition, there were several other areas with multiple comments.

Based on the results of 1985 and 1986 AHS data or decreases in local CPI surveys, reductions in this year's FMRs were proposed for the following 11 metropolitan areas:

Beaver County, PA PMSA
Boston, MA PMSA
Boulder, CO PMSA

Brazoria, TX PMSA
Denver, CO PMSA
Detroit, MI PMSA
Galveston-Texas City, TX PMSA
Houston, TX PMSA
New Orleans, LA MSA
Oakland, CA PMSA
Pittsburgh, PA PMSA

The Department did not receive comments for four of these areas:

Brazoria, TX
Boulder, CO
Galveston-Texas City, TX
New Orleans, LA

Of the remaining seven areas, three were approved for modifications to the proposed FMRs:

Boston, MA PMSA
Detroit, MI PMSA
Houston, TX PMSA

The comments from four other metropolitan areas did not contain sufficient rental market data to cause the Department to change the AHS-based FMRs. These areas are:

Beaver County, PA PMSA
Denver, CO PMSA
Oakland, CA PMSA
Pittsburgh, PA PMSA

Reductions were also proposed for all FMR areas in the State of Alaska as the result of the continuing declines in the CPI data for Anchorage. Based on the comments submitted by the Alaska State Building Authority and the Kodiak Island Housing Authority, the Department has accepted the position that the rental markets for seven areas were not following the Anchorage CPI trend. Increases, therefore, are being approved for the following areas in Alaska:

Kenai-Peninsular
Ketchikan Gateway
Kodiak Island
Juneau
Wrangell-Petersburg
Sitka
Valdez-Cordova

The Department is not approving the requested increases for the Anchorage, Fairbanks, and Matanuska-Susitna areas because the comment did not include market area specific data identifying the 45th percentile rent level or information to indicate that rental market conditions in these areas had improved significantly.

Decreases were also proposed for the FMRs in the Richland-Kennewick-Pasco MSA and Cowlitz County FMR areas in the State of Washington, and in the Columbia, Missouri MSA, based on the results of local rental surveys that were conducted under the direction of the HUD Regional Office in response to concerns that the FMRs for these areas were too high. No comments were submitted for the Columbia, Missouri area, and the final FMRs will be the same as proposed. A slight upward adjustment has been made to the FMRs for the Richland-Kennewick-Pasco metropolitan area based on a comment submitted by the local PHA. The final FMRs for this area remain substantially below last year's FMRs. The comment submitted by the Longview Housing Authority (Cowlitz County) contained sufficient information to justify modest increases in the three- and four-bedroom FMRs only.

The Department evaluated all comments carefully and has sought to look behind the information presented when the data appeared to have merit but were incompletely or poorly represented. Based on the results of our evaluation, the FMRs for 29 areas are being increased in response to information provided by the commenters, and the proposed FMRs for 67 areas will not be changed because no data were provided by the commenters or the data provided were insufficient.

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 are amended as follows:

Dated: September 20, 1989.

C. Austin Fitts,

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 counties, and the residual 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 FMR 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	237	287	337	424	474	Calhoun
Birmingham, AL MSA	265	322	378	475	531	Blount, Jefferson, St Clair, Shelby, Walker
Columbus, GA-AL MSA	245	295	349	437	492	Russell
Decatur, AL MSA	242	294	347	434	486	Lawrence, Morgan
Dothan, AL MSA	277	334	394	493	552	Dale, Houston
Florence, AL MSA	250	305	361	447	501	Colbert, Lauderdale
Gadsden, AL MSA	217	264	313	391	438	Etowah
Huntsville, AL MSA	279	337	397	498	557	Madison
Mobile, AL MSA	288	349	410	514	577	Baldwin, Mobile
Montgomery, AL MSA	254	310	365	457	512	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	267	325	383	478	537	Tuscaloosa

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	200	243	287	359	402
Bullock	204	248	292	366	409
Chambers	198	241	284	356	397
Chilton	194	237	280	349	390
Clarke	217	264	313	391	438
Cleburne	198	241	284	356	397
Conecuh	217	264	313	391	438
Covington	200	243	287	359	402
Cullman	242	294	347	434	486
De Kalb	229	278	326	407	458
Fayette	194	237	280	349	390
Geneva	200	243	287	359	402
Hale	194	237	280	349	390
Jackson	229	278	326	407	458
Lee	248	301	356	445	499
Lowndes	204	248	292	366	409
Marengo	217	264	313	391	438
Marshall	213	259	304	378	423
Perry	217	264	313	391	438
Pike	217	263	312	389	436
Sumter	217	264	313	391	438
Tallapoosa	198	241	284	356	397
Wilcox	217	264	313	391	438

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bibb	194	237	280	349	390
Butler	208	252	297	372	417
Cherokee	198	241	284	356	397
Choctan	217	264	313	391	438
Clay	198	241	284	356	397
Coffee	271	328	386	483	541
Coosa	198	241	284	356	397
Crenshaw	204	248	292	366	409
Dallas	217	264	313	391	438
Escambia	184	225	262	330	369
Franklin	194	236	278	347	388
Greene	194	237	280	349	390
Henry	200	243	287	359	402
Lamar	194	237	280	349	390
Limestone	205	250	295	369	413
Macon	217	263	312	389	436
Marion	194	236	278	347	388
Monroe	217	264	313	391	438
Pickens	194	237	280	349	390
Randolph	198	241	284	356	397
Talladega	198	241	284	356	397
Washington	217	264	313	391	438
Winston	194	236	278	347	388

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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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	373	454	534	668	749
Juneau	493	599	705	881	987
Ketchikan Gateway	493	599	705	881	987
Kodiak Island	590	716	843	1053	1180
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	406	493	580	725	812
Wrangellpetersburg	493	599	705	881	987

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	406	493	580	725	812
Kobuk	454	551	649	812	909
Matanuska-Susitna	373	454	534	668	749
North Slope	454	551	649	812	909
Sitka	493	599	705	881	987
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	390	474	557	697	780	Maricopa
Tucson, AZ MSA	381	464	546	683	765	Pima

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Apache	278	338	398	498	558
Coconino	353	429	505	633	708
Graham	284	346	405	508	570
Lapaz	358	436	514	642	720
Nauajo	278	338	398	498	558
Santa Cruz	284	346	405	508	570
Yuma	358	436	514	642	720

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Cochise	284	346	405	508	570
Gila	286	349	412	514	574
Greenlee	284	346	405	508	570
Mohave	358	436	514	642	720
Pinal	286	349	412	514	574
Yavapai	353	429	505	633	708

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	260	315	371	464	520	Washington
Fort Smith, AR-OK MSA	251	306	361	452	506	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	300	364	428	537	601	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	291	352	414	516	577	Crittenden
Pine Bluff, AR MSA	248	303	358	448	501	Jefferson
Texarkana, TX-Texarkana, AR MSA	249	302	357	447	500	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. 091889

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	211	255	302	377	423
Baxter	239	291	344	429	482
Boone	239	291	344	429	482
Calhoun	202	248	290	364	407
Chicot	201	243	287	360	404
Clay	225	274	321	403	451
Cleveland	208	252	298	372	417
Conway	207	251	297	371	415
Cross	212	260	306	378	423
Desha	201	243	287	360	404
Franklin	187	227	268	334	374
Garland	221	270	316	396	445
Greene	225	274	321	403	451
Hotspring	221	270	316	396	445
Independence	235	286	337	421	472
Jackson	235	286	337	421	472
Lafayette	206	248	294	369	413
Lee	212	260	306	378	423
Little River	206	248	294	369	413
Madison	239	291	344	429	482
Mississippi	243	297	349	436	490
Montgomery	221	270	316	396	445
Newton	239	291	344	429	482
Perry	207	251	297	371	415
Pike	221	270	316	396	445
Polk	224	272	319	399	448
Prairie	181	220	260	325	363
St Francis	212	260	306	378	423
Searcy	239	291	344	429	482
Sharp	235	286	337	421	472
Union	202	248	290	364	407
White	235	286	337	421	472
Yell	207	251	297	371	415

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashley	201	243	287	360	404
Benton	248	301	351	432	482
Bradley	201	243	287	360	404
Carroll	239	291	344	429	482
Clark	221	270	316	396	445
Cleburne	235	286	337	421	472
Columbia	202	248	290	364	407
Craighead	264	319	376	470	528
Dallas	202	248	290	364	407
Drew	201	243	287	360	404
Fulton	235	286	337	421	472
Grant	208	252	298	372	417
Hempstead	206	248	294	369	413
Howard	206	248	294	369	413
Izard	235	286	337	421	472
Johnson	207	251	297	371	415
Lawrence	225	274	321	403	451
Lincoln	201	243	287	360	404
Logan	187	227	268	334	374
Marion	239	291	344	429	482
Monroe	181	220	260	325	363
Nevada	206	248	294	369	413
Ouachita	202	245	288	362	407
Phillips	212	260	306	378	423
Poinsett	225	274	321	403	451
Pope	207	251	297	371	415
Randolph	225	274	321	403	451
Scott	187	227	268	334	374
Sevier	206	248	294	369	413
Stone	235	286	337	421	472
Van Buren	235	286	337	421	472
Woodruff	235	286	337	421	472

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. 091889

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	578	701	826	1032	1156	Orange
Bakersfield, CA MSA	390	473	558	697	781	Kern
Chico, CA MSA	342	416	490	612	685	Butte
Fresno, CA MSA	355	433	509	636	713	Fresno
Los Angeles-Long Beach, CA PMSA	513	615	715	916	1035	Los Angeles
Merced, CA MSA	335	407	479	617	700	Merced
Modesto, CA MSA	374	454	536	671	750	Stanislaus
Oakland, CA PMSA	514	625	736	920	1030	Alameda, Contra Costa
Oxnard-Ventura, CA PMSA	493	600	706	882	989	Ventura
Redding, CA MSA	355	433	509	636	713	Shasta
Riverside-San Bernardino, CA PMSA	419	494	577	746	840	Riverside, San Bernardino
Sacramento, CA MSA	376	448	536	779	827	El Dorado, Placer, Sacramento, Yolo
Salinas-Seaside-Monterey, CA MSA	427	519	609	764	855	Monterey
San Diego, CA MSA	463	568	666	834	933	San Diego
San Francisco, CA PMSA	617	748	887	1104	1236	Marin, San Francisco, San Mateo
San Jose, CA PMSA	617	747	878	1098	1229	Santa Clara
Santa Barbara-Santa Maria-Lompoc, CA MSA	482	586	690	864	967	Santa Barbara
Santa Cruz, CA PMSA	552	670	790	987	1106	Santa Cruz
Santa Rosa-Petaluma, CA PMSA	486	589	695	869	973	Sonoma
Stockton, CA MSA	330	399	470	601	702	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	451	515	606	875	944	Napa, Solano
Visalia-Tulare-Porterville, CA MSA	331	404	475	689	754	Tulare
Yuba City, CA MSA	293	357	420	554	621	Sutter, Yuba

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alpine	390	473	558	697	781
Calaueras	390	473	558	697	781
Del Norte	355	433	509	636	713
Humboldt	367	445	525	656	736
Inyo	390	473	558	697	781
Lake	355	433	509	636	713
Madera	322	391	460	578	645
Mendocino	355	433	551	696	713
Mono	390	473	558	697	781
Plumas	326	396	466	582	654
San Luis Obispo	441	536	632	791	885
Siskiyou	326	396	466	582	654
Trinity	355	433	509	636	713

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Amador	390	473	558	697	781
Colusa	294	358	422	530	594
Glenn	294	358	422	530	594
Imperial	370	449	529	661	740
Kings	322	391	460	575	645
Lassen	326	396	466	582	654
Mariposa	390	473	558	697	781
Modoc	326	396	466	582	654
Nevada	437	532	625	782	875
San Benito	322	391	493	633	710
Sierra	437	532	625	782	875
Tehama	326	396	466	582	654
Tuolumne	390	473	558	697	781

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. 091889

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	361	439	517	646	724	Boulder
Colorado Springs, CO MSA	317	384	453	567	635	El Paso
Denver, CO PMSA	334	406	478	597	669	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	364	444	521	652	731	Larimer
Greeley, CO MSA	316	383	451	565	633	Weld
Pueblo, CO MSA	315	381	449	562	631	Pueblo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alamosa	315	381	449	562	631
Baca	274	331	384	481	540
Chaffee	349	423	497	623	698
Clear Creek	349	423	497	623	698
Costilla	315	381	449	562	631
Custer	349	423	497	623	698
Delores	315	381	449	562	631
Elbert	269	327	384	481	540
Garfield	395	480	566	708	792
Grand	416	503	592	741	831
Hinsdale	416	503	592	741	831
Jackson	416	503	592	741	831
Kit Carson	269	327	384	481	540
La Plata	350	420	495	618	694
Lincoln	274	331	384	481	540
Mesa	395	480	566	708	792
Moffat	395	480	566	708	792
Montrose	416	503	592	741	831
Otero	274	331	384	481	540
Park	349	423	497	623	698
Pitkin	416	503	592	741	831
Rio Blanco	395	480	566	708	792
Routt	416	503	592	741	831
San Juan	315	381	449	562	631
Sedgwick	269	327	384	481	540
Teller	349	423	497	623	698
Yuma	269	327	384	481	540

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Archuleta	315	381	449	562	631
Bent	274	331	384	481	540
Cheyenne	269	327	384	481	540
Conejos	315	381	449	562	631
Crowley	274	331	384	481	540
Delta	416	503	592	741	831
Eagle	416	503	592	741	831
Fremont	349	423	497	623	698
Gilpin	349	423	497	623	698
Gunnison	416	503	592	741	831
Huerfano	315	381	449	562	631
Kiowa	274	331	384	481	540
Lake	349	423	497	623	698
Las Animas	315	381	449	562	631
Logan	269	327	384	481	540
Mineral	315	381	449	562	631
Montezuma	315	381	449	562	631
Morgan	269	327	384	481	540
Ouray	416	503	592	741	831
Phillips	269	327	384	481	540
Prowers	274	331	384	481	540
Rio Grande	315	381	449	562	631
Saguache	315	381	449	562	631
San Miguel	416	503	592	741	831
Summit	416	503	592	741	831
Washington	269	327	384	481	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. 091889

C O N N E C T I C U T

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Bridgeport-Milford, CT PMSA	443	539	636	793	890	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	368	447	527	659	739	Hartford county towns of Bristol, Burlington Litchfield county towns of Plymouth
Danbury, CT PMSA	480	585	688	861	965	Fairfield county towns of Bethel, Brookfield, Danbury New Fairfield, Newtown, Redding, Ridgefield, Sherman Litchfield county towns of Bridgewater, New Milford
Hartford, CT PMSA	443	540	631	796	887	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	373	454	535	670	750	Middlesex county towns of Cromwell, Durham, East Hampton Haddam, Middlefield, Middletown, Portland
New Britain, CT PMSA	395	479	564	706	792	Hartford county towns of Berlin, New Britain, Plainville Southington
New Haven-Meriden, CT MSA	477	581	684	856	958	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	424	516	606	758	850	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	511	621	731	914	1025	Fairfield county towns of Norwalk, Weston, Westport Wilton
Stamford, CT PMSA	617	749	882	1103	1235	Fairfield county towns of Darien, Greenwich, New Canaan Stamford
Waterbury, CT MSA	384	466	549	686	769	Litchfield county towns of Bethlehem, Thomaston Watertown, Woodbury New Haven county towns of Middlebury, Naugatuck, Prospect Southbury, Waterbury, Wolcott

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. 091889

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

C O N N E C T I C U T continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	368	447	527	659	739	Hartland
Litchfield	408	495	582	729	817	Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent Litchfield, Morris, Norfolk, North Canaan, Roxbury Salisbury, Sharon, Torrington, Warren, Washington Winchester
Middlesex	457	554	652	816	913	Chester, Deep River, Essex, Old Saybrook, Westbrook
New London	326	398	468	586	657	Lebanon, Lyme, Voluntown
Tolland	442	537	631	791	886	Mansfield, Union
Windham	390	474	559	699	783	Ashford, Brooklyn, Chaplin, Eastford, Hampton, Killingly Plainfield, Pomfret, Putnam, Scotland, Sterling Thompson, Windham, Woodstock

D E L A W A R E

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Wilmington, DE-NJ-MD PMSA	397	475	565	707	840	New Castle

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Kent	325	394	464	580	650
Sussex	325	394	464	580	650

D I S T . O F C O L U M B I A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Washington, DC-MD-VA MSA	486	591	695	869	973	Washington

F L O R I D A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Bradenton, FL MSA	349	425	501	626	701	Manatee
Daytona Beach, FL MSA	338	410	482	604	677	Volusia
Fort Lauderdale-Hollywood-Pompano Beach, FL PMSA	415	504	593	742	830	Broward
Fort Myers-Cape Coral, FL MSA	360	436	513	643	721	Lee
Fort Pierce, FL MSA	360	436	513	643	721	Martin, St Lucie
Fort Walton Beach, FL MSA	240	291	342	429	480	Okaloosa
Gainesville, FL MSA	304	370	435	545	609	Alachua, Bradford
Jacksonville, FL MSA	318	386	456	569	639	Clay, Duval, Nassau, St Johns
Lakeland-Winter Haven, FL MSA	286	349	411	514	576	Polk
Melbourne-Titusville-Palm Bay, FL MSA	329	394	465	582	652	Brevard
Miami-Hialeah, FL PMSA	396	482	568	709	794	Dade
Naples, FL MSA	369	447	527	660	739	Collier

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. 091889

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	286	369	408	510	571	Marion
Orlando, FL MSA	351	428	503	612	684	Orange, Osceola, Seminole
Panama City, FL MSA	254	310	366	458	511	Bay
Pensacola, FL MSA	284	347	408	510	571	Escambia, Santa Rosa
Sarasota, FL MSA	378	460	542	676	759	Sarasota
Tallahassee, FL MSA	300	364	429	537	600	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	342	416	490	611	685	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton-Delray Beach, FL MSA	367	438	510	624	687	Palm Beach

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	232	280	330	413	464
Charlotte	347	423	498	621	697
Columbia	238	289	339	425	476
Dixie	212	260	306	382	429
Franklin	196	238	279	350	392
Glades	347	423	498	621	697
Hamilton	212	260	306	382	429
Hendry	347	423	498	621	697
Holmes	228	276	326	408	457
Jackson	204	247	291	365	409
Lafayette	212	260	306	382	429
Levy	265	323	379	474	531
Madison	212	260	306	382	429
Okeechobee	249	303	357	446	501
Sumter	265	321	379	474	531
Taylor	212	260	306	382	429
Wakulla	226	274	323	405	452
Washington	228	278	327	410	458

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Calhoun	196	238	279	350	392
Citrus	265	321	379	474	531
De Soto	249	303	357	446	501
Flagler	268	324	382	478	537
Gilchrist	212	260	306	382	429
Gulf	196	238	279	350	392
Hardee	249	303	357	446	501
Highlands	249	303	357	446	501
Indian River	360	436	513	643	721
Jefferson	196	238	279	350	392
Lake	279	339	398	500	560
Liberty	196	238	279	350	392
Monroe	408	495	655	783	851
Putnam	268	324	382	478	537
Suwannee	212	260	306	382	429
Union	212	260	306	382	429
Walton	267	323	381	477	535

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	263	318	376	471	527	Dougherty, Lee
Athens, GA MSA	272	332	390	487	546	Clarke, Jackson, Madison, Oconee
Atlanta, GA MSA	379	460	540	675	755	Barrow, Butts, Cherokee, Clayton, Cobb, Coweta, De Kalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding, Walton
Augusta, GA-SC MSA	277	334	390	487	546	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	295	359	422	528	593	Catoosa, Dade, Walker
Columbus, GA-AL MSA	245	295	349	437	492	Chattahoochee, Columbus

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. 091889

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	273	334	394	492	548	Bibb, Houston, Jones, Peach
Savannah, GA MSA	277	337	397	496	556	Chatham, Effingham

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Appling	227	276	326	407	456
Bacon	213	259	304	381	428
Baldwin	216	263	309	387	434
Barton	230	280	331	413	464
Berrien	225	273	321	403	450
Brantley	213	259	304	381	428
Bryan	262	304	360	449	504
Burke	217	264	310	390	436
Camden	251	304	360	449	504
Carroll	262	316	372	466	520
Chattooga	230	280	331	413	464
Clinch	213	259	304	381	428
Colquitt	219	267	313	392	439
Crawford	184	224	263	330	368
Dawson	207	255	297	369	410
Dodge	221	270	313	393	434
Early	221	270	313	393	439
Elbert	209	254	299	375	420
Evans	227	276	326	407	456
Floyd	230	280	331	413	464
Gilmer	246	299	351	440	494
Glynn	251	304	360	449	504
Grady	221	270	313	393	439
Habersham	229	278	329	410	460
Hancock	221	270	313	393	434
Harris	224	273	316	394	439
Heard	243	296	348	436	488
Jasper	221	270	313	393	434
Jefferson	217	264	310	390	436
Johnson	221	270	313	393	434
Lanier	225	273	321	403	450
Liberty	251	304	360	449	504
Long	251	304	360	449	504
Lumpkin	207	255	297	369	410
Macon	221	270	313	393	439
Meriwether	243	296	348	436	488

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Atkinson	213	259	304	381	428
Baker	221	270	313	393	439
Banks	204	249	293	366	410
Ben Hill	225	273	321	403	450
Bleckley	221	270	313	393	434
Brooks	225	273	321	403	450
Bulloch	227	276	326	407	456
Calhoun	221	270	313	393	439
Candler	227	276	326	407	456
Charlton	221	269	313	386	428
Clay	221	270	313	393	439
Coffee	213	259	304	381	428
Cook	225	273	321	403	450
Crisp	219	267	313	392	439
Decatur	221	270	313	393	439
Dooly	221	270	313	393	439
Echols	225	273	321	403	450
Emanuel	217	264	310	390	436
Fannin	246	299	351	440	494
Franklin	204	249	293	366	410
Glascock	217	264	310	390	436
Gordon	230	280	331	413	464
Greene	207	251	296	370	414
Hall	295	354	421	525	592
Haralson	230	280	331	413	464
Hart	204	249	293	366	410
Irwin	225	273	321	403	450
Jeff Davis	227	276	326	407	456
Jenkins	217	264	310	390	436
Lamar	203	246	291	364	407
Laurens	216	263	309	387	434
Lincoln	217	264	310	390	436
Lowndes	225	273	321	403	450
Mcintosh	251	304	360	449	504
Marion	224	273	316	394	439
Miller	221	270	313	393	439

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GEORGIA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Mitchell	221	270	313	393	439
Montgomery	224	274	321	396	439
Murray	246	299	351	440	494
Pickens	246	299	351	440	494
Pike	203	246	291	364	407
Pulaski	221	270	313	393	434
Quitman	219	267	313	392	439
Randolph	221	270	313	393	439
Screven	224	274	321	396	439
Stephens	240	295	344	432	481
Sumter	245	300	354	442	497
Taliaferro	217	264	310	390	436
Taylor	221	270	313	393	439
Terrell	221	270	313	393	439
Tift	225	273	321	403	450
Towns	207	255	297	369	410
Troup	249	300	352	439	490
Twiggs	184	224	263	330	368
Upson	203	246	291	364	407
Warren	217	264	310	390	436
Wayne	227	276	326	407	456
Wheeler	221	270	313	393	434
Whitfield	246	299	351	440	494
Wilkes	217	264	310	390	436
Worth	221	270	313	393	439

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Monroe	184	224	263	330	368
Morgan	207	251	296	370	414
Oglethorpe	207	251	296	370	414
Pierce	213	259	304	381	428
Polk	230	282	331	413	464
Putnam	221	270	313	393	434
Rabun	207	255	297	369	410
Schley	224	273	316	394	439
Seminole	221	270	313	393	439
Stewart	224	273	316	394	439
Talbot	219	267	313	392	439
Tattnall	227	276	326	407	456
Telfair	221	270	313	393	434
Thomas	256	310	366	460	514
Toombs	227	276	326	407	456
Treutlen	221	270	313	393	434
Turner	225	273	321	403	450
Union	207	255	297	369	410
Ware	213	259	304	381	428
Washington	221	270	313	393	434
Webster	224	273	316	394	439
White	207	255	297	369	410
Wilcox	221	270	313	393	434
Wilkinson	221	270	313	393	434

HAWAII

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Honolulu, HI MSA	454	552	649	817	915	Honolulu

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hawaii	435	527	619	776	869
Maui	513	623	733	916	1026
Kauai	542	659	775	969	1085

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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	367	447	526	658	737	Ada

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	286	349	410	512	575
Bear Lake	297	361	425	533	597
Bingham	299	364	425	533	597
Boise	286	349	410	512	575
Bonneville	321	389	459	574	643
Butte	321	389	459	574	643
Canyon	286	349	410	512	575
Cassia	304	369	435	544	610
Clearwater	297	361	425	533	597
Elmore	286	349	410	512	575
Fremont	321	389	459	574	643
Gooding	304	369	435	544	610
Jefferson	321	389	459	574	643
Kootenai	297	361	425	533	597
Lemhi	321	389	459	574	643
Lincoln	304	369	435	544	610
Minidoka	304	369	435	544	610
Oneida	297	361	425	533	597
Payette	286	349	410	512	575
Shoshone	297	361	425	533	597
Twin Falls	304	369	435	544	610
Washington	286	349	410	512	575

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bannock	299	364	425	533	597
Benewah	297	361	425	533	597
Blaine	304	369	435	544	610
Bonner	297	361	425	533	597
Boundary	297	361	425	533	597
Camas	304	369	435	544	610
Caribou	299	364	425	533	597
Clark	321	389	459	574	643
Custer	321	389	459	574	643
Franklin	297	361	425	533	597
Gem	286	349	410	512	575
Idaho	297	361	425	533	597
Jerome	304	369	435	544	610
Latah	297	361	425	533	597
Lewis	297	361	425	533	597
Madison	321	389	459	574	643
Nez Perce	297	361	425	533	597
Owyhee	286	349	410	512	575
Power	299	364	425	533	597
Teton	321	389	459	574	643
Valley	286	349	410	512	575

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	429	523	617	770	865	Kane, Kendall
Bloomington-Normal, IL MSA	314	383	450	562	630	Mclean
Champaign-Urbana-Rantoul, IL MSA	305	370	437	548	612	Champaign
Chicago, IL PMSA	420	517	604	760	850	Cook, Du Page, Mchenry
Davenport-Rock Island-Moline, IA-IL MSA	335	407	479	598	670	Henry, Rock Island
Decatur, IL MSA	305	370	437	548	612	Macon
Joliet, IL PMSA	433	527	623	778	874	Grundy, Will
Kankakee, IL MSA	302	366	432	540	606	Kankakee
Lake County, IL PMSA	444	540	634	796	891	Lake
Peoria, IL MSA	354	430	505	633	708	Peoria, Tazewell, Woodford

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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	321	391	460	574	643	Boone, Winnebago
St. Louis, MO-IL MSA	315	384	452	568	636	Clinton, Jersey, Madison, Monroe, St Clair
Springfield, IL MSA	322	392	461	576	645	Menard, Sangamon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	239	290	342	428	479
Bond	262	321	376	471	528
Bureau	291	355	419	523	586
Carroll	270	328	388	485	542
Christian	277	335	395	495	555
Clay	247	299	354	441	496
Cranford	247	299	354	441	496
De Kalb	352	427	503	628	704
Douglas	262	321	376	471	528
Edwards	239	290	342	428	479
Fayette	247	299	354	441	496
Franklin	280	338	400	501	561
Gallatin	221	268	318	396	443
Hamilton	239	290	342	428	479
Hardin	221	268	318	396	443
Iroquois	275	332	392	492	551
Jasper	247	299	354	441	496
Jo Daviess	270	328	388	485	542
Knox	284	345	404	507	569
Lawrence	247	299	354	441	496
Livingston	275	332	392	492	551
Mcdonough	262	320	372	464	516
Marion	247	299	354	441	496
Mason	275	329	390	482	536
Mercer	256	312	366	460	516
Morgan	275	329	390	482	536
Ogle	270	328	388	485	542
Piatt	262	321	376	471	528
Pope	221	268	318	396	443
Putnam	291	355	419	523	586
Richland	247	299	354	441	496
Schuyler	239	290	342	428	479
Shelby	277	335	395	495	555
Stephenson	270	328	388	485	542
Vermilion	275	332	392	492	551

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alexander	221	268	318	396	443
Brown	239	290	342	428	479
Calhoun	267	325	384	478	536
Cass	275	329	390	482	536
Clark	262	321	376	471	528
Coles	262	321	376	471	528
Cumberland	262	321	376	471	528
De Witt	262	321	376	471	528
Edgar	262	321	376	471	528
Effingham	247	299	354	441	496
Ford	275	332	392	492	551
Fulton	291	355	419	523	586
Greene	267	325	384	478	536
Hancock	256	312	366	460	516
Henderson	256	312	366	460	516
Jackson	280	338	400	501	561
Jefferson	269	326	389	485	540
Johnson	221	268	318	396	443
La Salle	330	401	472	592	663
Lee	330	401	472	592	663
Logan	275	329	390	482	536
Macoupin	277	335	395	495	555
Marshall	291	355	419	523	586
Massac	221	268	318	396	443
Montgomery	277	335	395	495	555
Moultrie	277	335	395	495	555
Perry	262	321	376	471	528
Pike	239	290	342	428	479
Pulaski	221	268	318	396	443
Randolph	262	321	376	471	528
Saline	221	268	318	396	443
Scott	275	329	390	482	536
Stark	291	355	419	523	586
Union	221	268	318	396	443
Wabash	239	290	342	428	479

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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	262	320	372	464	516
Wayne	239	290	342	428	479
Whiteside	330	401	472	592	663
Washington	262	321	376	471	528
White	239	290	342	428	479
Williamson	280	338	400	501	561

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	261	318	373	468	525	Madison
Bloomington, IN MSA	282	343	404	506	566	Monroe
Cincinnati, OH-KY-IN PMSA	309	376	442	552	619	Dearborn
Elkhart-Goshen, IN MSA	276	334	394	493	553	Elkhart
Evansville, IN-KY MSA	290	345	405	508	568	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	290	350	408	512	568	Allen, De Kalb, Whitley
Gary-Hammond, IN PMSA	344	417	491	615	689	Lake, Porter
Indianapolis, IN MSA	292	359	421	529	591	Boone, Hamilton, Hancock, Hendricks, Johnson, Marion Morgan, Shelby
Kokomo, IN MSA	287	351	411	516	577	Howard, Tipton
Lafayette-West Lafayette, IN MSA	304	370	435	544	610	Tippecanoe
Louisville, KY-IN MSA	263	319	374	467	523	Clark, Floyd, Harrison
Muncie, IN MSA	250	302	355	441	493	Delaware
South Bend-Mishawaka, IN MSA	284	344	401	498	555	St Joseph
Terre Haute, IN MSA	258	314	366	455	506	Clay, Vigo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	256	311	362	453	508
Benton	245	299	353	441	493
Brown	289	353	415	520	582
Cass	254	310	364	455	511
Crawford	212	258	303	381	427
Decatur	289	353	415	520	582
Fayette	249	301	353	441	493
Franklin	249	301	353	441	493
Gibson	276	334	394	493	553
Greene	239	289	343	429	480
Huntington	253	309	362	453	508
Jasper	256	312	366	459	515
Jefferson	276	334	394	493	553
Knox	245	295	343	429	480
Lagrange	263	319	375	470	527
Lawrence	266	324	382	478	534
Bartholomew	289	353	415	520	582
Blackford	232	282	332	415	466
Carroll	245	299	353	441	493
Clinton	245	299	353	441	493
Daviess	239	289	343	429	480
Dubois	212	258	303	381	427
Fountain	245	299	353	441	493
Fulton	246	298	351	442	493
Grant	232	282	332	415	466
Henry	232	282	332	415	466
Jackson	289	353	415	520	582
Jay	232	282	332	415	466
Jennings	289	353	415	520	582
Kosciusko	267	323	380	468	523
La Porte	279	339	398	498	560
Marshall	256	312	366	459	515

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. 091889

I N D I A N A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Martin	239	289	343	429	480
Montgomery	245	299	353	441	493
Noble	262	319	375	470	527
Orange	212	258	303	381	427
Parke	245	299	353	441	493
Pike	276	334	394	493	553
Putnam	277	317	396	495	554
Ripley	276	334	394	493	553
Scott	263	320	377	472	529
Starke	256	312	366	459	515
Sullivan	245	299	353	441	493
Union	249	301	353	441	493
Wabash	238	288	340	427	478
Washington	284	346	407	510	571
Wells	259	312	363	455	508

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Miami	254	310	364	455	511
Newton	256	312	366	459	515
Ohio	276	334	394	493	553
Owen	281	342	401	503	564
Perry	212	258	303	381	427
Pulaski	256	312	366	459	515
Randolph	232	282	332	415	466
Rush	245	299	353	441	493
Spencer	212	258	303	381	427
Steuben	262	319	375	470	527
Switzerland	276	334	394	493	553
Vermillion	254	309	360	448	496
Warren	245	299	353	441	493
Wayne	250	302	355	441	493
White	245	299	353	441	493

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	326	394	464	582	653	Linn
Davenport-Rock Island-Moline, IA-IL MSA	335	407	479	598	670	Scott
Des Moines, IA MSA	323	393	463	581	650	Dallas, Polk, Warren
Dubuque, IA MSA	301	364	429	537	601	Dubuque
Iowa City, IA MSA	341	415	488	611	684	Johnson
Omaha, NE-IA MSA	296	359	422	529	594	Pottawattamie
Sioux City, IA-NE MSA	293	356	419	524	588	Woodbury
Waterloo-Cedar Falls, IA MSA	327	395	466	584	655	Black Hawk, Bremer

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	246	300	352	442	494
Allamakee	260	315	373	466	522
Audubon	261	317	375	468	524
Boone	298	360	424	531	595
Buena Vista	256	310	366	457	514
Calhoun	261	317	375	468	524
Cass	268	326	382	479	537
Cerro Gordo	258	313	370	462	518
Chickasaw	260	315	373	466	522
Clay	256	310	366	457	514
Clinton	291	352	416	520	584

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	246	300	352	442	494
Appanoose	246	300	352	442	494
Benton	255	309	364	456	511
Buchanan	260	315	373	466	522
Butler	260	315	373	466	522
Carroll	261	317	375	468	524
Cedar	291	352	416	520	584
Cherokee	261	317	375	468	524
Clarke	246	300	352	442	494
Clayton	260	315	373	466	522
Crawford	261	317	375	468	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. 091889

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	246	300	352	442	494
Delaware	291	352	416	520	584
Dickinson	256	310	366	457	514
Fayette	260	315	373	466	522
Franklin	258	313	370	462	518
Greene	261	317	375	468	524
Guthrie	261	317	375	468	524
Hancock	258	313	370	462	518
Harrison	268	326	382	479	537
Howard	260	315	373	466	522
Ida	261	317	375	468	524
Jackson	291	352	416	520	584
Jefferson	272	331	388	487	546
Keokuk	256	310	366	457	513
Lee	273	333	391	489	549
Lucas	246	300	352	442	494
Madison	275	336	394	493	553
Marion	275	336	394	493	553
Mills	268	326	382	479	537
Monona	261	317	375	468	524
Montgomery	268	326	382	479	537
O Brien	256	310	366	457	514
Page	268	326	382	479	537
Plymouth	261	317	375	468	524
Poweshiek	271	330	387	485	545
Sac	261	317	375	468	524
Sioux	256	310	366	457	514
Tama	271	330	387	485	545
Union	246	300	352	442	494
Wapello	291	351	415	519	582
Wayne	246	300	352	442	494
Winnebago	258	313	370	462	518
Worth	258	313	370	462	518

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Decatur	246	300	352	442	494
Des Moines	273	333	391	489	549
Emmet	256	310	366	457	514
Floyd	258	313	370	462	518
Fremont	268	326	382	479	537
Grundy	260	315	373	466	522
Hamilton	261	317	375	468	524
Hardin	271	330	387	485	545
Henry	273	333	391	489	549
Humboldt	261	317	375	468	524
Iowa	255	309	364	456	511
Jasper	275	336	394	493	553
Jones	255	309	364	456	511
Kossuth	258	313	370	462	518
Louisa	273	333	391	489	549
Lyon	256	310	366	457	514
Mahaska	246	300	352	442	494
Marshall	271	330	387	485	545
Mitchell	258	313	370	462	518
Monroe	246	300	352	442	494
Muscatine	273	333	391	489	549
Osceola	256	310	366	457	514
Palo Alto	256	310	366	457	514
Pocahontas	261	317	375	468	524
Ringgold	246	300	352	442	494
Shelby	268	326	382	479	537
Story	298	360	424	531	595
Taylor	246	300	352	442	494
Van Buren	246	300	352	442	494
Washington	255	309	364	456	511
Webster	261	317	375	468	524
Winneshiek	260	315	373	466	522
Wright	261	317	375	468	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.

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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	309	375	441	551	617	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	328	398	469	586	657	Douglas
Topeka, KS MSA	297	362	424	533	595	Shawnee
Wichita, KS MSA	316	384	457	569	634	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	207	251	296	370	416
Atchison	239	290	342	428	479
Barton	240	292	344	430	481
Brown	239	290	342	428	479
Chautauqua	207	251	296	370	416
Cheyenne	209	254	299	375	420
Clay	261	318	375	469	524
Coffey	261	318	375	469	524
Cowley	207	251	296	370	416
Decatur	209	254	299	375	420
Doniphan	239	290	342	428	479
Elk	207	251	296	370	416
Ellsworth	259	315	371	466	520
Ford	246	299	352	441	495
Geary	261	318	375	469	524
Graham	209	254	299	375	420
Gray	246	299	352	441	495
Greenwood	261	318	375	469	524
Harper	240	292	344	430	481
Hodgeman	246	299	352	441	495
Jefferson	227	276	325	405	455
Kearny	246	299	352	441	495
Kiowa	240	292	344	430	481
Lane	246	299	352	441	495
Linn	207	251	296	370	416
Lyon	261	318	375	469	524
Marion	261	318	375	469	524
Meade	246	299	352	441	495
Montgomery	219	267	314	394	441
Morton	246	299	352	441	495
Neosho	219	267	314	394	441
Norton	209	254	299	375	420
Osborne	209	254	299	375	420
Pawnee	240	292	344	430	481

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson	207	251	296	370	416
Barber	240	292	344	430	481
Bourbon	207	251	296	370	416
Chase	261	318	375	469	524
Cherokee	219	267	314	394	441
Clark	246	299	352	441	495
Cloud	259	315	371	466	520
Comanche	240	292	344	430	481
Crawford	219	267	314	394	441
Dickinson	261	318	375	469	524
Edwards	240	292	344	430	481
Ellis	209	254	299	375	420
Finney	246	299	352	441	495
Franklin	227	275	324	404	453
Gove	209	254	299	375	420
Grant	246	299	352	441	495
Greeley	246	299	352	441	495
Hamilton	246	299	352	441	495
Haskell	246	299	352	441	495
Jackson	239	290	342	428	479
Jewell	259	315	371	466	520
Kingman	240	292	344	430	481
Labette	219	267	314	394	441
Lincoln	259	315	371	466	520
Logan	209	254	299	375	420
Mcpherson	276	335	396	495	553
Marshall	261	318	375	469	524
Mitchell	259	315	371	466	520
Morris	261	318	375	469	524
Nemaha	239	290	342	428	479
Ness	246	299	352	441	495
Osage	227	276	325	405	455
Ottawa	259	315	371	466	520
Phillips	209	254	299	375	420

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

K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Pottawatomie	261	318	375	469	524
Rawlins	209	254	299	375	420
Republic	259	315	371	466	520
Riley	261	318	375	469	524
Rush	240	292	344	430	481
Saline	259	315	371	466	520
Seward	246	299	352	441	495
Sherman	209	254	299	375	420
Stafford	240	292	344	430	481
Stevens	246	299	352	441	495
Thomas	209	254	299	375	420
Wabaunsee	261	318	375	469	524
Washington	259	315	371	466	520
Wilson	207	251	296	370	416

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Pratt	240	292	344	430	481
Reno	276	335	396	495	553
Rice	276	335	396	495	553
Rooks	209	254	299	375	420
Russell	209	254	299	375	420
Scott	246	299	352	441	495
Sheridan	209	254	299	375	420
Smith	209	254	299	375	420
Stanton	246	299	352	441	495
Sumner	240	292	344	430	481
Trego	209	254	299	375	420
Wallace	209	254	299	375	420
Wichita	246	299	352	441	495
Woodson	207	251	296	370	416

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	309	376	442	552	619	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	273	343	430	522	580	Christian
Evansville, IN-KY MSA	290	345	405	508	568	Henderson
Huntington-Ashland, WV-KY-OH MSA	292	354	418	523	588	Boyd, Carter, Greenup
Lexington-Fayette, KY MSA	305	371	436	547	612	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN MSA	263	319	374	467	523	Bullitt, Jefferson, Oldham, Shelby
Owensboro, KY MSA	239	290	342	427	479	Daviess

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	225	274	319	394	441
Anderson	280	342	402	502	562
Barren	239	290	343	427	481
Bell	243	297	349	436	490
Bracken	225	273	321	403	451
Breckinridge	221	270	316	396	443
Caldwell	240	292	346	432	484
Carlisle	230	279	328	411	461
Casey	220	268	315	394	441
Clinton	225	274	319	394	441
Cumberland	225	274	319	394	441
Elliott	207	251	297	371	416
Fleming	225	273	321	403	451

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	189	230	271	338	379
Ballard	230	279	328	411	461
Bath	225	273	321	403	451
Boyle	273	330	390	487	546
Breathitt	231	280	330	413	463
Butler	189	230	271	338	379
Calloway	230	279	328	411	461
Carroll	231	281	330	414	463
Clay	207	251	296	370	415
Crittendon	240	292	346	432	484
Edmonson	189	230	271	338	379
Estill	273	330	390	487	546
Floyd	244	298	350	438	492

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 091889

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Franklin	280	342	402	502	562
Gallatin	231	281	330	414	463
Grant	231	281	330	414	463
Grayson	221	270	316	396	443
Hancock	233	283	334	418	467
Harlan	243	297	349	436	490
Hart	189	230	271	338	379
Hickman	230	279	328	411	461
Jackson	207	251	296	370	415
Knott	231	280	330	413	463
Larue	221	270	316	396	443
Lawrence	207	251	297	371	416
Leslie	231	280	330	413	463
Lewis	225	273	321	403	451
Livingston	208	252	298	372	417
Lyon	208	252	298	372	417
Mccreary	225	274	319	394	441
Madison	273	330	393	487	546
Marion	221	270	316	396	443
Martin	244	298	350	438	492
Meade	250	305	359	449	503
Mercer	280	342	402	502	562
Monroe	189	230	271	338	379
Morgan	225	274	321	403	451
Nelson	221	270	316	396	443
Ohio	233	283	334	418	467
Owsley	231	280	330	413	463
Perry	231	280	330	413	463
Powell	203	246	290	364	409
Robertson	225	273	321	403	451
Rowan	225	273	321	403	451
Simpson	241	294	347	434	486
Taylor	225	274	319	394	441
Trigg	208	252	298	372	417
Union	233	283	334	418	467
Washington	221	270	316	396	443
Webster	233	283	334	418	467
Wolfe	231	280	330	413	463

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Fulton	230	279	328	411	461
Garrard	273	330	390	487	546
Graves	230	279	328	411	461
Green	225	274	319	394	441
Hardin	250	305	359	449	503
Harrison	245	273	350	438	491
Henry	206	250	294	369	413
Hopkins	240	292	346	432	484
Johnson	244	298	350	438	492
Knox	240	290	340	425	475
Laurel	207	289	364	378	415
Lee	231	280	330	413	463
Letcher	231	280	330	413	463
Lincoln	273	330	390	487	546
Logan	241	294	347	434	486
Mccracken	240	282	333	411	461
Mclean	233	283	334	418	467
Magoffin	244	298	350	438	492
Marshall	240	282	333	411	461
Mason	225	273	321	403	451
Menifee	225	274	321	403	451
Metcalfe	189	230	271	338	379
Montgomery	225	273	321	403	451
Muhlenberg	240	292	346	432	484
Nicholas	203	246	290	364	409
Owen	231	281	330	414	463
Pendleton	231	281	330	414	463
Pike	244	298	350	438	492
Pulaski	225	274	319	394	441
Rockcastle	207	251	296	370	415
Russell	220	268	315	394	441
Spencer	206	250	294	369	413
Todd	208	252	298	372	417
Trimble	206	250	294	369	413
Warren	241	294	347	434	486
Wayne	225	274	319	394	441
Whitley	243	297	349	436	490

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. 091889

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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	257	313	369	461	515	Rapides
Baton Rouge, LA MSA	324	392	462	577	647	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma-Thibodaux, LA MSA	286	347	409	511	573	Lafourche, Terrebonne
Lafayette, LA MSA	324	392	462	577	647	Lafayette, St Martin
Lake Charles, LA MSA	260	314	367	457	511	Calcasieu
Monroe, LA MSA	256	312	367	459	513	Ouachita
New Orleans, LA MSA	339	412	485	606	680	Jefferson, Orleans, St Bernard, St Charles, St John The St Tammany
Shreveport, LA MSA	291	353	418	522	585	Bossier, Caddo

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Acadia	221	270	318	396	445
Assumption	192	233	273	342	384
Beauregard	176	215	254	319	356
Caldwell	201	243	287	353	395
Catahoula	218	265	314	392	439
Concordia	218	265	314	392	439
East Carroll	175	214	252	316	352
Evangeline	212	257	302	380	425
Grant	218	265	314	392	439
Iberville	184	223	262	329	369
Jefferson Davis	176	215	254	319	356
Lincoln	228	279	328	409	459
Morehouse	175	214	252	316	352
Plaquemines	322	389	459	574	642
Red River	228	279	328	409	459
Sabine	228	279	328	409	459
St James	192	233	273	342	384
St Mary	261	320	375	469	525
Tensas	175	214	252	316	352
Vermilion	221	270	318	396	445
Washington	207	252	296	371	416
West Carroll	175	214	252	316	352
Winn	218	265	314	392	439

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allen	176	215	254	319	356
Avoyelles	218	265	314	392	439
Bienville	228	279	328	409	459
Cameron	176	215	254	319	356
Claiborne	228	279	328	409	459
De Soto	228	279	328	409	459
E Feliciana	184	223	262	329	369
Franklin	175	214	252	316	352
Iberia	261	320	375	469	525
Jackson	175	214	252	316	352
La Salle	218	265	314	392	439
Madison	175	214	252	316	352
Natchitoches	228	279	328	409	459
Pointe Coupee	184	223	262	329	369
Richland	175	214	252	316	352
St Helena	184	223	262	329	369
St Landry	212	257	302	380	425
Tangipahoa	207	252	296	371	416
Union	175	214	252	316	352
Vernon	218	265	314	392	439
Webster	198	241	284	354	397
W Feliciana	184	223	262	329	369

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. 091889

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	327	398	468	586	657	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	344	410	463	518	589	Androscoggin county towns of Auburn, Greene, Lewiston Lisbon, Mechanic Falls, Poland, Sabattus
Portland, ME MSA	402	511	647	725	872	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	433	527	618	774	867	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	299	353	417	511	565	Durham, Leeds, Livermore, Livermore Falls, Minot, Turner Wales
Aroostook	304	369	436	544	610	
Cumberland	337	409	481	598	665	Baldwin, Bridgton, Brunswick, Casco, Harpswell, Harrison Naples, New Gloucester, Pownal, Sebago
Franklin	317	359	427	505	573	
Hancock	319	380	444	555	619	
Kennebec	319	388	457	573	640	
Knox	308	375	441	553	619	
Lincoln	304	368	435	544	609	
Oxford	317	359	427	505	573	
Penobscot	314	380	441	553	619	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	262	319	376	473	528	
Sagadahoc	348	469	505	589	691	
Somerset	304	368	435	544	609	
Waldo	308	375	441	553	619	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. 091889

M A I N E continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Washington	308	375	441	553	619	
York	385	454	573	589	715	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	368	448	527	659	739	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Annes, Baltimore
Columbia, MD MSA	461	560	659	823	923	Columbia
Cumberland, MD-WV MSA	268	319	373	461	515	Allegany
Hagerstown, MD MSA	299	364	429	537	600	Washington
Washington, DC-MD-VA MSA	486	591	695	869	973	Calvert, Charles, Frederick, Montgomery, Prince George'S
Wilmington, DE-NJ-MD PMSA	397	475	565	707	840	Cecil

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Caroline	283	339	399	501	561
Garrett	269	327	385	480	539
St Marys	373	451	526	659	730
Talbot	324	393	463	580	648
Worcester	292	357	416	520	583
Dorchester	290	352	416	520	583
Kent	295	360	423	530	593
Somerset	290	352	416	520	583
Wicomico	345	422	495	521	583

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	567	689	810	1013	1134	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

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. 091889

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	440	531	666	808	906	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	383	457	549	636	702	Bristol county towns of Fall River, Somerset, Swansea Westport
Fitchburg-Leominster, MA MSA	420	508	600	750	841	Middlesex county towns of Ashby Worcester county towns of Ashburnham, Fitchburg Leominster, Lunenburg, Westminster
Lawrence-Haverhill, MA-NH PMSA	470	572	686	784	872	Essex county towns of Amesbury, Andover, Boxford Georgetown, Groveland, Haverhill, Lawrence, Merrimac Methuen, Newbury, Newburyport, North Andover, Salisbury West Newbury
Lowell, MA-NH PMSA	452	550	642	778	887	Middlesex county towns of Billerica, Chelmsford, Dracut Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough Westford
New Bedford, MA MSA	391	439	520	636	702	Bristol county towns of Acushnet, Dartmouth, Fairhaven Freetown, New Bedford Plymouth county towns of Marion, Mattapoisett, Rochester
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA	372	450	530	650	743	Bristol county towns of Attleboro, North Attleborough Rehoboth, Seekonk Norfolk county towns of Plainville Worcester county towns of Blackstone, Millville
Pittsfield, MA MSA	388	471	550	684	772	Berkshire county towns of Cheshire, Dalton, Hinsdale Lanesborough, Lee, Lenox, Pittsfield, Richmond Stockbridge
Salem-Gloucester, MA PMSA	499	606	713	891	999	Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham
Springfield, MA MSA	422	513	603	754	844	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	402	495	580	728	812	Worcester county towns of Auburn, Barre, Boylston Brookfield, Charlton, Clinton, Douglas, Dudley East Brookfield, Grafton, Holden, Leicester, Millbury

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. 091889

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	520	641	734	917	1029	
Berkshire	341	415	488	611	684	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	378	457	539	647	720	Berkley, Dighton, Taunton
Dukes	520	641	734	917	1029	
Franklin	397	471	549	691	769	
Hampden	357	434	510	639	716	Blandford, Brimfield, Chester, Granville, Holland Tolland, Wales
Hampshire	464	539	660	795	923	Amherst, Chesterfield, Cummington, Goshen, Hadley Hatfield, Middlefield, Pelham, Plainfield, Ware Westhampton, Williamsburg, Worthington
Nantucket	520	641	734	917	1029	
Plymouth	403	490	576	700	807	Wareham
Worcester	378	446	539	660	734	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	401	488	575	719	806	Washtenaw
Battle Creek, MI MSA	272	331	388	488	547	Calhoun
Benton Harbor, MI MSA	303	369	432	541	606	Berrien
Detroit, MI PMSA	338	411	483	604	676	Lapeer, Livingston, Macomb, Monroe, Oakland, St Clair Wayne
Flint, MI MSA	287	348	412	515	576	Genesee
Grand Rapids, MI MSA	322	395	463	578	653	Kent, Ottawa
Jackson, MI MSA	300	363	428	535	599	Jackson
Kalamazoo, MI MSA	312	376	442	544	606	Kalamazoo
Lansing-East Lansing, MI MSA	328	393	460	572	639	Clinton, Eaton, Ingham
Muskegon, MI MSA	266	323	381	477	534	Muskegon
Saginaw-Bay City-Midland, MI MSA	296	357	419	525	588	Bay, Midland, Saginaw

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. 091889

M I C H I G A N continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcona	237	290	341	427	478
Allegan	275	336	394	493	553
Antrim	298	360	424	531	595
Baraga	243	295	347	435	488
Benzie	298	360	424	531	595
Cass	270	328	385	483	541
Cheboygan	237	290	341	427	478
Clare	261	317	375	468	524
Delta	234	285	337	420	471
Emmet	298	360	424	531	595
Gogebic	243	295	347	435	488
Gratiot	299	362	426	534	597
Houghton	273	332	391	488	588
Ionia	278	337	396	494	553
Iron	243	295	347	435	488
Kalkaska	298	360	424	531	595
Lake	273	333	391	489	549
Lenawee	296	358	422	529	593
Mackinac	234	285	337	420	471
Marquette	298	360	424	531	595
Mecosta	273	333	391	489	549
Missaukee	298	360	424	531	595
Montmorency	237	290	341	427	478
Oceana	265	321	379	475	531
Ontonagon	243	295	347	435	488
Oscoda	237	290	341	427	478
Presque Isle	237	290	341	427	478
St Joseph	277	338	398	498	557
Schoolcraft	234	285	337	420	471
Tuscola	268	326	382	479	537
Wexford	298	360	424	531	595

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alger	234	285	337	420	471
Alpena	237	290	341	427	478
Arenac	261	317	375	468	524
Barry	277	338	398	498	557
Branch	277	338	398	498	557
Charlevoix	298	360	424	531	595
Chippewa	234	285	337	420	471
Crawford	237	290	341	427	478
Dickinson	243	308	363	454	510
Gladwin	261	317	375	468	524
Grand Traverse	298	360	424	531	595
Hillsdale	296	358	422	529	593
Huron	268	326	382	479	537
Iosco	261	317	375	468	524
Isabella	299	362	426	534	597
Keweenaw	243	295	347	435	488
Leelanau	298	360	424	531	595
Luce	234	285	337	420	471
Manistee	298	360	424	531	595
Mason	273	333	391	489	549
Menominee	298	360	424	531	595
Montcalm	275	336	394	493	553
Newaygo	273	333	391	489	549
Ogemaw	261	317	375	468	524
Osceola	273	333	391	489	549
Otsewo	237	290	341	427	478
Roscommon	261	317	375	468	524
Sanilac	268	326	382	479	537
Shiawassee	295	357	421	526	591
Van Buren	270	328	385	483	541

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	304	362	427	535	600	St Louis
Fargo-Moorhead, ND-MN MSA	304	370	434	545	611	Clay
Minneapolis-St. Paul, MN-WI MSA	375	455	540	675	753	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. 091889

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	322	391	461	576	645	Olmsted
St. Cloud, MN MSA	307	373	439	551	615	Benton, Sherburne, Stearns

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aitkin	276	336	395	495	555
Beltrami	265	322	379	473	532
Blue Earth	307	372	431	533	590
Carlton	278	338	395	495	555
Chippewa	245	299	352	441	493
Cook	276	336	395	495	555
Crow Wing	259	314	393	487	541
Douglas	275	335	393	493	553
Fillmore	254	309	365	456	509
Goodhue	265	322	376	468	524
Houston	254	309	365	456	509
Itasca	278	338	395	495	555
Kanabec	276	336	395	495	555
Kittson	265	322	379	473	532
Lac Qui Parle	245	299	352	441	493
Lake Of The Woods	265	322	379	473	532
Lincoln	253	305	357	444	494
Mcleod	289	352	414	519	579
Marshall	265	322	379	473	532
Meeker	289	352	414	519	579
Morrison	259	314	371	464	520
Murray	253	305	357	444	494
Nobles	253	305	357	444	494
Otter Tail	275	335	393	493	553
Pine	276	336	395	495	555
Polk	265	322	379	473	532
Red Lake	265	322	379	473	532
Renville	289	352	414	519	579
Rock	253	305	357	444	494
Sibley	287	350	410	513	575
Stevens	275	335	393	493	553
Todd	259	314	371	464	520
Wabasha	265	322	376	468	524
Waseca	261	318	374	468	524
Wilkin	275	335	393	493	553
Yellow Medicine	245	299	352	441	493

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Becker	275	335	393	493	553
Big Stone	245	299	352	441	493
Brown	261	318	374	468	524
Cass	259	314	371	464	520
Clearwater	265	322	379	473	532
Cottonwood	245	299	352	441	493
Dodge	249	302	355	444	498
Faribault	261	318	374	468	524
Freeborn	300	365	430	537	602
Grant	275	335	393	493	553
Hubbard	265	322	379	473	532
Jackson	253	305	357	444	494
Kandiyohi	289	352	414	519	579
Koochiching	276	336	395	495	555
Lake	276	336	395	495	555
Le Sueur	287	350	410	513	575
Lyon	253	305	357	444	494
Mahnomen	265	322	379	473	532
Martin	261	318	374	468	524
Mille Lacs	276	336	395	495	555
Mower	254	309	365	456	509
Nicollet	287	350	410	513	575
Norman	265	322	379	473	532
Pennington	265	322	379	473	532
Pipestone	253	305	357	444	494
Pope	275	335	393	493	553
Redwood	245	299	352	441	493
Rice	300	365	430	537	602
Roseau	265	322	379	473	532
Steele	300	365	430	537	602
Swift	245	299	352	441	493
Traverse	275	335	393	493	553
Wadena	259	314	371	464	520
Watonwan	261	318	374	468	524
Winona	256	309	365	456	509

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. 091889

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	254	310	366	458	512	Hancock, Harrison
Jackson, MS MSA	324	393	464	581	651	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	291	352	414	516	577	De Soto
Pascagoula, MS MSA	279	337	396	499	559	Jackson

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	224	259	305	405	438
Amite	186	226	265	332	373
Benton	208	253	299	375	420
Calhoun	244	297	350	437	495
Chickasaw	251	297	350	441	492
Claiborne	186	226	265	332	373
Clay	241	281	329	413	463
Copiah	196	239	282	352	394
Forrest	242	295	347	433	486
George	189	230	271	338	379
Grenada	247	300	353	442	495
Humphreys	215	261	308	385	431
Itawamba	230	279	328	411	460
Jefferson	186	226	265	332	373
Jones	244	284	320	364	405
Lafayette	244	297	350	437	492
Lauderdale	240	291	343	430	481
Leake	205	250	296	371	416
Leflore	244	271	319	416	448
Lowndes	265	329	378	506	527
Marshall	208	253	299	375	420
Montgomery	187	228	267	334	375
Newton	205	250	296	371	416
Oktibbeha	231	281	329	413	463
Pearl River	242	295	347	433	486
Pike	224	259	305	405	438
Prentiss	208	253	299	375	420
Scott	205	250	296	371	416
Simpson	196	239	282	352	394
Stone	242	295	347	433	486
Tallahatchie	226	273	321	401	452
Tippah	208	253	299	375	420
Tunica	226	273	321	401	452
Walthall	186	226	265	332	373

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alcorn	223	270	318	396	446
Attala	187	228	267	334	375
Bolivar	215	261	308	385	431
Carroll	187	228	267	334	375
Choctaw	241	281	329	413	463
Clarke	242	294	343	430	481
Coahoma	226	273	321	401	452
Covington	189	230	271	338	379
Franklin	186	226	265	332	373
Greene	189	230	271	338	379
Holmes	187	228	267	334	375
Issaquena	215	261	308	385	431
Jasper	242	294	343	430	481
Jefferson Davis	189	230	271	338	379
Kemper	242	294	343	430	481
Lamar	242	295	347	433	486
Lawrence	186	226	265	332	373
Lee	260	315	370	465	520
Lincoln	186	226	265	332	373
Marion	242	295	347	433	486
Monroe	230	279	328	411	460
Neshoba	205	250	296	371	416
Noxubee	231	281	329	413	463
Panola	226	273	321	401	452
Perry	189	230	271	338	379
Pontotoc	251	297	350	441	492
Quitman	226	273	321	401	452
Sharkey	215	261	308	385	431
Smith	205	250	296	371	416
Sunflower	215	261	308	385	431
Tate	226	273	321	401	452
Tishomigo	208	253	299	375	420
Union	251	297	350	441	492
Warren	273	332	390	490	548

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M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Washington	215	261	308	385	431
Webster	241	281	329	413	463
Winston	241	281	329	413	463
Yazoo	273	332	390	490	548
Wayne	189	230	271	338	379
Wilkinson	186	226	265	332	373
Yalobusha	187	228	267	334	375

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	265	322	379	474	531	Boone
Joplin, MO MSA	229	279	328	412	461	Jasper, Newton
Kansas City, MO-KS MSA	309	375	441	551	617	Cass, Clay, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	244	296	349	435	490	Buchanen
St. Louis, MO-IL MSA	315	384	452	568	636	Crawford, Franklin, Jefferson, St Charles, St Louis St. Louis
Springfield, MO MSA	254	311	365	458	511	Christian, Greene

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	232	281	332	417	466
Atchison	219	268	315	394	442
Barry	214	260	308	385	430
Bates	209	253	299	374	420
Bollinger	246	300	352	439	495
Caldwell	219	268	316	394	442
Camden	235	285	335	420	470
Carroll	226	275	324	404	455
Cedar	209	253	299	374	420
Clark	232	281	332	417	466
Cole	258	313	369	462	517
Crawford	225	274	321	402	453
Dallas	214	260	308	385	430
De Kalb	219	268	315	394	442
Douglas	203	247	290	362	407
Gasconade	225	274	321	402	453
Grundy	232	281	332	417	466
Henry	209	253	299	374	420
Holt	219	268	315	394	442
Howell	203	247	290	362	407
Johnson	235	286	353	453	471
Laclede	235	285	335	420	470
Lewis	230	278	328	410	456
Linn	232	281	332	417	466

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Andrew	244	296	349	435	490
Audrain	258	313	369	462	517
Barton	209	253	299	374	420
Benton	209	253	299	374	420
Butler	203	247	294	366	410
Callaway	258	313	369	462	517
Cape Girardeau	246	300	352	439	495
Carter	203	247	294	366	410
Chariton	226	275	324	404	455
Clinton	219	268	315	394	442
Cooper	258	313	369	462	517
Dade	214	260	308	385	430
Daviess	219	268	316	394	442
Dent	225	274	321	402	453
Dunklin	203	247	290	362	407
Gentry	219	268	315	394	442
Harrison	219	268	316	394	442
Hickory	209	253	299	374	420
Howard	258	313	369	462	517
Iron	246	300	352	439	495
Knox	232	281	332	417	466
Lawrence	214	260	308	385	430
Lincoln	225	274	321	402	453
Livingston	232	281	332	417	466

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Mcdonald	214	260	308	385	430
Madison	246	300	352	439	495
Marion	230	278	328	410	456
Miller	235	285	335	420	470
Moniteau	258	313	369	462	517
Montgomery	225	274	321	402	453
New Madrid	203	247	290	362	407
Oregon	203	247	290	362	407
Ozark	203	247	290	362	407
Perry	246	300	352	439	495
Phelps	262	317	374	473	531
Polk	214	260	308	385	430
Putnam	232	281	332	417	466
Randolph	225	274	321	402	453
Ripley	203	247	294	366	410
Ste. Genevieve	246	300	352	439	495
Saline	226	275	324	404	455
Scotland	232	281	332	417	466
Shannon	203	247	290	362	407
Stoddard	203	247	290	362	407
Sullivan	232	281	332	417	466
Texas	203	247	290	362	407
Warren	225	274	321	402	453
Wayne	203	247	294	366	410
Worth	219	268	315	394	442

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Macon	225	274	321	402	453
Maries	225	274	321	402	453
Mercer	219	268	316	394	442
Mississippi	203	247	290	362	407
Monroe	225	274	321	402	453
Morgan	235	285	335	420	470
Nodaway	228	268	324	394	442
Osage	258	313	369	462	517
Pemiscot	203	247	290	362	407
Pettis	226	275	324	404	455
Pike	225	274	321	402	453
Pulaski	235	285	335	420	470
Ralls	230	278	328	410	456
Reynolds	203	247	294	366	410
St Clair	209	253	299	374	420
St Francois	246	300	352	439	495
Schuyler	232	281	332	417	466
Scott	246	300	352	439	495
Shelby	225	274	321	402	453
Stone	214	260	308	385	430
Taney	214	260	308	385	430
Vernon	209	253	299	374	420
Washington	225	274	321	402	453
Webster	214	260	308	385	430
Wright	203	247	290	362	407

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	345	420	494	617	692	Yellowstone
Great Falls, MT MSA	305	370	437	547	612	Cascade

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaverhead	304	369	435	544	610
Blaine	284	345	405	508	569
Carbon	286	348	410	513	575
Chouteau	284	345	405	508	569
Daniels	284	345	405	508	569
Deer Lodge	304	369	435	544	610
Fergus	286	348	410	513	575

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Big Horn	286	348	410	513	575
Broadwater	304	369	435	544	610
Carter	286	348	410	513	575
Custer	286	348	410	513	575
Dawson	286	348	410	513	575
Fallon	286	348	410	513	575
Flathead	310	378	444	556	623

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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M O N T A N A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Gallatin	335	412	487	604	679
Glacier	284	345	405	508	569
Granite	304	369	435	544	610
Jefferson	304	369	435	544	610
Lake	310	378	444	556	623
Liberty	284	345	405	508	569
Mccone	286	348	410	513	575
Meagher	304	369	435	544	610
Missoula	310	378	444	556	623
Park	304	369	435	544	610
Phillips	284	345	405	508	569
Powder River	286	348	410	513	575
Prairie	286	348	410	513	575
Richland	286	348	410	513	575
Rosebud	286	348	410	513	575
Sheridan	284	345	405	508	569
Stillwater	286	348	410	513	575
Teton	284	345	405	508	569
Treasure	286	348	410	513	575
Wheatland	286	348	410	513	575
Yl-St-Nt-Pk	304	369	435	544	610

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Garfield	286	348	410	513	575
Golden Valley	286	348	410	513	575
Hill	284	345	405	508	569
Judith Basin	286	348	410	513	575
Lewis And Clark	348	429	506	627	708
Lincoln	310	378	444	556	623
Madison	304	369	435	544	610
Mineral	310	378	444	556	623
Musselshell	286	348	410	513	575
Petroleum	286	348	410	513	575
Pondera	284	345	405	508	569
Powell	304	369	435	544	610
Ravalli	310	378	444	556	623
Roosevelt	284	345	405	508	569
Sanders	310	378	444	556	623
Silver Bow	304	369	435	544	610
Sweet Grass	286	348	410	513	575
Toole	284	345	405	508	569
Valley	284	345	405	508	569
Wibaux	286	348	410	513	575

N E B R A S K A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Lincoln, NE MSA	301	366	431	539	604	Lancaster
Omaha, NE-IA MSA	296	359	422	529	594	Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	293	356	419	524	588	Dakota

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	269	328	385	483	540
Arthur	228	277	326	408	456
Blaine	221	268	315	395	444
Box Butte	251	306	360	450	504
Brown	221	268	315	395	444
Burt	241	294	345	433	485
Cass	238	290	341	426	479
Chase	228	277	326	408	456
Cheyenne	221	268	315	395	444
Colfax	241	294	345	433	485

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Antelope	261	317	375	467	525
Banner	221	268	315	395	444
Boone	241	294	345	433	485
Boyd	221	268	315	395	444
Buffalo	269	328	385	483	540
Butler	238	290	341	426	479
Cedar	261	317	375	467	525
Cherry	221	268	315	395	444
Clay	269	328	385	483	540
Cuming	241	294	345	433	485

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. 091889

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Custer	221	268	315	395	444
Dawson	228	277	326	408	456
Dixon	261	317	375	467	525
Dundy	228	277	326	408	456
Franklin	269	328	385	483	540
Furnas	228	277	326	408	456
Garden	221	268	315	395	444
Gosper	228	277	326	408	456
Greeley	221	268	315	395	444
Hamilton	269	328	385	483	540
Hayes	228	277	326	408	456
Holt	225	276	324	404	450
Howard	269	328	385	483	540
Johnson	238	290	341	426	479
Keith	228	277	326	408	456
Kimball	221	268	315	395	444
Lincoln	228	277	326	408	456
Loup	221	268	315	395	444
Madison	261	317	375	467	525
Morrill	221	268	315	395	444
Nemaha	238	290	341	426	479
Otoe	238	290	341	426	479
Perkins	228	277	326	408	456
Pierce	261	317	375	467	525
Polk	238	290	341	426	479
Richardson	238	290	341	426	479
Saline	238	290	341	426	479
Scotts Bluff	257	309	360	447	498
Sheridan	221	268	315	395	444
Sioux	221	268	315	395	444
Thayer	238	290	341	426	479
Thurston	241	294	345	433	485
Wayne	261	317	375	467	525
Wheeler	221	268	315	395	444

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Dawes	221	268	315	395	444
Deuel	221	268	315	395	444
Dodge	241	294	345	433	485
Fillmore	238	290	341	426	479
Frontier	228	277	326	408	456
Gage	264	320	377	472	528
Garfield	221	268	315	395	444
Grant	228	277	326	408	456
Hall	269	328	385	483	540
Harlan	269	328	385	483	540
Hitchcock	228	277	326	408	456
Hooker	228	277	326	408	456
Jefferson	238	290	341	426	479
Kearney	269	328	385	483	540
Keya Paha	225	276	324	404	450
Knox	261	317	375	467	525
Logan	228	277	326	408	456
Mcpherson	228	277	326	408	456
Merrick	269	328	385	483	540
Nance	241	294	345	433	485
Nuckolls	269	328	385	483	540
Pawnee	238	290	341	426	479
Phelps	269	328	385	483	540
Platte	241	294	345	433	485
Red Willow	228	277	326	408	456
Rock	225	276	324	404	450
Saunders	238	290	341	426	479
Seward	238	290	341	426	479
Sherman	221	268	315	395	444
Stanton	261	317	375	467	525
Thomas	228	277	326	408	456
Valley	221	268	315	395	444
Webster	269	328	385	483	540
York	238	290	341	426	479

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. 091889

N E V A D A

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Las Vegas, NV MSA	431	523	616	771	864	Clark
Reno, NV MSA	531	645	761	950	1066	Washoe

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Churchill	379	455	536	670	751
Elko	379	455	536	670	751
Eureka	375	455	536	670	751
Lander	379	455	536	670	751
Lyon	379	455	536	670	751
Nye	375	455	536	670	751
Storey	379	455	536	670	751
Carson City	379	455	536	670	751
Douglas	379	455	536	670	751
Esmeralda	375	455	536	670	751
Humboldt	379	455	536	670	751
Lincoln	375	455	536	670	751
Mineral	379	455	536	670	751
Pershing	379	455	536	670	751
White Pine	375	455	536	670	751

N E W H A M P S H I R E

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Lawrence-Haverhill, MA-NH PMSA	470	572	686	784	872	Rockingham county towns of Atkinson, Brentwood, Danville Derry, East Kingston, Hampstead, Kingston, Newton Plaistow, Salem, Sandown, Seabrook, Windham
Lowell, MA-NH PMSA	452	550	642	778	887	Hillsborough county towns of Pelham
Manchester, NH MSA	417	507	596	745	837	Hillsborough county towns of Bedford, Goffstown Manchester Merrimack county towns of Allenstown, Hooksett Rockingham county towns of Auburn, Candia
Nashua, NH PMSA	472	573	676	846	947	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	433	527	618	774	867	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	362	437	509	631	707	
Carroll	358	435	511	639	717	
Cheshire	437	530	624	780	873	
Coos	334	405	478	596	669	
Grafton	372	454	533	666	746	
Hillsborough	474	575	677	846	948	Antrim, Bennington, Deering, Francestown, Greenfield

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NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Merrimack	474	575	677	846	948	Greenville, Hancock, Hillsborough, Lyndeborough, Mason New Boston, New Ipswich, Peterborough, Sharon, Temple Weare, Windsor 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	458	557	654	818	905	Chester, Deerfield, Epping, Fremont, Hampton Falls Kensington, Northwood, Nottingham, Raymond South Hampton
Strafford	405	495	583	730	805	Middleton, New Durham, Strafford
Sullivan	362	437	510	636	714	

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	332	403	472	594	662	Warren
Atlantic City, NJ MSA	398	486	570	712	800	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	561	680	807	1009	1130	Bergen, Passaic
Jersey City, NJ PMSA	397	483	568	711	796	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	519	631	742	929	1040	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	467	566	667	833	935	Monmouth, Ocean
Newark, NJ PMSA	465	565	665	831	931	Essex, Morris, Sussex, Union
Philadelphia, PA-NJ PMSA	388	471	555	693	777	Burlington, Camden, Gloucester
Trenton, NJ PMSA	476	578	681	851	953	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	382	464	545	683	765	Cumberland
Wilmington, DE-NJ-MD PMSA	397	475	565	707	840	Salem

NEW MEXICO

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albuquerque, NM MSA	356	432	508	636	713	Bernalillo
Las Cruces, NM MSA	283	342	403	505	566	Dona Ana
Santa Fe, NM MSA	414	503	593	740	830	Los Alamos, Sante Fe

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N E W M E X I C O continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Catron	255	309	365	456	511
Cibola	255	309	365	456	511
Curry	263	320	377	472	527
Eddy	304	370	437	546	611
Guadalupe	263	320	377	472	527
Hidalgo	255	309	365	456	511
Lincoln	277	336	396	495	555
Mckinley	354	429	506	634	709
Otero	277	336	396	495	555
Rio Arriba	237	288	338	423	475
Sandoval	299	364	428	536	601
San Miguel	263	320	377	472	527
Socorro	277	336	396	495	555
Torrance	263	320	377	472	527
Valencia	255	309	365	456	511

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Chaves	277	336	396	495	555
Colfax	263	320	377	472	527
De Baca	263	320	377	472	527
Grant	255	309	365	456	511
Harding	263	320	377	472	527
Lea	304	370	437	546	611
Luna	255	309	365	456	511
Mora	263	320	377	472	527
Quay	263	320	377	472	527
Roosevelt	263	320	377	472	527
San Juan	354	429	506	634	709
Sierra	277	336	396	495	555
Taos	284	343	404	506	568
Union	263	320	377	472	527

N E W Y O R K

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albany-Schenectady-Troy, NY MSA	340	408	482	607	675	Albany, Greene, Montgomery, Rensselaer, Saratoga Schenectady
Binghamton, NY MSA	306	368	436	539	605	Broome, Tioga
Buffalo, NY PMSA	310	377	444	542	607	Erie
Elmira, NY MSA	310	377	444	555	623	Chemung
Glens Falls, NY MSA	320	389	458	572	643	Warren, Washington
Jamestown-Dunkirk, NY MSA	287	349	411	516	576	Chautauqua
Nassau-Suffolk, NY PMSA	552	671	789	988	1104	Nassau, Suffolk
New York, NY PMSA	415	504	593	743	832	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester, NY	495	600	707	883	988	Westchester
Niagara Falls, NY PMSA	298	361	427	533	597	Niagara
Orange County, NY PMSA	426	518	609	761	852	Orange
Poughkeepsie, NY MSA	465	565	666	832	933	Dutchess
Rochester, NY MSA	364	446	525	656	731	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	321	384	450	563	631	Madison, Onondaga, Oswego
Utica-Rome, NY MSA	294	357	420	525	588	Herkimer, Oneida

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NEW YORK continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allegany	274	327	384	481	540
Cayuga	320	389	458	572	643
Clinton	305	364	428	532	585
Cortland	327	399	470	588	658
Essex	292	354	415	520	583
Fulton	260	318	373	468	523
Hamilton	291	354	415	520	583
Lewis	313	380	447	559	627
St Lawrence	298	361	426	532	596
Schuyler	301	365	431	540	605
Steuben	301	365	431	540	605
Tompkins	327	399	470	588	658
Wyoming	299	361	426	532	596

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Cattaraugus	270	326	384	481	540
Chenango	317	384	452	566	633
Columbia	301	365	431	540	605
Delaware	294	359	422	526	590
Franklin	291	354	415	520	583
Genesee	298	361	426	532	596
Jefferson	326	398	468	584	655
Otsego	294	359	422	526	590
Schoharie	294	359	422	526	590
Seneca	320	389	458	572	643
Sullivan	341	414	487	609	683
Ulster	376	456	538	671	753
Yates	299	363	428	537	599

NORTH CAROLINA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Asheville, NC MSA	263	321	378	471	528	Buncombe
Burlington, NC MSA	319	387	456	570	640	Alamance
Charlotte-Gastonia-Rock Hill, NC-SC MSA	294	354	416	519	581	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	270	380	397	513	628	Cumberland
Greensboro--Winston-Salem--High Point, NC MSA	275	335	393	494	554	Davidson, Davie, Forsyth, Guilford, Randolph, Stokes Yadkin
Hickory, NC MSA	241	292	344	431	484	Alexander, Burke, Catawba
Jacksonville, NC MSA	249	304	359	449	503	Onslow
Raleigh-Durham, NC MSA	316	384	453	566	634	Durham, Franklin, Orange, Wake
Wilmington, NC MSA	263	321	378	471	528	New Hanover

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	238	287	336	421	462
Ashe	238	287	336	421	462
Beaufort	263	321	378	471	528
Bladen	254	310	365	457	511
Caldwell	238	288	339	426	475
Carteret	247	301	354	445	499
Chatham	316	384	453	566	634
Chowan	254	305	357	443	494
Cleveland	276	334	393	492	551
Craven	272	331	389	490	549
Dare	254	305	357	443	494
Edgecombe	247	301	354	445	499

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anson	240	288	336	422	471
Avery	247	298	350	437	479
Bertie	263	321	378	471	528
Brunswick	239	291	342	429	480
Camden	254	305	357	443	494
Caswell	239	290	341	428	479
Cherokee	205	250	296	371	416
Clay	205	250	296	371	416
Columbus	249	303	358	447	501
Currituck	290	348	399	496	547
Duplin	224	271	319	397	447
Gates	254	305	357	443	494

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NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Graham	205	250	296	371	416
Greene	231	280	329	413	462
Harnett	231	280	329	413	462
Henderson	259	317	373	466	522
Hoke	224	271	319	397	447
Iredell	239	369	430	496	555
Johnston	244	297	350	437	492
Lee	279	344	398	498	558
Mcdowell	250	304	358	448	501
Madison	259	317	373	466	522
Mitchell	247	298	350	437	480
Moore	240	288	336	422	471
Northampton	247	301	354	445	499
Pasquotank	254	305	357	443	494
Perquimans	254	305	357	443	494
Pitt	263	321	378	471	528
Richmond	240	288	336	422	471
Rockingham	239	290	341	428	479
Sampson	231	280	329	413	462
Stanly	250	304	358	447	500
Swain	205	250	296	371	416
Tyrrell	254	305	357	443	494
Warren	229	278	326	409	458
Watauga	339	409	479	599	658
Wilkes	285	342	402	503	551
Yancey	265	320	376	469	516

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Granville	229	278	326	409	458
Halifax	247	301	354	445	499
Haywood	239	291	343	430	482
Hertford	263	321	378	471	528
Hyde	254	305	357	443	494
Jackson	247	301	354	445	497
Jones	247	301	354	445	499
Lenoir	247	301	354	445	499
Macon	259	316	373	466	523
Martin	263	321	378	471	528
Montgomery	240	288	336	422	471
Nash	253	309	364	456	510
Pamlico	247	301	354	445	499
Pender	218	265	361	450	505
Person	229	278	326	409	458
Polk	250	304	358	448	501
Robeson	235	290	335	415	470
Rutherford	250	304	358	448	501
Scotland	213	258	305	381	427
Surry	226	274	322	403	452
Transylvania	259	317	373	466	522
Vance	229	278	326	409	458
Washington	254	305	357	443	494
Wayne	231	280	329	413	462
Wilson	253	309	364	456	510

NORTH DAKOTA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Bismarck, ND MSA	304	370	435	544	611	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	304	370	434	545	611	Cass
Grand Forks, ND MSA	289	351	415	517	580	Grand Forks

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NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	256	313	369	462	516
Benson	264	320	377	471	530
Bottineau	256	313	369	462	516
Burke	256	313	369	462	516
Dickey	264	320	377	471	530
Dunn	256	313	369	462	516
Emmons	232	281	332	417	465
Golden Valley	256	313	369	462	516
Griggs	264	320	377	471	530
Kidder	232	281	332	417	465
Logan	264	320	377	471	530
Mcintosh	264	320	377	471	530
Mclean	232	281	332	417	465
Mountrail	256	313	369	462	516
Oliver	232	281	332	417	465
Pierce	256	313	369	462	516
Ransom	239	290	343	428	479
Richland	239	290	343	428	479
Sargent	239	290	343	428	479
Sioux	232	281	332	417	465
Stark	256	313	369	462	516
Stutsman	264	320	377	471	530
Traill	239	290	343	428	479
Ward	256	313	369	462	516
Williams	256	313	369	462	516

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barnes	264	320	377	471	530
Billings	256	313	369	462	516
Bowman	256	313	369	462	516
Cavalier	264	320	377	471	530
Divide	256	313	369	462	516
Eddy	264	320	377	471	530
Foster	264	320	377	471	530
Grant	232	281	332	417	465
Hettinger	256	313	369	462	516
La Moore	264	320	377	471	530
Mchenry	256	313	369	462	516
Mckenzie	256	313	369	462	516
Mercer	232	281	332	417	465
Nelson	264	320	377	471	530
Pembina	264	320	377	471	530
Ramsey	264	320	377	471	530
Renville	256	313	369	462	516
Rolette	264	320	377	471	530
Sheridan	232	281	332	417	465
Slope	256	313	369	462	516
Steele	239	290	343	428	479
Towner	264	320	377	471	530
Walsh	264	320	377	471	530
Wells	264	320	377	471	530

OHIO

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Akron, OH PMSA	299	363	428	536	600	Portage, Summit
Canton, OH MSA	264	320	377	471	530	Carroll, Stark
Cincinnati, OH-KY-IN PMSA	309	376	442	552	619	Clermont, Hamilton, Warren
Cleveland, OH PMSA	283	345	406	509	571	Cuyahoga, Geauga, Lake, Medina
Columbus, OH MSA	301	361	429	536	603	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway Union
Dayton-Springfield, OH MSA	278	340	395	497	552	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	313	382	449	562	629	Butler
Huntington-Ashland, WV-KY-OH MSA	292	354	418	523	588	Lawrence
Lima, OH MSA	279	340	399	501	562	Allen, Auglaize
Lorain-Elyria, OH PMSA	293	358	422	528	591	Lorain
Mansfield, OH MSA	252	309	361	454	507	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. 091889

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	275	334	393	494	552	Washington
Steubenville-Weirton, OH-WV MSA	282	344	402	505	568	Jefferson
Toledo, OH MSA	320	390	460	575	644	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	275	334	394	493	552	Belmont
Youngstown-Warren, OH MSA	279	340	399	501	562	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	250	302	353	439	495
Ashtabula	295	358	423	530	592
Brown	250	302	353	439	495
Clinton	254	311	365	458	511
Coshocton	228	278	328	407	458
Darke	254	311	365	458	511
Erie	288	350	413	515	578
Gallia	275	334	393	494	552
Hancock	271	328	387	483	543
Harrison	253	309	363	456	509
Highland	250	302	353	439	495
Holmes	268	326	384	480	538
Jackson	246	300	352	439	495
Logan	271	328	387	483	543
Meigs	243	295	348	434	488
Monroe	273	332	390	490	547
Morrow	246	300	352	439	495
Noble	273	332	390	490	547
Paulding	285	346	407	509	572
Pike	246	300	352	439	495
Putnam	275	334	393	494	552
Sandusky	288	350	413	515	578
Seneca	253	309	363	456	509
Tuscarawas	268	326	384	480	538
Vinton	275	334	393	494	552
Williams	285	346	407	509	572

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	276	337	395	496	554
Athens	262	322	380	473	531
Champaign	267	324	383	478	536
Columbiana	262	317	375	468	525
Crawford	253	309	363	456	509
Defiance	285	346	407	509	572
Fayette	254	311	365	458	511
Guernsey	270	327	386	482	541
Hardin	271	328	387	483	543
Henry	285	346	407	509	572
Hocking	243	295	348	434	488
Huron	253	309	363	456	509
Knox	246	300	352	439	495
Marion	246	300	352	439	495
Mercer	254	311	365	458	511
Morgan	273	332	390	490	547
Muskingum	254	309	363	456	509
Ottawa	288	350	413	515	578
Perry	243	295	348	434	488
Preble	277	338	396	498	556
Ross	254	311	365	458	511
Scioto	246	300	352	439	495
Shelby	274	332	391	489	547
Van Wert	275	334	393	494	552
Wayne	276	337	395	496	554
Wyandot	253	309	363	456	509

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. 091889

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	302	369	434	543	608	Garfield
Fort Smith, AR-OK MSA	251	306	361	452	506	Sequoyah
Lawton, OK MSA	260	317	374	467	523	Comanche
Oklahoma City, OK MSA	329	395	465	570	642	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	330	401	472	590	661	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adair	203	249	291	363	404
Atoka	178	217	256	320	358
Beckham	225	273	322	403	452
Bryan	214	260	306	384	430
Carter	214	260	306	384	430
Choctaw	178	217	256	320	358
Coal	178	217	256	320	358
Craig	258	315	370	463	519
Delaware	201	246	288	360	404
Ellis	230	281	331	412	464
Grady	213	259	304	382	428
Greer	225	273	322	403	452
Harper	230	281	331	412	464
Hughes	207	252	296	371	415
Jefferson	213	259	304	382	428
Kay	267	324	382	477	535
Kiowa	225	273	322	403	452
Le Flore	178	217	256	320	358
Love	214	260	306	384	430
Mcintosh	207	252	296	371	415
Marshall	214	260	306	384	430
Murray	214	260	306	384	430
Noble	267	324	382	477	535
Okfuskee	207	252	296	371	415
Ottawa	258	315	370	463	519
Payne	255	309	364	456	511
Pontotoc	214	260	306	384	430
Roger Mills	225	273	322	403	452
Stephens	213	259	304	382	428
Tillman	213	259	304	382	428
Washita	225	273	322	403	452
Woodward	230	281	331	412	464

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alfalfa	230	281	331	412	464
Beaver	230	281	331	412	464
Blaine	230	281	331	412	464
Caddo	213	259	304	382	428
Cherokee	203	249	291	363	404
Cimarron	230	281	331	412	464
Cotton	213	259	304	382	428
Custer	225	273	322	403	452
Dewey	230	281	331	412	464
Garvin	214	260	306	384	430
Grant	267	324	382	477	535
Harmon	225	273	322	403	452
Haskell	178	217	256	320	358
Jackson	225	273	322	403	452
Johnston	214	260	306	384	430
Kingfisher	267	324	382	477	535
Latimer	178	217	256	320	358
Lincoln	255	309	364	456	511
Mccurtain	226	276	325	405	454
Major	230	281	331	412	464
Mayes	268	325	384	479	537
Muskogee	207	252	296	371	415
Nowata	258	315	370	463	519
Okmulgee	207	252	296	371	415
Pawnee	255	309	364	456	511
Pittsburg	178	217	256	320	358
Pushmataha	178	217	256	320	358
Seminole	212	258	304	377	419
Texas	230	281	331	412	464
Washington	258	315	370	463	519
Woods	230	281	331	412	464

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. 091889

OREGON

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Eugene-Springfield, OR MSA	375	457	538	673	753	Lane
Medford, OR MSA	373	453	534	667	748	Jackson
Portland, OR PMSA	331	403	474	627	694	Clackamas, Multnomah, Washington, Yamhill
Salem, OR MSA	350	428	503	628	704	Marion, Polk

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Baker	342	415	489	612	685
Clatsop	332	405	476	594	666
Coos	357	434	511	639	716
Curry	357	434	511	639	716
Douglas	357	434	511	639	716
Grant	342	415	489	612	685
Hood River	362	440	518	649	725
Josephine	357	434	511	639	716
Lake	326	397	468	585	655
Linn	348	423	500	624	698
Morrow	342	415	489	612	685
Tillamook	332	405	476	594	666
Union	342	415	489	612	685
Wasco	362	440	518	649	725

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	348	423	500	624	698
Columbia	332	405	476	594	666
Crook	362	440	518	649	725
Deschutes	362	440	518	649	725
Gilliam	342	415	489	612	685
Harney	326	397	468	585	655
Jefferson	362	440	518	649	725
Klamath	326	397	468	585	655
Lincoln	332	405	476	594	666
Malheur	326	397	468	585	655
Sherman	362	440	518	649	725
Umatilla	342	415	489	612	685
Wallowa	342	415	489	612	685
Wheeler	342	415	489	612	685

PENNSYLVANIA

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Allentown-Bethlehem, PA-NJ MSA	332	403	472	594	662	Carbon, Lehigh, Northampton
Altoona, PA MSA	295	358	422	527	591	Blair
Beaver County, PA PMSA	262	318	375	468	525	Beaver
Erie, PA MSA	339	413	485	608	681	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	352	422	499	623	697	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	286	349	410	512	575	Cambria, Somerset
Lancaster, PA MSA	355	432	507	636	712	Lancaster
Philadelphia, PA-NJ PMSA	388	471	555	693	777	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	276	335	395	493	553	Alleghany, Fayette, Washington, Westmoreland
Reading, PA MSA	332	404	475	594	666	Berks
Scranton--Wilkes-Barre, PA MSA	269	332	387	477	541	Columbia, Lackawanna, Luzerne, Monroe, Wyoming
Sharon, PA MSA	314	381	451	564	632	Mercer
State College, PA MSA	379	461	544	679	761	Centre
Williamsport, PA MSA	286	349	410	512	575	Lycoming
York, PA MSA	319	389	457	572	641	Adams, York

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PENNSYLVANIA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Armstrong	330	400	472	590	661
Bradford	273	333	392	490	548
Cameron	277	337	397	497	557
Clearfield	283	344	405	506	567
Crawford	281	339	401	502	563
Forest	270	330	388	484	544
Fulton	266	324	381	477	533
Huntingdon	266	324	381	477	533
Jefferson	283	344	405	506	567
Lawrence	281	339	401	502	563
Mifflin	274	334	400	493	550
Northumberland	295	344	405	506	567
Potter	277	337	397	497	557
Snyder	274	334	393	493	550
Susquehanna	273	333	392	490	548
Union	317	372	458	569	619
Warren	281	339	401	502	563

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bedford	266	324	381	477	533
Butler	328	399	469	588	657
Clarion	270	330	388	484	544
Clinton	277	335	394	493	550
Elk	277	337	397	497	557
Franklin	304	370	434	545	609
Greene	283	344	405	506	567
Indiana	330	400	472	590	661
Juniata	274	334	393	493	550
Mckean	277	337	397	497	557
Montour	283	344	405	506	567
Pike	393	477	561	701	785
Schuylkill	307	360	437	529	576
Sullivan	273	333	392	490	548
Tioga	273	333	392	490	548
Venango	270	330	388	484	544
Wayne	335	407	479	598	671

RHODE ISLAND

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Fall River, MA-RI PMSA	383	457	549	636	702	Newport county towns of Little Compton, Tiverton
New London-Norwich, CT-RI MSA	424	516	606	758	850	Washington county towns of Hopkinton, Westerly
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA	372	450	530	650	743	Providence county towns of Burrillville, Central Falls Cumberland, Lincoln, North Smithfield, Pawtucket Smithfield, Woonsocket
Providence, RI PMSA	405	492	579	724	811	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. 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. 091889

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	354	430	507	634	710	West Greenwich
Newport	463	562	662	827	927	Middletown, Newport, Portsmouth
Washington	354	430	507	634	710	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	239	290	340	428	478	Anderson
Augusta, GA-SC MSA	277	334	390	487	546	Aiken
Charleston, SC MSA	295	360	424	528	593	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	294	354	416	519	581	York
Columbia, SC MSA	298	364	429	536	599	Lexington, Richland
Florence, SC MSA	242	294	347	434	486	Florence
Greenville-Spartanburg, SC MSA	260	317	374	467	524	Greenville, Pickens, Spartanburg

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Abbeville	210	255	302	374	415
Bamberg	218	267	314	393	440
Beaufort	271	330	389	486	545
Cherokee	210	254	300	376	423
Chesterfield	209	253	298	374	420
Colleton	271	330	389	486	545
Dillon	209	253	298	374	420
Fairfield	205	250	295	369	413
Greenwood	210	255	302	374	415
Horry	253	308	363	454	509
Kershaw	237	287	337	424	474
Laurens	210	255	302	374	415
Mccormick	205	250	295	369	413
Marlboro	209	253	298	374	420
Oconee	258	316	372	465	521
Saluda	205	250	295	369	413
Union	210	254	300	376	423

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Allendale	218	267	314	393	440
Barnwell	218	267	314	393	440
Calhoun	225	274	325	397	445
Chester	210	254	300	376	423
Clarendon	237	287	337	424	474
Darlington	209	253	298	374	420
Edgefield	205	250	295	369	413
Georgetown	253	308	363	454	509
Hampton	271	330	389	486	545
Jasper	271	330	389	486	545
Lancaster	226	277	326	403	450
Lee	237	287	337	424	474
Marion	209	253	298	374	420
Newberry	205	250	295	369	413
Orangeburg	218	267	314	393	440
Sumter	237	287	337	424	474
Williamsburg	253	308	363	454	509

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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	277	334	389	483	540	Pennington
Sioux Falls, SD MSA	292	355	418	524	586	Minnehaha

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aurora	249	301	352	441	493
Bennett	226	274	323	405	453
Brookings	244	295	344	428	484
Brule	246	299	352	441	493
Butte	269	327	385	483	540
Charles Mix	246	299	352	441	493
Clay	246	299	352	441	493
Corson	226	274	323	405	453
Davison	249	301	352	441	493
Deuel	221	265	316	392	435
Douglas	246	299	352	441	493
Fall River	269	327	385	483	540
Grant	244	295	344	428	484
Haakon	226	274	323	405	453
Hand	249	301	352	437	487
Harding	269	327	385	483	540
Hutchinson	246	299	352	441	493
Jackson	226	274	323	405	453
Jones	226	274	323	405	453
Lake	214	261	306	384	430
Lincoln	249	301	352	441	493
Mccook	214	261	306	384	430
Marshall	238	291	343	430	482
Mellette	226	274	323	405	453
Moody	214	261	306	384	430
Potter	226	274	323	405	453
Sanborn	249	301	352	441	493
Spink	238	291	343	430	482
Sully	226	274	323	405	453
Tripp	226	274	323	405	453
Union	246	299	352	441	493
Yankton	246	299	352	441	493

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beadle	249	301	352	437	487
Bon Homme	246	299	352	441	493
Brown	266	322	377	472	528
Buffalo	226	274	323	405	453
Campbell	226	274	323	405	453
Clark	221	265	316	392	435
Codington	244	295	344	428	484
Custer	269	327	385	483	540
Day	238	291	343	430	482
Dewey	226	274	323	405	453
Edmunds	238	291	343	430	482
Faulk	238	291	343	430	482
Gregory	226	274	323	405	453
Hamlin	221	265	316	392	435
Hanson	249	301	352	441	493
Hughes	295	361	422	528	590
Hyde	226	274	323	405	453
Jerauld	249	301	352	441	493
Kingsbury	214	261	306	384	430
Lawrence	275	327	385	483	540
Lyman	226	274	323	405	453
Mcpherson	238	291	343	430	482
Meade	277	334	389	483	540
Miner	214	261	306	384	430
Perkins	226	274	323	405	453
Roberts	238	291	343	430	482
Shannon	226	274	323	405	453
Stanley	295	361	422	528	590
Todd	226	274	323	405	453
Turner	249	301	352	441	493
Walworth	226	274	323	405	453
Ziebach	226	274	323	405	453

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. 091889

TENNESSEE

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Chattanooga, TN-GA MSA	295	359	422	528	593	Hamilton, Marion, Sequatchie
Clarksville-Hopkinsville, TN-KY MSA	273	343	430	522	580	Montgomery
Jackson, TN MSA	268	322	382	476	537	Madison
Johnson City-Kingsport-Bristol, TN-VA MSA	247	300	353	442	496	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	272	332	389	487	546	Anderson, Blount, Grainger, Jefferson, Knox, Sevier Union
Memphis, TN-AR-MS MSA	291	352	414	516	577	Shelby, Tipton
Nashville, TN MSA	323	394	464	579	650	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Bedford	232	292	332	413	464
Bledsoe	242	295	347	434	486
Campbell	197	240	285	354	394
Carroll	218	265	313	392	438
Claiborne	197	240	285	354	394
Cocke	220	268	314	394	441
Crockett	223	270	317	398	446
Decatur	238	291	342	428	479
Dyer	223	270	317	398	446
Fentress	218	268	316	394	442
Gibson	223	270	317	398	446
Greene	216	263	308	386	434
Hamblen	229	278	329	410	460
Hardeman	238	291	342	428	479
Haywood	228	286	327	409	458
Henry	218	265	313	392	438
Houston	201	244	288	360	403
Jackson	189	233	276	345	383
Lake	223	270	317	398	446
Lawrence	232	292	332	413	464
Lincoln	262	316	372	466	520
Mcminn	242	295	347	434	486
Macon	218	268	316	394	442
Maury	232	292	332	413	464
Monroe	232	286	334	418	468
Morgan	197	240	285	354	394
Overton	218	268	316	394	442
Pickett	218	268	316	394	442
Putnam	225	273	321	403	450
Roane	232	286	334	418	468

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Benton	218	265	313	392	438
Bradley	242	295	347	434	486
Cannon	218	268	316	394	442
Chester	238	291	342	428	479
Clay	189	233	276	345	383
Coffee	232	292	332	413	464
Cumberland	218	268	316	394	442
De Kalb	218	268	316	394	442
Fayette	228	278	327	409	458
Franklin	262	316	372	466	520
Giles	232	292	332	413	464
Grundy	242	295	347	434	486
Hancock	216	263	308	386	434
Hardin	238	291	342	428	479
Henderson	238	291	342	428	479
Hickman	232	292	332	413	464
Humphreys	201	244	288	360	403
Johnson	210	256	301	377	422
Lauderdale	228	286	327	409	458
Lewis	230	280	331	413	464
Loudon	232	286	334	418	468
Mcnairy	238	291	342	428	479
Marshall	232	292	332	413	464
Meigs	242	295	347	434	486
Moore	232	292	332	413	464
Obion	226	278	317	401	446
Perry	230	280	331	413	464
Polk	242	295	347	434	486
Rhea	242	295	347	434	486
Scott	197	240	285	354	394

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. 091889

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Smith	218	268	316	394	442
Trousdale	218	268	316	394	442
Warren	225	273	321	403	450
Weakley	218	265	313	392	438
Stewart	201	244	288	360	403
Van Buren	225	273	321	403	450
Wayne	230	280	331	413	464
White	225	273	321	403	450

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	294	359	422	528	593	Taylor
Amarillo, TX MSA	272	330	389	485	544	Potter, Randall
Austin, TX MSA	348	418	493	616	690	Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	313	379	447	559	626	Hardin, Jefferson, Orange
Brazoria, TX PMSA	302	367	432	541	605	Brazoria
Brownsville-Harlingen, TX MSA	277	336	395	495	555	Cameron
Bryan-College Station, TX MSA	367	447	524	656	736	Brazos
Corpus Christi, TX MSA	320	388	457	572	641	Nueces, San Patricio
Dallas, TX PMSA	368	448	527	658	737	Collin, Dallas, Denton, Ellis, Kaufman, Rockwall
El Paso, TX MSA	274	331	390	487	547	El Paso
Fort Worth-Arlington, TX PMSA	325	394	464	580	650	Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	282	343	404	505	566	Galveston
Houston, TX PMSA	280	340	400	500	560	Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	270	327	385	481	540	Bell, Coryell
Laredo, TX MSA	254	310	364	456	512	Webb
Longview-Marshall, TX MSA	308	374	440	549	616	Gregg, Harrison
Lubbock, TX MSA	229	287	376	477	526	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	276	335	393	493	553	Hidalgo
Midland, TX MSA	353	430	506	634	709	Midland
Odessa, TX MSA	351	428	503	629	704	Ector
San Angelo, TX MSA	296	361	425	532	597	Tom Green
San Antonio, TX MSA	329	399	470	588	658	Bexar, Comal, Guadalupe
Sherman-Denison, TX MSA	271	328	387	483	542	Grayson
Texarkana, TX-Texarkana, AR MSA	249	302	357	447	500	Bowie
Tyler, TX MSA	312	378	446	557	624	Smith
Victoria, TX MSA	380	461	543	681	762	Victoria
Waco, TX MSA	257	308	362	450	501	Mclennan
Wichita Falls, TX MSA	280	340	402	501	562	Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 091889

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	236	286	337	421	473
Angelina	275	332	392	491	549
Archer	226	276	324	406	454
Atascosa	242	294	348	436	486
Bailey	228	279	329	408	455
Bastrop	240	291	343	431	482
Bee	260	318	374	466	523
Borden	221	272	319	398	447
Brewster	202	245	287	360	405
Brooks	260	318	374	466	523
Burleson	242	293	346	433	484
Caldwell	240	291	343	431	482
Callahan	234	284	333	417	469
Carson	246	297	351	440	493
Castro	246	297	351	440	493
Cherokee	236	286	337	421	473
Clay	226	276	324	406	454
Coke	211	257	302	379	423
Collingsworth	246	297	351	440	493
Comanche	234	284	333	417	469
Cooke	259	316	372	464	521
Crane	202	245	287	360	405
Crosby	228	279	329	408	455
Dallam	246	297	351	440	493
Deaf Smith	246	297	351	440	493
De Witt	254	310	364	456	512
Dimmit	218	268	315	392	440
Duval	260	318	374	466	523
Edwards	225	276	323	397	442
Falls	207	252	295	372	415
Fayette	240	291	343	431	482
Floyd	228	279	329	408	455
Franklin	249	302	356	447	499
Frio	242	294	348	436	486
Garza	228	279	329	408	455
Glasscock	221	272	319	398	447
Gonzales	254	310	364	456	512
Grimes	242	293	346	433	484
Hall	246	297	351	440	493
Hansford	246	297	351	440	493

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Andrews	202	245	287	360	405
Aransas	260	318	374	466	523
Armstrong	246	297	351	440	493
Austin	279	338	398	499	559
Bandera	242	294	348	436	486
Baylor	226	276	324	406	454
Blanco	221	272	319	398	448
Bosque	207	252	295	372	415
Briscoe	246	297	351	440	493
Brown	228	279	329	408	455
Burnet	221	272	319	398	448
Calhoun	254	310	364	456	512
Camp	216	262	312	388	436
Cass	249	302	356	447	499
Chambers	288	350	412	516	577
Childress	226	276	324	406	454
Cochran	228	279	329	408	455
Coleman	228	279	329	408	455
Colorado	279	338	398	499	559
Concho	211	257	302	379	423
Cottle	226	276	324	406	454
Crockett	211	257	302	379	423
Culberson	202	245	287	360	405
Dawson	221	272	319	398	447
Delta	249	302	356	447	499
Dickens	228	279	329	408	455
Donley	246	297	351	440	493
Eastland	234	284	333	417	469
Erath	234	284	333	417	469
Fannin	259	316	372	464	521
Fisher	234	284	333	417	469
Foard	226	276	324	406	454
Freestone	207	252	295	372	415
Gaines	202	245	287	360	405
Gillespie	242	294	348	436	486
Goliad	254	310	364	456	512
Gray	246	297	351	440	493
Hale	228	279	329	408	455
Hamilton	221	272	319	398	448
Hardeman	226	276	324	406	454

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hartley	246	297	351	440	493
Hemphill	246	297	351	440	493
Hill	257	309	362	454	508
Hood	279	338	398	499	559
Houston	245	296	350	439	492
Hudspeth	202	245	287	360	405
Hutchinson	246	297	351	440	493
Jack	226	276	324	406	454
Jasper	260	318	374	466	523
Jim Hogg	248	299	354	445	497
Jones	234	284	333	417	469
Kendall	242	294	348	436	486
Kent	234	284	333	417	469
Kimble	211	257	302	379	423
Kinney	225	276	323	397	442
Knox	228	279	329	408	455
Lamb	228	279	329	408	455
La Salle	218	268	315	392	440
Lee	240	291	343	431	482
Limestone	207	252	295	372	415
Live Oak	260	318	374	466	523
Loving	202	245	287	360	405
Mcculloch	228	279	329	408	455
Madison	250	302	357	447	500
Martin	221	272	319	398	447
Matagorda	279	338	398	499	559
Medina	242	294	348	436	486
Milam	240	291	343	431	482
Mitchell	234	284	333	417	469
Moore	246	297	351	440	493
Motley	228	279	329	408	455
Navarro	207	252	295	372	415
Nolan	234	284	333	417	469
Oldham	246	297	351	440	493
Panola	236	286	337	421	473
Pecos	202	245	287	360	405
Presidio	202	245	287	360	405
Reagan	211	257	302	379	423
Red River	249	302	356	447	499
Refugio	260	318	374	466	523

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Haskell	234	284	333	417	469
Henderson	236	286	337	421	473
Hockley	228	279	329	408	455
Hopkins	249	302	356	447	499
Howard	221	272	319	398	447
Hunt	259	316	372	464	521
Irion	211	257	302	379	423
Jackson	254	310	364	456	512
Jeff Davis	202	245	287	360	405
Jim Wells	260	318	374	466	523
Karnes	199	242	285	357	399
Kenedy	260	318	374	466	523
Kerr	242	294	348	436	486
King	228	279	329	408	455
Kleberg	260	318	374	466	523
Lamar	249	302	356	447	499
Lampasas	221	272	319	398	448
Lauaca	254	310	364	456	512
Leon	250	302	357	447	500
Lipscomb	246	297	351	440	493
Llano	221	272	319	398	448
Lynn	228	279	329	408	455
Mcmullen	260	318	374	466	523
Marion	216	262	312	388	436
Mason	211	257	302	379	423
Maverick	225	276	323	397	442
Menard	211	257	302	379	423
Mills	228	279	329	408	455
Montague	226	276	324	406	454
Morris	249	302	356	447	499
Nacogdoches	275	332	392	491	549
Newton	260	318	374	466	523
Ochiltree	246	297	351	440	493
Palo Pinto	234	284	333	417	469
Parmer	246	297	351	440	493
Polk	275	332	392	491	549
Rains	224	275	321	396	438
Real	225	276	323	397	442
Reeves	202	245	287	360	405
Roberts	246	297	351	440	493

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 091889

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Robertson	242	293	346	433	484
Rusk	236	286	337	421	473
San Augustine	215	262	310	388	434
San Saba	228	279	329	408	455
Scurry	234	284	333	417	469
Shelby	215	262	310	388	434
Somervell	207	252	295	372	415
Stephens	234	284	333	417	469
Stonewall	234	284	333	417	469
Swisher	246	297	351	440	493
Terry	228	279	329	408	455
Titus	249	302	356	447	499
Tyler	250	302	357	447	500
Upton	221	272	319	398	447
Val Verde	225	276	323	397	442
Walker	284	346	408	511	571
Washington	250	302	357	447	500
Wheeler	246	297	351	440	493
Willacy	260	318	374	466	523
Winkler	202	245	287	360	405
Wood	216	262	312	388	436
Young	226	276	324	406	454
Zavala	225	276	323	397	442

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Runnels	228	279	329	408	455
Sabine	215	262	310	388	434
San Jacinto	275	332	392	491	549
Schleicher	211	257	302	379	423
Shackleford	234	284	333	417	469
Sherman	246	297	351	440	493
Starr	215	261	309	385	432
Sterling	211	257	302	379	423
Sutton	211	257	302	379	423
Terrell	202	245	287	360	405
Throckmorton	234	284	333	417	469
Trinity	250	315	371	462	519
Upshur	216	262	312	388	436
Uvalde	225	276	323	397	442
Van Zandt	224	275	321	396	438
Ward	202	245	287	360	405
Wharton	279	338	398	499	559
Wilbarger	226	276	324	406	454
Wilson	199	242	285	357	399
Wise	279	338	398	499	559
Yoakum	228	279	329	408	455
Zapata	215	261	309	385	432

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	291	354	415	519	583	Utah
Salt Lake City-Ogden, UT MSA	335	402	475	593	666	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Beaver	318	387	456	569	637
Cache	293	356	420	524	588
Daggett	363	441	518	649	727
Emery	363	441	518	649	727
Grand	363	441	518	649	727
Juab	318	387	456	569	637
Millard	318	387	456	569	637
Piute	318	387	456	569	637
San Juan	363	441	518	649	727

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Box Elder	293	356	420	524	588
Carbon	363	441	518	649	727
Duchesne	363	441	518	649	727
Garfield	318	387	456	569	637
Iron	318	387	456	569	637
Kane	318	387	456	569	637
Morgan	363	441	518	649	727
Rich	293	356	420	524	588
Sanpete	318	387	456	569	637

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. 091889

U T A H continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sevier	318	387	456	569	637
Tooele	293	356	420	524	588
Wasatch	363	441	518	649	727
Wayne	318	387	456	569	637
Summit	363	441	518	649	727
Uintah	363	441	518	649	727
Washington	348	418	493	615	692

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	424	516	606	758	850	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	340	412	486	606	680	
Bennington	345	424	497	620	699	
Caledonia	290	351	413	517	580	
Chittenden	392	478	563	705	790	Bolton, Buels, Huntington, Underhill, Westford
Essex	290	351	413	517	580	
Franklin	323	392	462	577	646	Bakersfield, Berkshire, Enosburg, Fairfax, Fairfield Fletcher, Franklin, Highgate, Montgomery, Richford St. Albans, St. Albans, Sheldon, Swanton
Grand Isle	290	351	413	517	580	Alburg, Isle La Motte, North Hero
Lamoille	350	425	499	625	700	
Orange	345	420	494	618	692	
Orleans	290	351	413	517	580	
Rutland	376	456	536	670	751	
Washington	345	424	497	620	699	
Windham	363	442	519	649	728	
Windsor	372	451	531	664	744	

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	342	417	490	613	686	Albemarle, Fluvanna, Greene, Charlottesville
Danville, VA MSA	262	318	374	468	524	Pittsylvania, Danville
Johnson City-Kingsport-Bristol, TN-VA MSA	247	300	353	442	496	Scott, Washington, Bristol
Lynchburg, VA MSA	282	350	404	493	565	Amherst, Campbell, Lynchburg
Norfolk-Virginia Beach-Newport News, VA MSA	342	414	485	608	680	Gloucester, James City, York, Chesapeake, Hampton Newport News City, Norfolk, Poquoson, Portsmouth, Suffolk

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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	313	376	439	551	617	Virginia Beach, Williamsburg City Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights, Hopewell, Petersburg, Richmond
Roanoke, VA MSA	275	334	392	492	551	Botetourt, Roanoke, Roanoke, Salem
Washington, DC-MD-VA MSA	486	591	695	869	973	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	259	312	363	448	501
Amelia	227	275	323	406	455
Augusta	274	333	391	490	549
Bedford	236	287	339	423	474
Brunswick	214	260	305	383	429
Buckingham	227	275	323	406	455
Carroll	231	280	330	414	463
Clarke	275	334	392	492	551
Culpeper	285	346	409	510	571
Dickenson	244	284	336	420	470
Fauquier	285	346	409	510	571
Franklin	236	287	339	423	474
Giles	273	332	389	487	546
Greensville	214	260	305	383	429
Henry	275	334	392	491	550
Isle Of Wight	221	270	313	391	429
King George	323	393	463	577	649
Lancaster	248	303	358	447	501
Louisa	289	349	409	510	571
Madison	289	349	409	510	571
Mecklenburg	214	260	305	383	429
Montgomery	333	404	474	596	665
Northampton	259	312	363	448	501
Nottoway	227	275	323	406	455
Page	275	334	392	492	551
Prince Edward	227	275	323	406	455
Rappahannock	285	346	409	510	571
Rockbridge	274	333	391	490	549
Russell	262	318	374	468	525
Smyth	231	280	330	414	463
Spotsylvania	323	393	463	577	649

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Alleghany	274	333	391	490	549
Appomattox	277	333	389	487	546
Bath	274	333	391	490	549
Bland	231	280	330	414	463
Buchanan	262	318	374	468	525
Caroline	323	393	463	577	649
Charlotte	227	275	323	406	455
Craig	214	260	305	382	428
Cumberland	227	275	323	406	455
Essex	248	303	358	447	501
Floyd	273	332	389	487	546
Frederick	275	334	392	492	551
Grayson	231	280	330	414	463
Halifax	227	275	323	406	455
Highland	274	333	391	490	549
King And Queen	248	303	358	447	501
King William	248	303	358	447	501
Lee	234	284	336	420	470
Lunenburg	227	275	323	406	455
Mathews	248	303	358	447	501
Middlesex	248	303	358	447	501
Nelson	240	291	343	429	481
Northumberland	248	303	358	447	501
Orange	289	349	409	510	571
Patrick	236	287	339	423	474
Pulaski	273	332	389	487	546
Richmond	248	303	358	447	501
Rockingham	274	333	391	490	549
Shenandoah	275	334	392	492	551
Southampton	221	270	313	391	429
Surry	221	270	313	391	429

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. 091889

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sussex	214	260	305	383	429
Warren	275	334	392	492	551
Wise	264	319	376	470	527
Bedford	236	287	339	423	474
Clifton Forge City	274	333	391	490	549
Emporia	214	260	305	383	429
Fredericksburg	323	393	463	577	649
Harrisonburg City	274	333	391	490	549
Martinsville City	275	334	392	491	550
Radford	333	404	474	596	665
Staunton	274	333	391	490	549
Winchester	275	334	392	492	551

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Tazewell	262	318	374	468	525
Westmoreland	248	303	358	447	501
Wythe	250	304	353	437	488
Buena Vista	274	333	391	490	549
Covington	274	333	391	490	549
Franklin	214	260	305	383	429
Galax	231	280	330	414	463
Lexington	274	333	391	490	549
Norton	263	318	375	469	526
South Boston City	227	275	323	406	455
Waynesboro	274	333	391	490	549

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	353	432	507	648	713	Whatcom
Bremerton, WA MSA	356	434	509	636	715	Kitsap
Olympia, WA MSA	369	447	527	659	739	Thurston
Richland-Kennewick-Pasco, WA MSA	233	283	333	416	466	Benton, Franklin
Seattle, WA PMSA	359	437	510	659	726	King, Snohomish
Spokane, WA MSA	311	369	435	556	615	Spokane
Tacoma, WA PMSA	303	368	432	563	629	Pierce
Vancouver, WA PMSA	273	332	435	574	637	Clark
Yakima, WA MSA	324	393	463	580	650	Yakima

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	264	321	376	472	529
Chelan	319	386	457	569	639
Columbia	342	414	489	611	685
Douglas	319	386	457	569	639
Garfield	342	414	489	611	685
Grays Harbor	344	417	492	615	690
Jefferson	344	417	492	615	690
Klickitat	320	388	457	572	643
Lincoln	264	321	376	472	529
Okanogan	291	352	416	522	584
Pend Oreille	264	321	376	472	529
Skagit	350	428	502	628	703
Stevens	264	321	376	472	529

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Asotin	342	414	489	611	685
Clallam	344	417	492	615	690
Cowlitz	248	301	354	553	605
Ferry	264	321	376	472	529
Grant	264	321	376	472	529
Island	350	428	502	628	703
Kittitas	291	352	416	522	584
Lewis	320	388	457	572	643
Mason	344	417	492	615	690
Pacific	344	417	492	615	690
San Juan	350	428	502	628	703
Skamania	320	388	457	572	643
Wahkiakum	320	388	457	572	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. 091889

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W A S H I N G T O N continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Walla Walla	342	414	489	611	685
Whitman	342	414	489	611	685

W E S T 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
Charleston, WV MSA	354	430	507	634	710	Kanawha, Putnam
Cumberland, MD-WV MSA	268	319	373	461	515	Mineral
Huntington-Ashland, WV-KY-OH MSA	292	354	418	523	588	Cabell, Wayne
Parkersburg-Marietta, WV-OH MSA	275	334	393	494	552	Wood
Steubenville-Weirton, OH-WV MSA	282	344	402	505	568	Brooke, Hancock
Wheeling, WV-OH MSA	275	334	394	493	552	Marshall, Ohio

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Barbour	254	308	364	456	509
Boone	253	306	362	452	506
Calhoun	294	344	399	519	572
Doddridge	247	302	357	445	499
Gilmer	271	325	394	488	538
Greenbrier	233	283	334	417	468
Hardy	243	297	349	437	490
Jackson	294	344	399	519	572
Lewis	254	308	364	456	509
Logan	244	297	349	437	490
Marion	300	365	429	538	601
Mercer	239	292	344	430	482
Monongalia	300	365	429	538	601
Morgan	243	297	349	437	490
Pendleton	243	297	349	437	490
Pocahontas	233	283	334	417	468
Raleigh	244	294	339	423	475
Ritchie	215	261	306	382	429
Summers	244	294	344	430	482
Tucker	254	308	364	456	509
Upshur	254	308	364	456	509
Wetzel	257	312	368	460	515
Wyoming	244	294	339	423	475

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Berkeley	243	297	349	437	490
Braxton	223	271	318	399	447
Clay	253	306	362	452	506
Fayette	233	283	334	417	468
Grant	243	297	349	437	490
Hampshire	243	297	349	437	490
Harrison	294	344	399	519	572
Jefferson	243	297	349	437	490
Lincoln	244	297	349	437	490
Mcdowell	236	288	338	423	475
Mason	244	297	349	437	490
Mingo	244	297	349	437	490
Monroe	244	294	344	430	482
Nicholas	233	283	334	417	468
Pleasants	215	261	306	382	429
Preston	300	365	429	538	601
Randolph	254	308	364	456	509
Roane	294	344	399	519	572
Taylor	247	302	357	445	499
Tyler	215	261	306	382	429
Webster	233	283	334	417	468
Wirt	215	261	306	382	429

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. 091889

W I S C O N S I N

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Appleton-Oshkosh-Neenah, WI MSA	275	335	396	494	553	Calumet, Outagamie, Winnebago
Duluth, MN-WI MSA	304	362	427	535	600	Douglas
Eau Claire, WI MSA	272	333	393	489	549	Chippewa, Eau Claire
Green Bay, WI MSA	275	335	398	494	553	Brown
Janesville-Beloit, WI MSA	304	371	437	546	612	Rock
Kenosha, WI PMSA	335	409	480	602	673	Kenosha
La Crosse, WI MSA	326	396	466	582	652	La Crosse
Madison, WI MSA	326	398	474	575	662	Dane
Milwaukee, WI PMSA	330	397	470	588	655	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	375	455	540	675	753	St Croix
Racine, WI PMSA	310	378	445	556	623	Racine
Sheboygan, WI MSA	282	342	404	505	566	Sheboygan
Wausau, WI MSA	275	335	396	494	553	Marathon

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams	281	340	402	503	564
Barron	267	326	382	479	538
Buffalo	254	307	364	453	510
Clark	267	326	382	479	538
Crawford	241	295	345	434	485
Door	253	304	359	442	494
Florence	241	295	345	434	485
Forest	262	318	374	470	524
Green	262	318	372	463	513
Iowa	253	306	362	451	507
Jackson	254	307	364	453	510
Juneau	281	340	402	503	564
Lafayette	253	306	362	451	507
Lincoln	262	318	374	470	524
Marinette	246	297	347	436	485
Menominee	246	300	353	442	495
Oconto	241	295	345	434	485
Pepin	254	307	364	453	510
Polk	267	326	382	479	538
Price	246	300	353	442	495
Rusk	246	300	353	442	495
Sawyer	246	300	353	442	495
Taylor	246	300	353	442	495
Vernon	241	295	345	434	485
Walworth	294	357	419	524	589

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Ashland	246	300	353	442	495
Bayfield	246	300	353	442	495
Burnett	246	300	353	442	495
Columbia	257	310	367	458	514
Dodge	257	310	367	458	514
Dunn	267	326	382	479	538
Fond Du Lac	302	365	414	516	564
Grant	253	306	362	451	507
Green Lake	275	335	396	494	553
Iron	246	300	353	442	495
Jefferson	294	357	419	524	589
Kewaunee	253	304	359	442	494
Langlade	262	318	374	470	524
Manitowoc	253	304	359	442	494
Marquette	246	300	353	442	495
Monroe	254	307	364	453	510
Oneida	262	318	374	470	524
Pierce	254	307	364	453	510
Portage	281	340	402	503	564
Richland	253	306	362	451	507
Sauk	280	341	402	502	562
Shawano	246	300	353	442	495
Trempealeau	254	307	364	453	510
Vilas	262	318	374	470	524
Washburn	246	300	353	442	495

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. 091889

W I S C O N S I N continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Waupaca	246	300	353	442	495
Wood	281	340	402	503	564
Waushara	246	300	353	442	495

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	407	495	581	728	816	Natrona
Cheyenne, WY MSA	336	407	482	605	675	Laramie

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Albany	260	320	378	472	523
Campbell	260	320	378	472	523
Converse	260	320	378	472	523
Fremont	260	320	378	472	523
Hot Springs	267	325	384	477	535
Lincoln	260	320	378	472	523
Park	267	325	384	477	535
Sheridan	360	441	518	646	728
Sweetwater	260	320	378	472	523
Uinta	260	320	378	472	523
Weston	267	325	384	477	535
Big Horn	267	325	384	477	535
Carbon	260	320	378	472	523
Crook	260	325	384	477	535
Goshen	260	320	378	472	523
Johnson	260	320	378	472	523
Niobrara	260	320	378	472	523
Platte	260	320	378	472	523
Sublette	260	320	378	472	523
Teton	342	412	487	611	686
Washakie	267	325	384	477	535

G U A M

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Guam	424	510	603	754	848

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

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PUERTO RICO 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

VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Charlotte Amalie	434	527	620	775	868
St. Thomas	434	527	620	775	868

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
St. Croix	387	470	553	691	774

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SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	68	78
MSA: Anniston, AL	71	79
MSA: Birmingham, AL	101	111
MSA: Columbus, GA-AL	91	101
MSA: Decatur, AL	68	78
MSA: Dothan, AL	66	75
MSA: Florence, AL	79	85
MSA: Gadsden, AL	71	79
MSA: Huntsville, AL	101	111
MSA: Mobile, AL	80	86
MSA: Montgomery, AL	80	85
MSA: Tuscaloosa, AL	94	107
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	99	126
MSA: Phoenix, AZ	138	164
MSA: Tucson, AZ	99	138
NON METRO STATE: ARKANSAS	38	42
MSA: Fayetteville-Springdale, AR	63	67
MSA: Fort Smith, AR-OK	35	38
MSA: Little Rock-North Little Rock, AR	54	56
MSA: Memphis, TN-AR-MS	93	93
MSA: Pine Bluff, AR	28	30
MSA: Texarkana, TX-Texarkana, AR	110	123
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	155	203
PMSA: Anaheim-Santa Ana, CA	374	374
MSA: Bakersfield, CA	145	222
MSA: Chico, CA	155	203
MSA: Fresno, CA	222	250
PMSA: Los Angeles-Long Beach, CA	182	305
MSA: Merced, CA	155	203
MSA: Modesto, CA	231	250

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Oakland, CA	256	334
PMSA: Oxnard-Ventura, CA	233	352
MSA: Redding, CA	155	203
PMSA: Riverside-San Bernardino, CA	154	253
MSA: Sacramento, CA	179	213
MSA: Salinas-Seaside-Monterey, CA	222	279
MSA: San Diego, CA	267	292
PMSA: San Francisco, CA	274	357
PMSA: San Jose, CA	326	380
MSA: Santa Barbara-Santa Maria-Lompoc, CA	183	279
PMSA: Santa Cruz, CA	238	298
PMSA: Santa Rosa-Petaluma, CA	238	286
MSA: Stockton, CA	231	250
PMSA: Vallejo-Fairfield-Napa, CA	248	283
MSA: Visalia-Tulare-Porterville, CA	155	203
MSA: Yuba City, CA	155	203
EXCEPTION COUNTY: SAN LUIS OBI	212	250
NON METRO STATE: COLORADO	N/A	N/A
PMSA: Boulder-Longmont, CO	218	239
MSA: Colorado Springs, CO	145	164
PMSA: Denver, CO	248	268
MSA: Fort Collins-Loveland, CO	138	155
MSA: Greeley, CO	138	155
MSA: Pueblo, CO	138	155
EXCEPTION COUNTY: ALAMOSA	115	138
EXCEPTION COUNTY: ARCHULETA	138	155
EXCEPTION COUNTY: BACA	115	138
EXCEPTION COUNTY: BENT	115	138
EXCEPTION COUNTY: CHAFFEE	138	155
EXCEPTION COUNTY: CHEYENNE	115	138
EXCEPTION COUNTY: CLEAR CREEK	138	155
EXCEPTION COUNTY: CONEJOS	115	138
EXCEPTION COUNTY: COSTILLA	115	138
EXCEPTION COUNTY: CROWLEY	115	138
EXCEPTION COUNTY: CUSTER	138	155
EXCEPTION COUNTY: DELTA	138	155
EXCEPTION COUNTY: DELORES	138	155
EXCEPTION COUNTY: EAGLE	223	250
EXCEPTION COUNTY: ELBERT	115	138
EXCEPTION COUNTY: FREMONT	138	155
EXCEPTION COUNTY: GARFIELD	223	250
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	138	155
EXCEPTION COUNTY: GUNNISON	138	155

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 57

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: HINSDALE	138	155
EXCEPTION COUNTY: HUERFANO	115	138
EXCEPTION COUNTY: JACKSON	138	155
EXCEPTION COUNTY: KIOWA	115	138
EXCEPTION COUNTY: KIT CARSON	115	138
EXCEPTION COUNTY: LAKE	138	155
EXCEPTION COUNTY: LA PLATA	138	155
EXCEPTION COUNTY: LAS ANIMAS	115	138
EXCEPTION COUNTY: LINCOLN	115	138
EXCEPTION COUNTY: LOGAN	115	138
EXCEPTION COUNTY: MESA	138	155
EXCEPTION COUNTY: MINERAL	115	138
EXCEPTION COUNTY: MOFFAT	223	250
EXCEPTION COUNTY: MONTEZUMA	138	155
EXCEPTION COUNTY: MONTROSE	138	155
EXCEPTION COUNTY: MORGAN	115	138
EXCEPTION COUNTY: OTERO	115	138
EXCEPTION COUNTY: OURAY	138	155
EXCEPTION COUNTY: PARK	138	155
EXCEPTION COUNTY: PHILLIPS	115	138
EXCEPTION COUNTY: PITKIN	223	250
EXCEPTION COUNTY: PROWERS	115	138
EXCEPTION COUNTY: RIO BLANCO	223	250
EXCEPTION COUNTY: RIO GRANDE	115	138
EXCEPTION COUNTY: ROUTT	223	250
EXCEPTION COUNTY: SAGUACHE	115	138
EXCEPTION COUNTY: SAN JUAN	138	155
EXCEPTION COUNTY: SAN MIGUEL	138	155
EXCEPTION COUNTY: SEDGWICK	115	138
EXCEPTION COUNTY: SUMMIT	223	250
EXCEPTION COUNTY: TELLER	115	138
EXCEPTION COUNTY: WASHINGTON	115	138
EXCEPTION COUNTY: YUMA	115	138
NON METRO STATE: CONNECTICUT	152	152
PMSA: Bridgeport-Milford, CT	197	197
PMSA: Bristol, CT	152	152
PMSA: Danbury, CT	151	151
PMSA: Hartford, CT	165	165
PMSA: Middletown, CT	165	165
PMSA: New Britain, CT	165	165
MSA: New Haven-Meriden, CT	148	148
MSA: New London-Norwich, CT-RI	141	141
PMSA: Norwalk, CT	186	186
PMSA: Stamford, CT	186	186

NOTE. TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091889

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA. Waterbury, CT	152	152
NON METRO STATE: DELAWARE	69	69
PMSA: Wilmington, DE-NJ-MD	136	136
NON METRO STATE: DIST. OF COLUMBIA	N/A	N/A
MSA: Washington, DC-MD-VA	185	185
NON METRO STATE: FLORIDA	85	85
MSA: Bradenton, FL	123	123
MSA: Daytona Beach, FL	110	110
PMSA: Fort Lauderdale-Hollywood-Pompano Beach, FL	178	178
MSA: Fort Myers-Cape Coral, FL	115	115
MSA: Fort Pierce, FL	83	83
MSA: Fort Walton Beach, FL	85	85
MSA: Gainesville, FL	85	85
MSA: Jacksonville, FL	79	93
MSA: Lakeland-Winter Haven, FL	85	85
MSA: Melbourne-Titusville-Palm Bay, FL	101	101
PMSA: Miami-Hialeah, FL	141	141
MSA: Naples, FL	85	85
MSA: Ocala, FL	85	85
MSA: Orlando, FL	101	101
MSA: Panama City, FL	85	85
MSA: Pensacola, FL	85	85
MSA: Sarasota, FL	115	115
MSA: Tallahassee, FL	79	79
MSA: Tampa-St. Petersburg-Clearwater, FL	115	115
MSA: West Palm Beach-Boca Raton-Delray Beach, FL	146	146
EXCEPTION COUNTY: BAKER	77	90
EXCEPTION COUNTY: COLUMBIA	85	85
EXCEPTION COUNTY: WAKULLA	77	90
NON METRO STATE: GEORGIA	62	62
MSA Albany, GA	55	58
MSA: Athens, GA	62	62
MSA: Atlanta, GA	100	108
MSA: Augusta, GA-SC	83	85
MSA: Chattanooga, TN-GA	55	79
MSA: Columbus, GA-AL	91	101
MSA: Macon-Warner Robins, GA	56	61
MSA: Savannah, GA	69	79

NOTE TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091889

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BRYAN	62	64
EXCEPTION COUNTY: TWIGGS	55	60
NON METRO STATE: HAWAII	N/A	N/A
MSA: Honolulu, HI	N/A	N/A
NON METRO STATE: IDAHO	115	115
MSA: Boise City, ID	124	144
NON METRO STATE: ILLINOIS	110	118
PMSA: Aurora-Elgin, IL	220	237
MSA: Bloomington-Normal, IL	123	123
MSA: Champaign-Urbana-Rantoul, IL	100	100
PMSA: Chicago, IL	233	248
MSA: Davenport-Rock Island-Moline, IA-IL	135	142
MSA: Decatur, IL	135	135
PMSA: Joliet, IL	233	248
MSA: Kankakee, IL	98	98
PMSA: Lake County, IL	220	237
MSA: Peoria, IL	183	201
MSA: Rockford, IL	180	192
MSA: St. Louis, MO-IL	101	117
MSA: Springfield, IL	118	125
NON METRO STATE: INDIANA	60	78
MSA: Anderson, IN	67	67
MSA: Bloomington, IN	63	63
PMSA: Cincinnati, OH-KY-IN	120	126
MSA: Elkhart-Goshen, IN	87	87
MSA: Evansville, IN-KY	80	85
MSA: Fort Wayne, IN	74	100
PMSA: Gary-Hammond, IN	113	130
MSA: Indianapolis, IN	94	108
MSA: Kokomo, IN	87	99
MSA: Lafayette-West Lafayette, IN	81	119
MSA: Louisville, KY-IN	85	93
MSA: Muncie, IN	64	72
MSA: South Bend-Mishawaka, IN	99	104
MSA: Terre Haute, IN	63	78
EXCEPTION COUNTY: ADAMS	60	78
EXCEPTION COUNTY: BLACKFORD	68	78
EXCEPTION COUNTY: GIBSON	60	78

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GRANT	68	78
EXCEPTION COUNTY: HENRY	68	78
EXCEPTION COUNTY: JAY	68	78
EXCEPTION COUNTY: MARSHALL	74	78
EXCEPTION COUNTY: RANDOLPH	68	78
EXCEPTION COUNTY: SULLIVAN	61	73
EXCEPTION COUNTY: VERMILLION	61	73
EXCEPTION COUNTY: WAYNE	68	78
EXCEPTION COUNTY: WELLS	60	78
NON METRO STATE: IOWA	94	101
MSA: Cedar Rapids, IA	108	125
MSA: Davenport-Rock Island-Moline, IA-IL	135	142
MSA: Des Moines, IA	116	123
MSA: Dubuque, IA	108	134
MSA: Iowa City, IA	108	123
MSA: Omaha, NE-IA	101	118
MSA: Sioux City, IA-NE	104	104
MSA: Waterloo-Cedar Falls, IA	108	125
NON METRO STATE: KANSAS	83	94
MSA: Kansas City, MO-KS	99	121
MSA: Lawrence, KS	85	97
MSA: Topeka, KS	83	94
MSA: Wichita, KS	97	10[illegible]
EXCEPTION COUNTY: JEFFERSON	79	91
EXCEPTION COUNTY: OSAGE	79	91
NON METRO STATE: KENTUCKY	75	82
PMSA: Cincinnati, OH-KY-IN	120	126
MSA: Clarksville-Hopkinsville, TN-KY	79	85
MSA: Evansville, IN-KY	80	85
MSA: Huntington-Ashland, WV-KY-OH	90	90
MSA: Lexington-Fayette, KY	94	108
MSA: Louisville, KY-IN	85	93
MSA: Owensboro, KY	86	104
NON METRO STATE: LOUISIANA	80	94
MSA: Alexandria, LA	79	9[illegible]
MSA: Baton Rouge, LA	93	11[illegible]
MSA: Houma-Thibodaux, LA	78	9
MSA: Lafayette, LA	85	10

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 61

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Lake Charles, LA	91	108
MSA: Monroe, LA	79	93
MSA: New Orleans, LA	98	113
MSA: Shreveport, LA	85	101
EXCEPTION COUNTY: GRANT	77	90
EXCEPTION COUNTY: WEBSTER	80	94
NON METRO STATE: MAINE	135	155
MSA: Bangor, ME	135	155
MSA: Lewiston-Auburn, ME	103	103
MSA: Portland, ME	168	191
MSA: Portsmouth-Dover-Rochester, NH-ME	135	155
NON METRO STATE: MARYLAND	124	124
MSA: Baltimore, MD	196	196
MSA: Cumberland, MD-WV	124	124
MSA: Hagerstown, MD	157	157
MSA: Washington, DC-MD-VA	185	185
PMSA: Wilmington, DE-NJ-MD	136	136
EXCEPTION COUNTY: ST MARYS	170	170
NON METRO STATE, MASSACHUSETTS	165	165
PMSA: Boston, MA	158	171
PMSA: Brockton, MA	158	158
PMSA: Fall River, MA-RI	103	103
MSA: Fitchburg-Leominster, MA	123	123
PMSA: Lawrence-Haverhill, MA-NH	150	160
PMSA: Lowell, MA-NH	150	160
MSA: New Bedford, MA	142	142
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA	141	141
MSA: Pittsfield, MA	153	153
PMSA: Salem-Gloucester, MA	158	171
MSA: Springfield, MA	121	121
MSA: Worcester, MA	106	106
NON METRO STATE: MICHIGAN	118	131
PMSA: Ann Arbor, MI	170	184
MSA: Battle Creek, MI	101	118
MSA: Benton Harbor, MI	118	131
PMSA: Detroit, MI	166	178
MSA: Flint, MI	144	144
MSA: Grand Rapids, MI	108	117

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Jackson, MI	118	118
MSA: Kalamazoo, MI	124	127
MSA: Lansing-East Lansing, MI	139	161
MSA: Muskegon, MI	108	110
MSA: Saginaw-Bay City-Midland, MI	125	125
EXCEPTION COUNTY: BARRY	97	113
EXCEPTION COUNTY: IONIA	118	131
EXCEPTION COUNTY: OCEANA	103	105
EXCEPTION COUNTY: SHIAWASSEE	138	138
EXCEPTION COUNTY: VAN BUREN	118	122
NON METRO STATE: MINNESOTA	85	85
MSA: Duluth, MN-WI	87	98
MSA: Fargo-Moorhead, ND-MN	134	150
MSA: Minneapolis-St. Paul, MN-WI	167	167
MSA: Rochester, MN	122	122
MSA: St. Cloud, MN	107	107
EXCEPTION COUNTY: POLK	129	147
NON METRO STATE: MISSISSIPPI	80	94
MSA: Biloxi-Gulfport, MS	93	110
MSA: Jackson, MS	101	123
MSA: Memphis, TN-AR-MS	93	93
MSA: Pascagoula, MS	79	93
EXCEPTION COUNTY: STONE	80	94
NON METRO STATE: MISSOURI	66	73
MSA: Columbia, MO	94	101
MSA: Joplin, MO	66	73
MSA: Kansas City, MO-KS	99	121
MSA: St. Joseph, MO	97	104
MSA: St. Louis, MO-IL	101	117
MSA: Springfield, MO	68	74
EXCEPTION COUNTY: ANDREW	92	99
NON METRO STATE: MONTANA	N/A	N/A
MSA: Billings, MT	172	192
MSA: Great Falls, MT	145	164
EXCEPTION COUNTY: BEAVERHEAD	138	155
EXCEPTION COUNTY: BIG HORN	138	155
EXCEPTION COUNTY: BLAINE	99	115
EXCEPTION COUNTY: BROADWATER	138	155

NOTE. TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091889

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

		SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY	CARBON	138	155
EXCEPTION COUNTY	CARTER	99	115
EXCEPTION COUNTY	CHOUTEAU	99	115
EXCEPTION COUNTY	CUSTER	138	155
EXCEPTION COUNTY	DANIELS	99	115
EXCEPTION COUNTY	DAWSON	138	155
EXCEPTION COUNTY	DEER LODGE	138	155
EXCEPTION COUNTY	FALLON	99	115
EXCEPTION COUNTY	FERGUS	99	115
EXCEPTION COUNTY	FLATHEAD	138	155
EXCEPTION COUNTY	GALLATIN	138	155
EXCEPTION COUNTY	GARFIELD	99	115
EXCEPTION COUNTY	GLACIER	99	115
EXCEPTION COUNTY	GOLDEN VALLE	99	115
EXCEPTION COUNTY	GRANITE	138	155
EXCEPTION COUNTY	HILL	99	115
EXCEPTION COUNTY	JEFFERSON	138	155
EXCEPTION COUNTY	JUDITH BASIN	99	115
EXCEPTION COUNTY	LAKE	138	155
EXCEPTION COUNTY	LEWIS+ CLARK	138	155
EXCEPTION COUNTY	LIBERTY	99	115
EXCEPTION COUNTY	LINCOLN	138	155
EXCEPTION COUNTY	MCCONE	99	115
EXCEPTION COUNTY	MADISON	138	155
EXCEPTION COUNTY	MEAGHER	138	155
EXCEPTION COUNTY	MINERAL	138	155
EXCEPTION COUNTY	MISSOULA	138	155
EXCEPTION COUNTY	MUSSELSHELL	138	155
EXCEPTION COUNTY	PARK	138	155
EXCEPTION COUNTY	PETROLEUM	99	115
EXCEPTION COUNTY	PHILLIPS	99	115
EXCEPTION COUNTY	PONDERA	99	115
EXCEPTION COUNTY	POWDER RIVER	138	155
EXCEPTION COUNTY	POWELL	138	155
EXCEPTION COUNTY	PRAIRIE	99	115
EXCEPTION COUNTY	RAVALLI	138	155
EXCEPTION COUNTY	RICHLAND	99	115
EXCEPTION COUNTY	ROOSEVELT	99	115
EXCEPTION COUNTY	ROSEBUD	138	155
EXCEPTION COUNTY	SANDERS	138	155
EXCEPTION COUNTY	SHERIDAN	99	115
EXCEPTION COUNTY	SILVER BOW	138	155
EXCEPTION COUNTY	STILLWATER	99	115
EXCEPTION COUNTY	SWEET GRASS	99	115
EXCEPTION COUNTY	TETON	99	115
EXCEPTION COUNTY	TOOLE	99	115

NOTE TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY· TREASURE	138	155
EXCEPTION COUNTY VALLEY	99	115
EXCEPTION COUNTY WHEATLAND	99	115
EXCEPTION COUNTY WIBAUX	99	115
EXCEPTION COUNTY· YL-ST-NT-PK	138	155
NON METRO STATE NEBRASKA	86	105
MSA Lincoln, NE	117	123
MSA· Omaha, NE-IA	101	118
MSA Sioux City, IA-NE	104	104
NON METRO STATE NEVADA	109	126
MSA· Las Vegas, NV	231	258
MSA· Reno, NV	231	258
NON METRO STATE NEW HAMPSHIRE	122	135
PMSA· Lawrence-Haverhill, MA-NH	150	160
PMSA Lowell, MA-NH	150	160
MSA Manchester, NH	139	152
PMSA· Nashua, NH	171	171
MSA· Portsmouth-Dover-Rochester, NH-ME	135	155
NON METRO STATE· NEW JERSEY	125	125
MSA Allentown-Bethlehem, PA-NJ	123	123
MSA Atlantic City, NJ	192	192
PMSA Bergen-Passaic, NJ	261	262
PMSA Jersey City, NJ	253	253
PMSA Middlesex-Somerset-Hunterdon, NJ	297	297
PMSA Monmouth-Ocean, NJ	228	275
PMSA Newark, NJ	245	253
PMSA Philadelphia, PA-NJ	214	214
PMSA Trenton, NJ	188	188
PMSA· Vineland-Millville-Bridgeton, NJ	166	166
PMSA Wilmington, DE-NJ-MD	136	136
NON METRO STATE NEW MEXICO	103	119
MSA Las Cruces, NM	103	119
MSA Albuquerque, NM	115	134
MSA: Santa Fe, NM	103	119
EXCEPTION COUNTY SANDOVAL	109	124
NON METRO STATE. NEW YORK	145	145

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	181	181
MSA: Binghamton, NY	108	108
PMSA: Buffalo, NY	129	129
MSA: Elmira, NY	116	116
MSA: Glens Falls, NY	145	145
MSA Jamestown-Dunkirk, NY	275	275
PMSA: Nassau-Suffolk, NY	199	258
PMSA New York, NY	207	207
PMSA: Niagara Falls, NY	124	124
PMSA Orange County, NY	143	143
MSA Poughkeepsie, NY	275	275
MSA Rochester, NY	165	165
MSA Syracuse, NY	134	134
MSA. Utica-Rome, NY	136	136
EXCEPTION COUNTY: WESTCHESTER	245	245
NON METRO STATE: NORTH CAROLINA	56	69
MSA: Asheville, NC	79	93
MSA Burlington, NC	79	93
MSA Charlotte-Gastonia-Rock Hill, NC-SC	79	93
MSA Fayetteville, NC	79	93
MSA: Greensboro--Winston-Salem--High Point, NC	79	93
MSA: Hickory, NC	56	69
MSA: Jacksonville, NC	56	69
MSA: Raleigh-Durham, NC	79	93
MSA: Wilmington, NC	79	93
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY MADISON	64	76
NON METRO STATE. NORTH DAKOTA	107	123
MSA Bismarck, ND	151	168
MSA Fargo-Moorhead, ND-MN	134	150
MSA Grand Forks, ND	116	143
NON METRO STATE OHIO	77	77
PMSA Akron, OH	115	115
MSA: Canton, OH	83	83
PMSA Cincinnati, OH-KY-IN	120	126
PMSA: Cleveland, OH	123	123
MSA Columbus, OH	108	125
MSA Dayton-Springfield, OH	83	83
PMSA Hamilton-Middletown, OH	97	100

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Huntington-Ashland, WV-KY-OH	90	90
MSA: Lima, OH	108	108
PMSA: Lorain-Elyria, OH	131	131
MSA: Mansfield, OH	101	101
MSA: Parkersburg-Marietta, WV-OH	90	90
MSA: Steubenville-Weirton, OH-WV	81	81
MSA: Toledo, OH	136	183
MSA: Wheeling, WV-OH	83	83
MSA: Youngstown-Warren, OH	101	101
EXCEPTION COUNTY: CHAMPAIGN	77	78
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	77	77
EXCEPTION COUNTY: PUTNAM	81	81
EXCEPTION COUNTY: VAN WERT	81	81
NON METRO STATE: OKLAHOMA	77	83
MSA: Enid, OK	77	83
MSA: Fort Smith, AR-OK	35	38
MSA: Lawton, OK	78	85
MSA: Oklahoma City, OK	80	88
MSA: Tulsa, OK	85	93
EXCEPTION COUNTY: LE FLORE	34	37
EXCEPTION COUNTY: MAYES	77	83
NON METRO STATE. OREGON	146	155
MSA. Eugene-Springfield, OR	172	178
MSA: Medford, OR	146	155
PMSA: Portland, OR	193	214
MSA: Salem, OR	172	178
NON METRO STATE: PENNSYLVANIA	87	87
MSA: Allentown-Bethlehem, PA-NJ	123	123
MSA Altoona, PA	113	113
PMSA: Beaver County, PA	91	91
MSA Erie, PA	113	113
MSA: Harrisburg-Lebanon-Carlisle, PA	128	128
MSA: Johnstown, PA	113	113
MSA Lancaster, PA	117	117
PMSA: Philadelphia, PA-NJ	214	214
PMSA: Pittsburgh, PA	95	95
MSA. Reading, PA	117	117
MSA: Scranton--Wilkes-Barre, PA	104	104
MSA Sharon, PA	87	87

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	87	87
MSA Williamsport, PA	87	87
MSA York, PA	117	117
EXCEPTION COUNTY SUSQUEHANNA	87	87
NON METRO STATE RHODE ISLAND	135	135
PMSA Fall River, MA-RI	103	103
MSA New London-Norwich, CT-RI	141	141
PMSA Pawtucket-Woonsocket-Attleboro, RI-MA	141	141
PMSA Providence, RI	141	141
NON METRO STATE SOUTH CAROLINA	62	62
MSA Anderson, SC	62	62
MSA Augusta, GA-SC	83	85
MSA Charleston, SC	79	79
MSA Charlotte-Gastonia-Rock Hill, NC-SC	79	93
MSA Columbia, SC	69	79
MSA Florence, SC	62	62
MSA Greenville-Spartanburg, SC	69	69
NON METRO STATE SOUTH DAKOTA	91	107
MSA Rapid City, SD	91	107
MSA Sioux Falls, SD	128	144
NON METRO STATE TENNESSEE	62	62
MSA Chattanooga, TN-GA	55	79
MSA Clarksville-Hopkinsville, TN-KY	79	85
MSA Jackson, TN	62	62
MSA Johnson City-Kingsport-Bristol, TN-VA	85	85
MSA Knoxville, TN	69	69
MSA Memphis, TN-AR-MS	93	93
MSA Nashville, TN	93	110
NON METRO STATE TEXAS	67	83
NON METRO STATE TEXAS	67	83
MSA Abilene, TX	58	65
MSA Amarillo, TX	108	113
MSA Austin, TX	98	115
MSA Beaumont-Port Arthur, TX	101	115

NOTE TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA Brazoria, TX	102	119
MSA Brownsville-Harlingen, TX	79	93
MSA Bryan-College Station, TX	98	110
MSA Corpus Christi, TX	83	110
PMSA Dallas, TX	79	101
MSA El Paso, TX	112	126
PMSA Fort Worth-Arlington, TX	79	101
PMSA Galveston-Texas City, TX	99	111
PMSA Houston, TX	105	123
MSA Killeen-Temple, TX	101	110
MSA Laredo, TX	69	85
MSA Longview-Marshall, TX	93	107
MSA Lubbock, TX	107	110
MSA Mc Allen-Edinburg-Mission, TX	91	110
MSA Midland, TX	110	115
MSA Odessa, TX	110	115
MSA San Angelo, TX	93	101
MSA San Antonio, TX	79	93
MSA Sherman-Denison, TX	85	101
MSA Texarkana, TX-Texarkana, AR	110	123
MSA Tyler, TX	85	90
MSA Victoria, TX	67	83
MSA Waco, TX	88	101
MSA Wichita Falls, TX	62	69
EXCEPTION COUNTY CALLAHAN	57	63
EXCEPTION COUNTY CLAY	61	67
EXCEPTION COUNTY. HOOD	70	88
EXCEPTION COUNTY JONES	57	63
EXCEPTION COUNTY WISE	70	88
NON METRO STATE UTAH	N/A	N/A
MSA Provo-Orem, UT	138	155
MSA Salt Lake City-Ogden, UT	155	172
EXCEPTION COUNTY BEAVER	99	115
EXCEPTION COUNTY BOX ELDER	99	115
EXCEPTION COUNTY CACHE	99	115
EXCEPTION COUNTY CARBON	138	155
EXCEPTION COUNTY DAGGETT	99	115
EXCEPTION COUNTY DUCHESNE	99	115
EXCEPTION COUNTY EMERY	138	155
EXCEPTION COUNTY GARFIELD	99	115
EXCEPTION COUNTY GRAND	138	155
EXCEPTION COUNTY IRON	99	115
EXCEPTION COUNTY JUAB	99	115
EXCEPTION COUNTY KANE	99	115

NOTE TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091889

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	99	115
EXCEPTION COUNTY: MORGAN	99	115
EXCEPTION COUNTY: PIUTE	99	115
EXCEPTION COUNTY: RICH	99	115
EXCEPTION COUNTY: SAN JUAN	99	115
EXCEPTION COUNTY: SANPETE	99	115
EXCEPTION COUNTY: SEVIER	99	115
EXCEPTION COUNTY: SUMMIT	99	115
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY UINTAH	138	155
EXCEPTION COUNTY: WASATCH	99	115
EXCEPTION COUNTY: WASHINGTON	99	115
EXCEPTION COUNTY WAYNE	99	115
NON METRO STATE: VERMONT	126	146
MSA: Burlington, VT	152	174
EXCEPTION COUNTY: CHITTENDEN	153	176
EXCEPTION COUNTY: FRANKLIN	130	150
EXCEPTION COUNTY: GRAND ISLE	143	164
EXCEPTION COUNTY: ORANGE	141	163
EXCEPTION COUNTY: WASHINGTON	145	168
EXCEPTION COUNTY: WINDHAM	187	215
EXCEPTION COUNTY: WINDSOR	201	230
NON METRO STATE: VIRGINIA	88	88
MSA Charlottesville, VA	88	88
MSA: Danville, VA	88	88
MSA Johnson City-Kingsport-Bristol, TN-VA	85	85
MSA Lynchburg, VA	79	79
MSA: Norfolk-Virginia Beach-Newport News, VA	125	125
MSA: Richmond-Petersburg, VA	123	123
MSA: Roanoke, VA	85	85
MSA: Washington, DC-MD-VA	185	185
EXCEPTION COUNTY: APPOMATTOX	77	77
EXCEPTION COUNTY: CRAIG	83	83
NON METRO STATE: WASHINGTON	126	146
MSA: Bellingham, WA	126	163
MSA: Bremerton, WA	126	163
MSA: Olympia, WA	126	163
MSA: Richland-Kennewick-Pasco, WA	172	172
PMSA: Seattle, WA	161	227
MSA: Spokane, WA	138	155

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B 091889

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA Tacoma, WA	144	170
PMSA Vancouver, WA	180	198
MSA Yakima, WA	138	145
NON METRO STATE: WEST VIRGINIA	85	85
MSA: Charleston, WV	93	93
MSA Cumberland, MD-WV	124	124
MSA: Huntington-Ashland, WV-KY-OH	90	90
MSA: Parkersburg-Marietta, WV-OH	90	90
MSA: Steubenville-Weirton, OH-WV	81	81
MSA Wheeling, WV-OH	83	83
EXCEPTION COUNTY. WIRT	83	83
NON METRO STATE: WISCONSIN	94	101
MSA: Appleton-Oshkosh-Neenah, WI	118	125
MSA Duluth, MN-WI	87	98
MSA Eau Claire, WI	110	119
MSA. Green Bay, WI	116	123
MSA Janesville-Beloit, WI	116	123
PMSA Kenosha, WI	127	137
MSA La Crosse, WI	104	114
MSA Madison, WI	174	182
PMSA Milwaukee, WI	135	143
MSA Minneapolis-St. Paul, MN-WI	167	167
PMSA Racine, WI	127	134
MSA Sheboygan, WI	94	101
MSA Wausau, WI	94	101
NON METRO STATE. WYOMING	N/A	N/A
MSA Casper, WY	231	250
MSA Cheyenne, WY	138	165
EXCEPTION COUNTY: ALBANY	138	165
EXCEPTION COUNTY BIG HORN	138	165
EXCEPTION COUNTY CAMPBELL	231	250
EXCEPTION COUNTY CARBON	231	250
EXCEPTION COUNTY CONVERSE	231	250
EXCEPTION COUNTY CROOK	138	165
EXCEPTION COUNTY FREMONT	231	250
EXCEPTION COUNTY. GOSHEN	138	165
EXCEPTION COUNTY HOT SPRINGS	138	165
EXCEPTION COUNTY. JOHNSON	138	165
EXCEPTION COUNTY LARAMIE	138	165
EXCEPTION COUNTY LINCOLN	138	165

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 71

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: PARK	138	165
EXCEPTION COUNTY: PLATTE	138	165
EXCEPTION COUNTY: SHERIDAN	231	250
EXCEPTION COUNTY: SUBLETTE	138	165
EXCEPTION COUNTY: SWEETWATER	231	250
EXCEPTION COUNTY: TETON	138	165
EXCEPTION COUNTY: UINTA	138	165
EXCEPTION COUNTY: WASHAKIE	138	165
EXCEPTION COUNTY: WESTON	138	165

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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federal register

Thursday
September 28, 1989

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; additional seasons for sandhill cranes, coots, common moorhens, and snipe; and additional special extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided. These rules will permit taking of the designated species during the 1989–90 season within specified periods of time beginning as early as September 23.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Byron K. Williams, Acting Chief, Office of Migratory Bird Management, Room 634—Arlington Square, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone 703–358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On March 27, 1989, the Service published for public comment in the **Federal Register** (54 FR 12534) a proposal to amend 50 CFR part 20, with comment periods ending July 23, 1989, for early-season proposals; and August 28, 1989, for the late-season proposals. The March 27 document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under §§ 20.101 through 20.107, 20.109 and 20.110 of subpart K. On June 6, 1989, the Service published in the **Federal Register** (54 FR 24290) a second document consisting of a supplemental proposed rulemaking dealing with both the early- and late-season frameworks. On July 13, 1989, the Service published for public comment in the **Federal Register** (54 FR 29640) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 11, 1989, the Service published a fourth document (54 FR 32975) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico and the Virgin Islands selected early-season hunting dates, hours, areas and limits for 1989–90. The fifth document in the series, published August 16, 1989, in the **Federal Register** (54 FR 33721), deals specifically with proposed frameworks for the 1989–90 late-season migratory bird hunting regulations. On August 30, 1989, the Service published in the **Federal Register** (54 FR 36008) a sixth document consisting of a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas and limits for mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sea ducks in certain defined areas of the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. On September 19, 1989, the Service published in the **Federal Register** a seventh document (54 FR 38614) consisting of a final rulemaking for the late-season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 1989–90.

The final rule described here is the eighth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas and limits for species subject to late hunting regulations.

Nontoxic Shot Regulations

In the April 13, 1989, **Federal Register** (54 FR 14814), the Service published a final rule describing zones in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1989–90 season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations; those are developed annually. The annual regulations and options were considered in the Environmental Assessment, *Waterfowl Hunting Regulations for 1989.*

Endangered Species Act Consideration

On June 22, 1989, the Division of Endangered Species and Habitat Conservation concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Office of Endangered Species and Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634, Arlington Square, 4401 North Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 27, 1989 (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities

under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634, Arlington Square, Department of the Interior, Washington, DC 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 11, 1989 (54 FR 32975).

Authorship

The primary author of this proposed rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Byron K. Williams, Acting Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late-season proposals, the Service published in the **Federal Register** on September 19, 1989 (54 FR 38614) final late-season frameworks. Copies of the proposed and final frameworks were sent to the officials of the State conservation agencies who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the final frameworks.

The Service has long recognized, consistent with 16 U.S.C. 708, that States need not select maximum bag limits and season length delineated in annual Federal frameworks. Local resource needs and the health of portions of a population using a particular area may require stricter local controls than prevail elsewhere in a flyway.

The taking of migratory birds is prohibited unless specifically provided. The following amendments will permit taking of the designated species within specific time periods beginning as early as September 23 and will benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 27, June 6, and August 16, 1989, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. (d)(3) (Administrative Procedures Act), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby corrected and amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K is amended as follows.

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–718h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–04.

Note: The following annual hunting regulations provided for by §§ 20.104, 20.105, 20.106, 20.107 and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.104 is amended as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

Note: The following seasons are in addition to other seasons published previously in the August 30, 1989, **Federal Register.**

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit	25 [1]	See footnote [2]	5 [3]	8
Possession limit	25 [1]	See footnote [2]	10 [3]	16
Shooting and Hawking Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.				
Check state regulations for additional restrictions, including area descriptions.				
•	•	•	•	•	•	•
Seasons in the Mississippi Flyway:				
•	•	•	•	•	•	•
Kentucky	Nov. 23–Jan. 20	Closed	Oct. 1–Dec. 4	Oct. 1–Dec. 4.
•	•	•	•	•	•	•
Tennessee	Dec. 9–Jan. 7	Closed	Oct. 21–Nov. 26 & Feb. 1–Feb. 28.	Nov. 14–Feb. 28.
•	•	•	•	•	•	•
Seasons in the Central Flyway:				
•	•	•	•	•	•	•
Texas	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Nov. 25–Jan. 28	Oct. 28–Feb. 11
•	•	•	•	•	•	•

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Seasons in the Pacific Flyway:				
Arizona (13)	Closed	Closed	Closed	Oct. 13–Nov. 19 & Dec. 18–Jan. 7.
California	Closed	Closed	Closed	Oct. 7–Jan. 21.
* * * * * * *				
Idaho [4]:				
Zone 1	Closed	Closed	Closed	Oct. 14–Jan. 9.
Zone 2	Closed	Closed	Closed	Sept. 30–Jan. 7.
Nevada:				
Clark County	Closed	Closed	Closed	Nov. 11–Jan. 7.
Remainder of State	Closed	Closed	Closed	Oct. 14–Dec. 11.
* * * * * * *				
Oregon	Closed	Closed	Closed	Oct. 21–Jan. 14.
Utah	Closed	Closed	Closed	Oct. 7–Nov. 26 & Dec. 23–Dec. 30.
Washington:				
Eastern Washington [4]	Closed	Closed	Closed	Oct. 14–Oct. 22 & Nov. 4–Dec. 30.
Western Washington [4]	Closed	Closed	Closed	Oct. 14–Oct. 22 & Nov. 11–Dec. 30.
* * * * * * *				

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.
[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.
[3] In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.
[4] For description of zones or management units within a State, see State regulations.

* * * * *

(13) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

Dated: September 22, 1989.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

BILLING CODE 4310-55-M

3. Section 20.105 is amended to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Waterfowl, coots and gallinules in Atlantic, Mississippi, Central, and Pacific Flyways.

ATLANTIC FLYWAY

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Flywaywide Restrictions.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted--Check State regulations. States that further restrict shooting hours include, but are not limited to: South Carolina (during specified time periods in specified areas).

Duck Limits: the daily bag limit may include no more than 1 female mallard, 1 pintail, 1 black duck, 1 mottled duck, 2 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Canvasbacks - All areas of the Flyway are closed to canvasback hunting.

Harlequin Ducks - All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits	
		Bag	Possession
Connecticut			
Ducks:			
North Zone (1)	Oct. 21-Oct. 25 & Nov. 29-Dec. 23.	3	6
South Zone (1)	Oct. 21 & Dec. 9-Jan. 6.	3	6
Sea ducks (2)(3)(4)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada:			
North Zone	Oct. 21-Jan. 18.	3	6
South Zone	Oct. 21-Oct. 28 & Nov. 16-Jan. 15.	3	6
	Jan. 16-Feb. 5.	5	10
Snow (including blue):		5	10
North Zone	Oct. 21-Jan. 18.		
South Zone	Oct. 21-Oct. 28 & Nov. 11-Jan. 31.		
Brant:		2	4
North Zone	Nov. 30-Jan. 18.		
South Zone	Dec. 2-Jan. 20.		
Delaware			
Ducks	Nov. 2-Nov. 8 & Nov. 22-Nov. 25 & Dec. 19-Jan. 6.	3	6
Sea Ducks (2)(3)(4)	Sept. 23-Jan. 6.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Nov. 2-Nov. 8 & Nov. 22-Nov. 25 & Dec. 11-Jan. 13.	2	4

Snow (including blue) (6):		5	10
Statewide	Oct. 30-Nov. 17 & Nov. 22-Jan. 31.		
Bombay Hook Special Season	Oct. 16-Oct. 28.		
Brant	Dec. 2-Jan. 20.	2	4
Florida			
Ducks	Nov. 22-Nov. 26 & Dec. 14-Jan. 7.	3	6
Coots	Same as for ducks.	15	30
Mergansers	Same as for ducks.	5	10
Geese	Closed.	-	-
Georgia			
Ducks	Nov. 23-Nov. 26 & Dec. 13-Jan. 7.	3	6
Sea ducks(2)(3)(4)	Nov. 23-Jan. 7.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Canada Geese (Special Area)	Jan. 13-Jan. 20.	1 goose per season	
Brant	Closed.	-	-
Maine			
Ducks:			
North Zone (Wildlife Management Units 1-5)	Oct. 9-Oct. 28 & Nov. 9-Nov. 18.	3	6
South Zone (Wildlife Management Units 6-8)	Oct. 9-Oct. 21 & Nov. 23-Dec. 9.	3	6
Sea ducks(2)(3)(4)	Oct. 9-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Oct. 9-Dec. 16.	3	6
Snow (including blue)	Oct. 9-Jan. 6.	5	10
Brant	Oct. 9-Nov. 27.	2	4

Maryland			
Ducks	Oct. 13-Oct. 14 & Nov. 22-Nov. 24 & Dec. 13-Jan. 6.	3	6
(Black duck season closed Oct. 13-Oct. 14)	Oct. 13-Jan. 20.	5	10
Sea ducks(2)(3)(4)	Same as for ducks.	5	10
Mergansers	Same as for ducks.	15	30
Coots			
Geese:			
Canada	Nov. 14-Nov 24.	1	2
	Dec. 6-Jan. 15.	2	4
Snow (including blue)	Oct. 25-Nov. 24 & Dec. 4-Jan. 31.	4	8
Brant	Nov. 22-Nov. 24 & Dec. 5-Jan. 20.	2	4
Massachusetts			
Ducks:			
Western (Berkshire) Zone (1)	Oct. 13-Nov. 11.	3	6
Central Zone (1)	Oct. 16-Oct. 28 & Dec. 9-Dec. 25.	3	6
Coastal Zone (1)	Nov. 22-Dec. 6 & Dec. 18-Jan. 1.	3	6
Sea ducks(2)(3)(4)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada:			
Western (Berkshire) Zone (1)	Oct. 13-Nov. 25 & Dec. 7-Jan. 1.	3	6
Central Zone (1)	Oct. 16-Nov. 11 & Dec. 9-Jan. 20.	3	6
Coastal Zone (1)	Oct. 19-Oct. 28 & Nov. 22-Jan. 20.	3	6
	Jan. 22-Feb. 5.	5	10
Snow (including blue):			
Western (Berkshire) Zone (1)	Oct. 13-Nov. 25 & Dec. 7-Jan. 1.	5	10

Central Zone (1)	Oct. 16-Nov. 11 & Dec. 9-Jan. 20.	5	10
Coastal Zone (1)	Oct. 19-Oct. 28 & Nov. 22-Jan. 20.	5	10
Brant:			
Inland & Central Zone	Closed.		
Coastal Zone	Nov. 22-Jan. 10.	2	4
New Hampshire			
Ducks:			
Inland Zone (1)	Oct. 10-Oct. 29 & Nov. 22-Dec. 1.	3	6
Coastal Zone (1)	Oct. 7-Oct. 9 & Nov. 22-Dec. 18.	3	6
Sea ducks(2)(3)(4)	Sept. 15-Dec. 30.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada:		3	6
Inland Zone	Oct. 10-Dec. 18.		
Coastal Zone	Oct. 22-Dec. 30.		
Snow (including blue):		5	10
Inland Zone	Oct. 10-Dec. 30.		
Coastal Zone	Oct. 22-Dec. 30.		
Brant:		2	4
Inland Zone	Oct. 10-Nov. 28.		
Coastal Zone	Oct. 22-Dec. 10.		
New Jersey			
Ducks:			
North Zone (1)	Oct. 16-Oct. 28 & Nov. 23-Dec. 9.	3	6
South Zone (1)	Oct. 21-Oct. 28 & Nov. 23-Dec. 14.	3	6
Coastal Zone (1)	Oct. 28-Nov. 4 & Dec. 16-Jan. 6.	3	6
Sea ducks(2)(3)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30

Geese:			
Canada:		3	6
North Zone (1)	Oct. 16-Nov. 11 & Nov. 23-Jan. 24.		
South Zone (1)	Oct. 21-Nov. 11 & Nov. 23-Jan. 29.		
Coastal Zone (1)	Oct. 16-Jan. 13.		
Snow (including blue):		5	10
North Zone (1)	Oct. 16-Nov. 11 & Nov. 23-Jan. 24.		
South Zone (1)	Oct. 21-Nov. 11 & Nov. 23-Jan. 29.		
Coastal Zone (1)	Oct. 16-Jan. 13.		
Brant:		2	4
North Zone (1)	Oct. 16-Nov. 11 & Nov. 23-Dec. 15.		
South Zone (1)	Oct. 21-Nov. 11 & Nov. 23-Dec. 20.		
Coastal Zone (1)	Oct. 28-Nov. 24 & Dec. 16-Jan. 6.		
New York			
Long Island Zone:			
Ducks	Nov. 17-Nov. 26 & Dec. 19-Jan. 7.	3	6
Sea ducks(2)(3)(4)	Sept. 23-Jan. 7.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:	Nov. 3-Jan. 31.		
Canada		3	6
Snow (including blue)		5	10
Brant	Nov. 17-Nov. 26 & Nov. 29-Jan. 7.	2	4
Lake Champlain Zone:			
Ducks	Oct. 11-Oct. 29 & Nov. 23-Dec. 3.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Oct. 11-Dec. 19.	3	6
Snow (including blue)	Oct. 11-Dec. 19.	5	10

Brant	Oct. 11-Nov. 29.	2	4
Northeastern Zone (1):			
Ducks	Oct. 7-Oct. 27 & Nov. 25-Dec. 3.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Oct. 7-Oct. 15.	1	2
	Oct. 16-Jan. 4.	3	6
Snow (including blue)	Oct. 7-Jan. 4.	5	10
Brant	Oct. 7-Nov. 25.	2	4
Southeastern Zone (1):			
Ducks	Oct. 11-Oct. 22 & Nov. 24-Dec. 11.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Oct. 11-Oct. 15.	1	2
	Oct. 16-Jan. 8.	3	6
Snow (including blue)	Oct. 11-Jan. 8.	5	10
Brant	Oct. 11-Nov. 29.	2	4
Western Zone (1):			
Ducks	Oct. 20-Nov. 12 & Dec. 26-Dec. 31.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:	Oct. 16-Jan. 13.		
Canada		3	6
Snow (including blue)		5	10
Brant	Oct. 16-Dec. 4.	2	4
North Carolina			
Ducks	Oct. 12-Oct. 14 & Nov. 23-Nov. 25 & Dec. 14-Jan. 6.	3	6
Sea ducks(2)(3)	Oct. 2-Jan. 16.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada:			
East of I-95	Jan. 22-Jan. 31.	1	2

West of I-95	Closed.		
Snow (including blue)	Nov. 3-Jan. 31.	5	10
Brant	Oct. 12-Oct. 14 & Nov. 23-Nov. 25 & Dec. 14-Jan. 20.	2	4
Pennsylvania			
Ducks:			
North Zone (1) (Black duck season closed Oct. 16-Oct. 31)	Oct. 16-Nov. 14.	3	6
South Zone (1) (Black duck season closed Oct. 23-Oct. 28)	Oct. 23-Oct. 28 & Nov. 20-Dec. 13.	3	6
Northwest Zone (1) (Black duck season closed Oct. 16-Oct. 28)	Oct. 16-Oct. 28 & Nov. 9-Nov. 25.	3	6
Lake Erie Zone (1) (Black duck season closed Dec. 14-Dec. 26)	Nov. 9-Nov. 25 & Dec. 14-Dec. 26.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada and Snow (including blue)			
North Zone (1)	Oct. 9-Dec. 16.		
South Zone (1)	Oct. 16-Dec. 23.		
Northwest Zone(1)	Oct. 9-Dec. 16.		
Lake Erie Zone(1)	Oct. 9-Dec. 16.		
Southeastern Zone(1)	Oct. 16-Jan. 13.		
Canada		3(10)	6
Snow (including blue)		3	6
Brant	Oct. 16-Dec. 4.	2	4
Rhode Island			
Ducks	Oct. 13-Oct. 15 & Nov. 22-Nov. 26 & Dec. 16-Jan. 6.	3	6
Sea ducks(2)(3)(4)	Oct. 13-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30

Geese:	Oct. 13-Oct. 15 & Nov. 6-Jan. 31.		
Canada		3	6
Snow (including blue)		5	10
Brant	Dec. 2-Jan. 20.	2	4
South Carolina			
Ducks (7)	Nov. 22-Nov. 25 & Dec. 12-Jan. 6.	3	6
Sea ducks(2)(3)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Closed.		
Snow (including blue)	Nov. 22-Nov. 25 & Dec. 12-Jan. 6.	5	10
Brant	Nov. 22-Nov. 25 & Dec. 12-Jan. 6.	2	4
Vermont			
Ducks:			
Lake Champlain Zone(1)	Oct. 11-Oct. 29 & Nov. 23-Dec. 3.	3	6
Interior Vermont Zone(1)	Oct. 11-Nov. 5 & Nov. 23-Nov. 26.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:	Oct. 11-Dec. 19.		
Canada		3	6
Snow (including blue)		5	10
Brant	Oct. 11-Nov. 29.	2	4
Virginia			
Ducks	Oct. 11-Oct. 14 & Nov. 23-Nov. 25 & Dec. 15-Jan. 6.	3	6
Sea ducks(2)(3)(4)	Oct. 6-Jan. 20.	7	14
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Same as for ducks.	15(5)	30(5)

Geese:			
Canada:			
Back Bay Area(8)	Closed.		
Remainder of State	Nov. 20-Nov. 25 & Nov. 27-Dec. 2 & Dec. 4-Jan. 20.	2	4
Snow (including blue)(9)	Nov. 3-Jan. 31.	5	10
Brant	Nov. 30-Dec. 23 & Dec. 25-Dec. 30 & Jan. 1-Jan. 20.	2	4
West Virginia			
Ducks:			
Allegheny Mountain Upland Zone (Zone 2) (1)	Oct. 7-Oct. 14 & Oct. 28-Nov. 18.	3	6
Remainder of State (Zone 1)(1)	Oct. 7-Oct. 14 & Dec. 16-Jan. 6.	3	6
Gallinules/Moorhens	Same as for ducks	15(5)	30(5)
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada and Snow (including blue)			
Allegheny Mountain Upland Zone (Zone 2) (1)	Oct. 2-Nov. 18 & Dec. 30-Jan. 20.		
Remainder of State (Zone 1) (1)	Oct. 2-Oct. 14 & Nov. 25-Jan. 20.		
Canada		3	6
Snow (including blue)		5	10
Brant	Dec. 2-Jan. 20.	2	4

(1) Described in the September 19, 1989, Federal Register (54 FR 38614) and/or the State Regulations.

(2) An open season for taking scoter, elder, and oldsquaw ducks is prescribed during the period between September 15, 1989, and January 20, 1990, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; in any waters of

the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional or point-system daily bag and possession limits.

(3) The daily bag limit is 7 and possession limit is 14, singly or in the aggregate of these species. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(4) Notwithstanding the provisions of this Part 20 the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(5) Bag and possession limits given for common moorhens and purple gallinules, are singly or in the aggregate of the two species.

(6) In Delaware, during the special season of October 16 through October 28, and also October 30 through November 1 and November 9 through November 17, for the Bombay Hook NWR and the Little Creek Game Management Area, as specified in State regulations, the snow goose season is limited to the area bounded on the north by Delaware Route 6, on the west by Delaware Route 9, on the south by Pickering Beach Road and on the east by the Delaware Bay. Hunting will only be allowed under permits issued by the Delaware Division of Fish and Wildlife or the Refuge Manager of Bombay Hook National Wildlife Refuge.

(7) In South Carolina, the season is closed for female pintails. The bag limit of 3 may include no more than 1 male pintail and may include no more than 1 female mallard or 1 black duck or 1 mottled duck. Except on December 31, there will be no Sunday hunting in Georgetown County or Charleston County from the Georgetown County line (South Santee River) to the Wando River, East of US Highway 17. The shooting hours in this area will be one-half hour before sunrise to 12:00 noon daily except on November 25 and on January 6 when shooting hours will be one-half hour before sunrise to sunset. During the period December 12 to January 6, shooting hours are one-half hour before sunrise to 12:00 noon daily on all lands and waters of that portion of Lake Marion and Santee Swamp west of the Interstate 95 Bridge upstream to the confluence of the Wateree and Congaree Rivers. The affected area being further described as all lands west of I-95 within or adjacent to Lake Marion which is owned by Santee Cooper or the State of South Carolina in the counties of Clarendon, Sumter, Orangeburg, and Calhoun. This regulation shall apply to all land in the area described above whether such land shall be exposed or inundated. During the November season and on January 6, shooting hours in the area will be one-half hour before sunrise to sunset. NOTE: These regulations shall apply to land owned by Santee Cooper or the State of South Carolina ONLY.

(8) In Virginia, the Back Bay Area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64. Canada geese may only be taken on the waters of Back Bay, November 26-28 and December 17-January 18.

(9) In Virginia, the Back Bay Area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adajacent thereto.

(10) In Crawford, Erie, Mercer and Butler Counties, Pennsylvania the Canada goose daily bag limit is 2 and 4 in possession.

MISSISSIPPI FLYWAY

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Flywaywide Restrictions

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise noted--Check State regulations for further restrictions. States that further restrict shooting hours include, but are not limited to: Illinois, Iowa, Minnesota, and Wisconsin.

Duck Limits - The daily bag limit for ducks includes no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, and 1 redhead. The possession limit is twice the daily bag limit.

Canvasbacks - All areas of the Flyway are closed to canvasback hunting.

Merganser Limits - The merganser limit includes no more than 1 hooded merganser daily and 2 in possession.

Gallinule Limits - The daily bag and possession limit for purple gallinules and common moorhens is singly or in the aggregate of the two species.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits	
		Bag	Possession
Alabama			
Ducks:		3	6
North Zone (1)	Dec. 9-Jan. 7.		
South Zone (1)	Nov. 16-Nov. 20 & Dec. 14-Jan. 7.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:	Nov. 23-Jan. 31.	5	5
Limits include no more than:			
Canada or white-fronted		2	4
Snow (including blue) and brant		5	5
Arkansas (4)			
Ducks	Nov. 25-Dec. 17 & Dec. 26-Jan. 1.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:		7	14
Canada	Jan. 13-Jan. 29.	1	2
White-fronted	Nov. 11-Jan. 19.	2	4
Snow (including blue) and brant	Nov. 11-Jan. 29.	7	14
Illinois:			
Ducks:		3	6
North Zone (1)	Oct. 28-Nov. 26.		
Central Zone (1)	Nov. 4-Dec. 3.		
South Zone (1)	Nov. 10-Dec. 9.		

Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Canada Geese(2)(3):		5	10
North Zone(1):			
Tri-County Zone(1)	Nov. 4-Dec. 23.	2	10
Remainder of North Zone	Oct. 28-Dec. 26.	2	10
Central Zone (1):			
Tri-County Zone(1)	Nov. 4-Dec. 23.	2	10
Remainder of Central Zone	Nov. 4-Jan. 2.	2	10
South Zone (1):			
Southern Illinois Quota Zone (Alexander, Jackson, Union, and Williamson Counties) (3)	Nov. 20-Dec. 31.	2	10
	Jan. 1- Jan. 14.	3	10
Rend Lake Quota Zone (Franklin and Jefferson Counties) (3)	Nov. 20-Dec. 31.	2	10
	Jan. 1-Jan. 14.	3	10
Remainder of South Zone	Nov. 20-Jan. 18.	2	10
Other Geese:	Same as for Canada Geese.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Indiana			
Ducks:		3	6
North Zone (1)	Oct. 13-Oct. 15 & Nov. 7-Dec. 3.		
South Zone (1)	Oct. 21-Oct. 28 & Dec. 9-Dec. 30.		
Ohio River Zone (1)	Nov. 23-Nov. 26 & Dec. 9-Jan. 3.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30

Geese:		7	14
Canada(3):			
North Zone (1)	Oct. 13-Oct. 15 & Nov. 7-Jan. 12.	2	4
South Zone (1):			
Posey County (3)	Nov. 23-Jan. 31.	3	6
Remainder of South Zone	Oct. 21-Oct. 29 & Nov. 22-Jan. 21.	2	4
Ohio River Zone(1):			
Posey County (3)	Nov. 23-Jan. 31.	3	6
Remainder of Ohio River Zone	Nov. 13-Jan. 21.	2	4
Other Geese:		7	14
North Zone(1)	Oct. 13-Oct. 15 & Nov. 7-Jan. 12.		
South Zone(1):			
Posey County	Nov. 13-Jan. 21.		
Remainder of South Zone	Oct. 21-Oct. 29 & Nov. 22-Jan. 21.		
Ohio River Zone(1)	Nov. 13-Jan. 21.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		7	14
Iowa			
Ducks:		3	6
North Zone(1)	Oct. 7-Oct. 8 & Oct. 21-Nov. 17.		
South Zone(1)	Oct. 21-Oct. 27 & Nov. 4-Nov. 26.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:		7	14
Canada:		2	4
Southwest Zone (1)	Oct. 14-Nov. 27.		
Remainder of State	Sept. 30-Nov. 13.		

Snow (including blue) and brant:		7	14
Southwest Zone (1)	Oct. 14-Jan. 1.		
Remainder of State	Sept. 30-Dec. 18.	2	4
White-fronted:			
Southwest Zone (1)	Oct. 14-Dec. 22.		
Remainder of State	Sept. 30-Dec. 8.		
Kentucky			
Ducks	Nov. 23-Nov. 26 & Dec. 13-Jan. 7.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Nov. 23-Jan. 20.	15	30
Geese(2):		5	10
Canada:		2	4
Western Zone (1)(3):			
Fulton County	Dec. 2-Dec. 31.	2	4
	Jan. 1-Feb. 9.	3	6
Remainder of Western Zone	Dec. 2-Dec. 31.	2	4
	Jan. 1-Jan. 31.	3	6
Remainder of State	Nov. 23-Jan. 31.	2	4
Other geese	Nov. 23-Jan. 31.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Louisiana			
Ducks:		3	6
East Zone (1)	Nov. 18-Nov. 23 & Dec. 15-Jan. 7.		
West Zone (1)	Nov. 18-Dec. 4 & Dec. 26-Jan. 7.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:			
Canada	Closed.	-	-

Other geese:		7	14
White-fronted	Nov. 18-Dec. 4 & Dec. 15-Feb. 5.	2	4
Snow (including blue) and brant	Nov. 18-Dec. 4 & Dec. 15-Feb. 14.	7	14
Michigan			
Ducks:		3	6
North Zone (1)	Oct. 7-Nov. 5.		
Middle Zone (1)	Oct. 7-Nov. 5.		
South Zone (1)	Oct. 14-Nov. 9 & Nov. 24-Nov. 26.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Same as for ducks.	15	30
Geese:		7	14
Canada(3):			
North Zone (1):			
Superior Counties Goose Management Area(1)(3)	Sept. 23-Nov. 14.	3	6
Remadiner of North Zone:			
West of Forest Highway 13(6)	Sept. 23-Nov. 14.	3	6
East of Forest Highway 13(6)	Sept. 26-Nov. 14.	2	4
Middle Zone (1)	Oct. 7-Nov. 14.	2	4
	Nov. 24-Dec. 4.	3	6
South Zone (1):			
Allegan County Goose Management Area(1)(3)	Oct. 14-Dec. 7.	1	2
Muskegon Wastewater Goose Management Area (1)(3)	Oct. 14-Nov. 14 & Dec. 1-Dec. 18.	2	4
Saginaw County Goose Management Area(1)(3)	Sept. 30-Nov. 12 & Nov. 24-Nov. 26.	2	4
Fish Point Goose Management Area(1)(3)	Sept. 30-Nov. 12 & Nov. 24-Nov. 26.	2	4

Southern Michigan Goose Management Area(1):			
East of U.S. 27/127	Oct. 14-Nov. 12 & Nov. 24-Dec. 3. & Jan. 6-Feb. 4.	2	4
West of U.S. 27/127	Oct. 14-Nov. 12 & Nov. 24-Dec. 13 & Jan. 6-Feb. 4.	2	4
Remainder of South Zone:			
East of U.S. 27/127	Oct. 14-Nov. 12 & Nov. 24-Dec. 3.	2	4
West of U.S. 27/127	Oct. 14-Nov. 12 & Nov. 24-Dec. 13.	2	4
Other geese:			
Seasons are concurrent with Canada goose seasons except in the Southern Michigan Goose Management Area, where the Jan. 6 to Feb. 4 special season is for Canada geese only.			
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		7	14
Minnesota			
Ducks	Oct. 7-Nov. 5.	3	6
Mergansers	Same as for ducks.	5	10
Coots, Gallinules/Moorhens (singly or in the aggregate)	Same as for ducks.	15	30
Geese:		7	14
Canada:			
West Central Zone(1):			
Lac qui Parle Quota Zone(3)	Sept. 30-Oct. 29.	1	2
Remainder of West Central Zone	Sept. 30-Oct. 29.	1	2
Southeastern Zone(1):			
Metro Goose Management Block(1) and Olmsted County	Sept. 30-Dec. 8 & Dec. 15-Dec. 24.	2	4

Remainder of South-eastern Zone	Sept. 30-Dec. 8.	2	4
Remainder of State	Sept. 30-Nov. 8.	1	2
White-fronted:		2	4
West Central Zone(1)	Sept. 30-Oct. 29.		
Southeastern Zone(1)	Sept. 30-Dec. 8.		
Remainder of State	Sept. 30-Nov. 8.		
Snow (including blue) and brant	Sept. 30-Dec. 16.	7	14
Mississippi			
Ducks	Dec. 9-Jan. 7.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:		7	14
Canada	Dec. 9-Jan. 31.	2	4
White-fronted	Nov. 23-Jan 31.	2	4
Snow (including blue) and brant	Nov. 13-Jan. 31.	7	14
Missouri (4)			
Ducks and Mergansers:		3	6
North Zone (1)	Nov. 4-Dec. 3.		
South Zone (1)	Nov. 18-Dec 4 & Dec. 26-Jan. 7.		
Coots	Same as for ducks.	15	30
Geese(2):		7	14
Canada:			
North Zone (1):			
Swan Lake Zone (1) (3)	Nov. 4-Nov. 12 & Nov. 24-Dec. 24.	2	4
Southeast Zone(1)	Dec. 3-Jan. 21.	2	4
Remainder of North Zone	Nov. 4-Nov. 12 & Nov. 24-Dec. 24.	1	4
South Zone (1):			
Southeast Zone (1)	Dec. 3-Jan. 21.	2	4
Remainder of South Zone	Nov. 18-Dec. 4 & Dec. 26-Jan. 17.	1	4

Other geese:			
North Zone(1):			
Southeast Zone	Nov. 13-Jan. 21.		
Remainder of North Zone	Nov. 4-Jan. 12.		
South Zone(1)	Nov. 13-Jan. 21.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		7	14
Ohio			
Pymatuning Area (1)(5):			
Ducks:		3	6
Black Ducks	Nov. 9-Nov. 25.		
Other Ducks	Oct. 16-Oct. 28 & Nov. 9-Nov. 25.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 4.	15	30
Geese:	Oct. 9-Dec. 16.		
Limits include no more than:			
Canada		3	6
Snow (including blue)		3	6
Brant	Oct. 16-Dec. 4.	2	4
Remainder of State:			
Ducks:		3	6
North Zone (1)	Oct. 19-Nov. 5 & Nov. 14-Nov. 25.		
South Zone (1)	Oct. 19-Oct. 29 & Dec. 20-Jan. 7.		
Ohio River Zone (1)	Oct. 19-Oct. 29 & Dec. 20-Jan. 7.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese	Oct. 19-Nov. 25 & Dec. 7-Jan. 7.	7	14
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		7	14

Tennessee			
Ducks	Dec. 9-Jan. 7.	3	6
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Same as for ducks.	15	30
Geese:		7	14
Canada:			
Northwest Zone(1)(3)	Dec. 8-Feb. 15.	3	6
Southwest Zone (1)	Dec. 9-Jan. 7.	2	4
Remainder of State	Nov. 23-Jan. 31.	2	4
Other geese	Nov. 23-Jan. 31.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		7	14
Wisconsin			
Ducks:		3	6
North Duck Zone (1)	Oct. 7-Nov. 5.		
South Duck Zone (1)	Oct. 7-Oct. 10 & Oct. 18-Nov. 12.		
Mergansers	Same as for ducks.	5	10
Coots	Same as for ducks.	15	30
Geese:		7	14
Canada(3):			
Horicon Zone(1)	Sept. 23-Nov. 17 & Nov. 27-Dec. 16.	Tag System--See State Regulations	
Pine Island Zone(1)	Sept. 23-Nov. 30.	Tag System	
Collins Zone(1)	Sept. 23-Nov. 17 & Nov. 27-Nov. 30.	Tag System	
Theresa Zone(1)	Sept. 23-Nov. 17 & Nov. 27-Nov. 30	Tag System	
Exterior Zone(1):			
Mississippi River Subzone(1):			
North Duck Zone(1)	Oct 7-Oct. 31.	1	2
	Nov. 1-Nov. 12 & Nov. 20-Dec. 22.	2	4

South Duck Zone(1)	Oct. 7-Oct. 10 & Oct. 18-Oct. 31.	1	2
	Nov. 1-Dec. 22.	2	4
Rock Prairie Subzone(1)	Sept. 30-Oct. 31.	1	2
	Nov. 1-Nov. 4.	2	4
	Nov. 5-Dec. 10.	1	2
Brown County Subzone(1)	Sept. 23-Oct. 31.	1	2
	Nov. 1-Nov. 30.	2	4
	Dec. 1-Dec. 31.	3	6
Remainder of Exterior Zone (1):			
North Duck Zone(1)	Sept. 23-Oct. 31.	1	2
	Nov. 1-Dec. 1.	2	4
South Duck Zone(1)	Sept. 30-Oct. 31.	1	2
	Nov. 1-Dec. 8.	2	4
Other Geese:			
Seasons are concurrent with duck or Canada goose seasons in each zone and subzone except as follows: Brown County Subzone seasons ends Dec. 1; Horicon Zone white-fronted geese and brant seasons end Dec. 10; Rock Prairie Subzone white-fronted geese and brant seasons end Dec. 8.			
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		7	14

(1) Described in the September 19, 1989, Federal Register (54 FR 38614) and/or the State Regulations.

(2) Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

(3) Harvests of Canada geese will be limited as follows:

Illinois:
- Southern Illinois Quota Zone - 51,750
- Rend Lake Quota Zone - 15,500
- Remainder of State - 36,250

Indiana:
- Posey County - 11,500
- Remainder of State - 28,200

Kentucky:
- Western Zone:
  - Ballard Reporting Area - 20,000
  - Henderson/Union Reporting Area - 6,000
  - Remainder of Western Zone - 5,000

Michigan:
- Superior Counties Goose Management Area - 11,000
- Allegan County Goose Management Area - 5,500
- Muskegon Wastewater Goose Management Area - 700
- Saginaw County Goose Management Area - 4,500
- Fish Point Goose Management Area - 2,500
- Remainder of State - 65,200

Minnesota: Lac qui Parle Quota Zone - 4,000

Missouri: Swan Lake Zone - 10,000

Tennessee:
- Northwest Zone:
  - Reelfoot Subzone - 8,600
  - Remainder of Northwest Zone - 3,800

Wisconsin:
- Horicon Zone - 62,000
- Theresa Zone - 5,000
- Pine Island Zone - 1,700
- Collins Zone - 2,700
- Exterior Zone - 22,300

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Lac qui Parle Quota Zone in Minnesota, the Ballard and Henderson/Union Reporting Areas in Kentucky, the Reelfoot Subzone in Tennessee, and the Superior Counties, Allegan County, Muskegon Wastewater, Fish Point, and Saginaw County Goose Management Areas in Michigan, will have been filled, the season for taking Canada geese in the respective area will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

(4) In the Lower St. Francis River Area of Arkansas and Missouri, the Arkansas regulations apply. The Lower St. Francis River Area is defined as that part of the St.

Francis River that is south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

(5) In the Pymatuning Area of Ohio, the restrictions of the duck bag limit for the Atlantic Flyway apply.

(6) In Michigan, the dividing line of the Upper Penninsula is as follows: Beginning at the Michigan-Wisconsin border in Green Bay (approximate latitude 45 degrees, 26 minutes, longitude 87 degrees, 7 minutes) northeast through the middle of Big Bay De Noc to the mouth of the Sturgeon river at Nahma (Delta County); north along the Sturgen river to the intersection with County 497; north on County 497 to Highway US-2; east on Highway US-2 to Forest Highway 13; north on Forest Highway 13 through Delta and Alger counties to H58; east on H58 and then north again on Forest Highway 13 (Pictured Rocks Trail) to the Lake Superior shore at Miners Castle Point; then directly north into Lake Superior to the border with Ontario.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Geese include all species of geese and brant.

Dark Geese include Canada geese, white-fronted geese, and "black" brant.

Light Geese include all other species.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted--Check State regulations. States that further restrict shooting hours include, but are not limited to: Nebraska, and ducks only in North Dakota.

Duck Limits -- The daily bag limit for ducks may include no more than 2 mallards, no more than 1 of which may be a female, 1 mottled duck, 1 pintail, 1 redhead, 1 hooded merganser, and 2 wood ducks. The possession limit is twice the daily bag limit.

Canvasbacks -- All areas of the Flyway are closed to canvasback hunting.

Mergansers -- All mergansers are to be included within the daily bag and possession limits.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits	
		Bag	Possession
Colorado			
Ducks	Oct. 7-Oct. 17 & Nov. 4-Nov. 26 & Dec. 16-Jan. 1.	Point system	
Coots	Same as for ducks.	15	30
Geese:			
North-Central Unit(1):			
West of I-25	Sept. 30-Oct. 8 & Oct. 28-Jan. 7.	4	8
Including no more than:			
Dark geese		2	4
Remainder of North Central Unit	Oct. 28-Jan. 7.	4	8
Including no more than:			
Dark geese		2	4
South Park Unit (1)	Sept. 30-Oct. 8 & Oct. 28-Jan. 1.	2	4
San Luis Valley Unit(1) (special permit)	Oct. 28-Jan. 1.	2 geese per season.	
North Park Unit(1)	Sept. 30-Oct. 8.	4	8
Including no more than:			
Dark Geese		2	4
Arkansas Valley Unit(1)	Nov. 15-Jan. 21.	4	8
Including no more than:			
Dark geese		2	4
Remainder of State in Central Flyway	Oct. 28-Jan. 21.	4	8
Including no more than:			
Dark geese		2	4

Kansas			
Ducks:		Point system	
High Plains Area (west of U.S. 283)	Oct. 7-Oct. 29 & Nov. 11-Nov. 26 & Dec. 23-Jan. 3.		
Low Plains Area (east of U.S. 283)	Oct. 21-Oct. 29 & Nov. 15-Dec. 5 & Dec. 23-Dec. 31.		
Coots	Same as for ducks.	15	30
Dark geese (2)	Nov. 11-Jan. 21.	2	4
(During the period Nov. 11-Nov. 26 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 27-Jan. 21 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)			
Light geese			
Unit 1 (east of U.S. 75 and north of I-70)	Nov. 11-Feb. 18.	5	10
Unit 2 (remainder of State)	Oct. 28-Feb. 4.	5	10
Montana			
Ducks		Point system	
Zone 1 (3)	Oct. 7-Nov. 14 & Dec. 9-Dec. 20.		
Zone 2 (3)	Oct. 7-Oct. 15 & Nov. 9-Dec. 20.		
Coots	Same as for ducks.	15	30
Geese:	Sept. 30-Dec. 31.		
Limits:			
Sheridan County:			
Dark geese		2	4
Light geese		3	6
Remainder of State in Central Flyway:			
Dark geese		3	6
Light geese		3	6

Nebraska			
Ducks:		Point system	
High Plains Area	Oct. 14-Nov. 21 & Dec. 20-Dec. 31.		
Low Plains Area:			
Zones 1 and 2 (4)	Oct. 28-Oct. 29 & Nov. 4-Dec. 10.		
Zones 3 and 4 (4)	Oct. 7-Oct. 15 & Oct. 28-Nov. 26.		
Coots	Same as for ducks.	15	30
Dark geese:			
North Unit (5) (During the period Sept. 30-Nov. 17 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 18-Dec. 17 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)	Sept. 30-Dec. 17.	2	4
East Unit (5) (During the period Oct. 7-Nov. 19 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 20-Dec. 17 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)	Oct. 7-Dec. 17.	2	4
Central Unit (5) (During the period Oct. 21-Nov. 19 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 20-Dec. 31 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)	Oct. 21-Dec. 31.	2	4
Panhandle Unit (5) (During the period Nov. 4-Nov. 19 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 20-Dec. 31 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)	Nov. 4-Dec. 31.	2	4
Sandhills Unit(5) (special permit)	Oct. 28-Dec. 13.	1	2 per season
Light Geese	Sept. 30-Jan. 7.	5	10
New Mexico			
Ducks:		Point system	
Zone 1 (6)	Oct. 8-Nov. 15 & Dec. 9-Dec. 20.		
Zone 2 (6)	Nov. 18-Jan. 7.		
Coots	Same as for ducks.	15	30
Common Moorhens	Same as for ducks.	2	4
Geese:			
Dark geese	Oct. 21-Jan. 21.	2	4
Light geese:			
Rio Grande Valley Unit	Nov. 1-Feb. 15.	5	10
Remainder of State in Central Flyway	Nov. 28-Feb. 28.	5	10
North Dakota			
Ducks:		3	6
Statewide	Oct. 7-Nov. 12 & Nov. 18-Nov. 19.		

High Plains Area Only (male mallards)	Dec. 9-Dec. 20.	2	4
Coots	Same as for ducks.	15	30
Dark geese:		2	4
Statewide	Sept. 30-Nov. 12.		
Missouri River Zone only	Nov. 13-Nov. 19.		
Including no more than:			
Canada	Sept. 30-Oct. 29.	1	2
Light geese	Sept. 30-Nov. 26.	5	10
Oklahoma			
Ducks:		3	6
High Plains Area(10)	Oct. 21-Nov. 28 & Dec. 16-Dec. 27.		
Low Plains:			
Zone 1 (7)	Oct. 28-Nov. 19 & Dec. 16-Dec. 31.		
Zone 2 (7)	Nov. 11-Nov. 26 & Dec. 16-Jan. 7.		
Coots	Same as for ducks.	15	30
Dark geese	Nov. 11-Jan. 21.	2	4
including no more than:			
White-fronted		1	2
Light geese	Nov. 11-Feb. 18.	5	10
South Dakota			
Ducks:		3	6
High Plains Area (8)	Oct. 7-Nov. 14 & Dec. 9-Dec. 20.		
Low Plains Area:			
North Zone (8)	Oct. 7-Nov. 14.		
South Zone (8)	Oct. 21-Nov. 28.		
Coots	Same as for ducks.	15	30
Dark geese:			
Missouri River Unit(9) (During the period Oct. 7-Nov. 17 the daily bag limit will be 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag. During the period Nov. 18-Dec. 24 the daily bag limit will be 2 Canada geese or 1 Canada goose and 1 white-fronted goose; possession limit is twice the daily bag.)	Oct. 7-Dec. 24.	2	4
Remainder of State	Oct. 7-Dec. 17.	2	4
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Oct. 7-Dec. 31.	5	10
Texas			
Ducks (except masked duck):		3	6
High Plains Area (10)	Nov. 18-Jan. 7.		
Remainder of State	Nov. 18-Nov. 26 & Dec. 9-Jan. 7.		
Masked duck	Closed season.	-	-
Coots	Same as for ducks.	15	30
Geese:			
East of U.S. Highway 81:			
Dark geese(14)	Nov. 11-Jan. 21	2	4
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Nov. 11-Feb. 18.	5	10
West of U.S. Highway 81:			
Geese:	Oct. 21-Jan. 21.	5	10
Including no more than:			
Dark geese		2	4
Wyoming			
Ducks	Oct. 7-Oct. 23 & Nov. 10-Nov. 26 & Dec. 9-Dec. 25.	3	6
Coots	Same as for ducks.	15	30
Geese:		2	4
Canada and light geese:			
In the Counties of Campbell, Sheridan, Johnson, Niobrara, Crook, Weston, Platte, Laramie,			

Albany and Carbon east of the Continental Divide	Oct. 7-Dec. 31.
In the Counties of Natrona and Converse	Oct. 28-Dec. 31.
In the Counties of Bighorn, Park, Washakie, Hot Springs, and Fremont	Nov. 1-Dec. 31.
In Goshen County	Nov. 4-Jan. 7.
Canada geese only:	
In the Counties of Bighorn, Park, Washakie, Hot Springs, and Fremont	Oct. 7-Oct. 31.

Point system--Ducks and mergansers: The Central Flyway States selecting the point system bag limits on designated species are listed in the table above.

The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days.

The point values assigned to the species and sexes are as follows:

100 points	50 points	35 points
Female mallard	Male mallard	All other species of ducks and mergansers
Mottled duck	Wood duck	
Pintail		
Redhead		
Hooded merganser		

(1) North Central Unit: Bounded by the Continental Divide, the northern State line, and highways US-85 to I-76, I-76 to I-25, I-25 to I-70, and I-70 to the Continental Divide. South Park Unit: Chaffee, Fremont, Lake, Park, and Teller Counties. San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and the portion of

Saguache County east of the Continental Divide. North Park Unit: Jackson County. Arkansas Valley Unit: Baca, Bent, Crowley, Kiowa, Otero and Prowers Counties. Shooting hours in the Arkansas Valley Unit are one-half hour before sunrise to 12 noon Nov. 15-Dec. 1 and one-half hour before sunrise to sunset Dec. 2-Jan. 21.

(2) In Kansas, exceptions to the dark goose season are as follows: (a) Marais des Cygne Valley Unit - Season dates: December 23, 1989 through January 14, 1990 - Dark goose permits issued by the Kansas Department of Wildlife and Parks required. Seven hundred and fifty (750) permits are available with a maximum of two (2) dark geese per permit and one (1) permit per individual. Leg tagging of dark geese is required in this area. The area is bounded by the Missouri State Line to K-68, K-68 to U.S-169, U.S.-169 to K-7, K-7 to K-31, K-31 to U.S.-69, U.S.-69 to K-239, K-239 to the Missouri State Line; (b) South Flint Hills Unit - Season dates: December 23, 1989, through January 14, 1990 - Dark Goose permits issued by the Kansas Departmenbt of Wildlife and Parks required. Two hundred (200) permits available with one (1) dark goose per permit and one (1) permit per individual. Leg tagging of geese required in this area. The area is bounded by Highways U.S. 50 to K-57, K-57 to U.S.-75, U.S.-75 to K-39, K-39 to K-96, K-96 to U.S.-77, U.S.-77 to U.S.-50; (c) Central Flint Hills Unit - Dark geese may not be hunted in an area southwest of Topeka bounded by Highways U.S.-75 to Interstate 35, Interstate 35 to U.S.-50, U.S.-50 to U.S.-77, U.S.-77 to Interstate 70, Interstate 70 to U.S.-75; and (d) Strip Pits Unit - Dark geese may not be hunted in an area of southeast Kansas bounded by the Missouri State Line to U.S.-160, U.S.-160 to U.S.-69, U.S.-69 to K-39, K-39 to U.S-169, U.S.-169 to the Oklahoma State Line, and the Oklahoma State Line to the Missouri State Line.

(3) Zone 1: The Central Flyway portion, except Zone 2, of Montana. Zone 2: The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.

(4) High Plains: West of Highways US-183 and US-20 from the northern State line to Ainsworth, N-7 and N-91 to Dunning, N-2 to Merna, N-70 to Arnold, N-40 and N-47 and N-47 through Gothenburg to N-23, N-23 to Elwood, and US-283 to the southern State line. Zone 1: Keya Paha (east of US-183) and Boyd Counties including all waters of the Niobrara River. Zone 2: Bounded by Highways and political boundaries starting at the State line near Falls City, US-73 north to N-67; north through Nemaha to US-73-75; north to US-34; west to the Alvo Road; north to US-6; northeast to N-63; north and west to US-77; north to N-92; west to US-81; south to N-66; west to N-14; south to I-80; west to US-34; west to N-10; south to the State line; west to US-283; north to N-23; west to N-47; north to US-30; east to N-14; north to N-52; northwesterly to N-91; west to US-281; north to and including Wheeler, Garfield, and Loup (east US-183) Counties; east on N-70 from Wheeler County to N-14; south to N-39; southeast to N-22; east to US-81; southeast to US-30; east to US-73; north to N-51; east to the State line; and south and west along the State line to US-73. Zone 3: The area, excluding Zone 1, north of Zone 2. Zone 4: The area south of Zone 2.

(5) North Unit: Boyd (west of US-81), Keya Paha (east of US-183), and Knox Counties. East Unit: The area, excluding the North Unit, east of highways US-183 and US-20 from the northern State line to Atkinson, N-11 to Burwell, N-91 to near Taylor, US-183 to Ansley, N-2 to Grand Island, and US-281 to the southern State line. Panhandle Unit: South and west of the northern boundaries of Scotts Bluff, Morrill, and Garden Counties and highways N-2 from Garden County to N-61, N-61 to Grant, and N-23 to the State line. Central Unit: All that part of the State west of US-281, north to NE-2, west on NE-2 to US-183, north on US-183 to the Nebraska-South Dakota State line, excluding the Panhandle and Sandhills Units. Sandhills Unit: That portion of the State from the Nebraska-South Dakota border south on NE-27 to Ellsworth, east on NE-2 to Dunning, east on NE-91 to Burwell, north on NE-11 to Atkinson, west on US-20 to Valentine, north on US-83 to the Nebraska-South Dakota border.

(6) New Mexico: Zone 1: North of highways I-40 and US-54. Zone 2: South of highways I-40 and US-54.

(7) High Plains: Beaver, Cimarron, and Texas Counties. Zone 1: Northwestern Oklahoma, except the Panhandle, bounded by highways OK-33 from the western State line to Roll, OK-47 to US-183, US-183 to Clinton, I-40 to US-177, US-177 to Perkins, OK-33 to Guthrie, I-35 to US-60, US-60 to US-64, US-64 to Nash, and OK-132 to the northern State line. Zone 2: The remainder of the State south and east of Zone 1.

(8) High Plains: West of highways and political boundaries starting at the State line north of Herreid; US-83 and US-14 to Blunt, Blunt-Canning Road to SD-34, a line across the Missouri River to the northwestern corner of the Lower Brule Indian Reservation, the Reservation Boundary and Lyman County Road through Presho to I-90, and US-183 to the southern State line. North Zone: East of the High Plains except the South Zone. South Zone: Bon Homme County (south of S.D. Highway 50), Yankton County (south of S.D. Highway 50), and Clay County (south of S.D. Highway 50); Charles Mix County (south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and CFAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County); Gregory County; and Union County (south and west of S.D. Highway 50 and Interstate Highway 29).

(9) Missouri River Unit: The Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of highway SD-65), Dewey, Gregory, Haakon (north of Kirley Road and part of Plum Creek), Hughes, Hyde, Lyman (north and east of highways I-90 and US-183), Potter, Stanley, Sully, Tripp (east of highway US-183), Walworth, and Yankton (west of highway US-81).

(10) High Plains: West of highways US-183 from the northern State line to Vernon, US-283 to Albany, T-6 and T-351 to Abilene, US-277 to Del Rio, and the Del Rio International Toll Bridge access road.

PACIFIC FLYWAY

The Pacific Flyway includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily, except as otherwise noted--Check State regulations for further restrictions. States that further restrict shooting hours include, but are not limited to: Nevada, Oregon, the majority of Idaho, and on specified dates in Utah and Washington.

Duck Limits - Daily bag limits for ducks (including mergansers) may include no more than 3 mallards but only 1 female (hen) mallard, 1 pintail, and 2 redheads or 1 canvasback and 1 redhead or 1 canvasback. The possession limit is twice the daily limit.

Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.

White Geese and Dark Geese: Unless otherwise noted, seasons and limits for white geese are for snow, including blue, and Ross' geese, either singly or in the aggregate; and seasons and limits for dark geese are for Canada and white-fronted geese, brant, and all other species of geese, either singly or in the aggregate, except in Washington, Oregon, and California where there are separate seasons and limits on brant.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits	
		Bag	Possession
Arizona (1)			
Ducks	Oct. 13-Nov. 19 & Dec. 18-Jan. 7.	4	8

Geese:		6	6
Statewide (except Game Management Units 22 &23)	Oct. 26-Jan. 21.		
Game Management Units 22 & 23	Nov. 15-Jan. 21.		
Including no more than:			
White-fronted	Closed.		
Canada geese		2	2
White		3	3
Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25
California			
Ducks:		4	8
Northeastern Zone (2)	Oct. 14-Dec. 11.		
Colorado River Zone (2)	Oct. 13-Nov. 19 & Dec. 18-Jan. 7.		
Southern Zone (2)	Oct. 14-Nov. 8 & Dec. 6-Jan. 7.		
Balance of State Zone (2)	Oct. 28-Nov. 19 & Dec. 2-Jan. 6.		
Geese (except cackling Canada, Aleutian Canada and brant):			
Northeastern Zone (3)	Oct. 14-Jan. 14.	3	6
Including no more than:			
Canada geese (except Aleutian and Cackling)		2	4
White-fronted geese (except that the season shall be Oct. 14-Nov. 5).		1	2
White geese		3	6
Colorado River Zone(3)	Oct. 26-Jan. 21.	5	5
Including no more than:			
White-fronted	Closed.	-	-
Canada geese		2	2

White		3	3
Southern Zone (2)	Oct. 14-Jan. 14.	6	6
Including no more than:			
Dark (except that Canada geese shall not exceed 2 in the daily bag and possession limits; but in that portion of District 22 within the Southern Zone, Canada geese may not exceed 1 in daily bag and 2 in possesion; and the season on Canada geese shall be Oct. 21-Jan. 14.) (3)		3	3
White		3	3
Balance-of-the-State Zone(2)	Oct. 28-Jan. 14.	3	3
Including no more than:			
Dark (3)(4):		1	1
Except that the season on Canada geese shall be:			
Counties of Del Norte and Humboldt	Closed.	-	-
Sacramento Valley Area (2)	Closed.		
San Joaquin Valley Area (2)	Oct. 28-Nov. 22.		
Except that the season on white-fronted geese shall be:			
Sacramento Valley Area (2)	Oct. 28-Nov. 30.		
Remainder of Zone	Oct. 28-Dec. 31.		
White		3	3
Cackling Canada geese and Aleutian Canada geese	Closed.	-	-
Brant	Nov. 1-Nov. 30.	2	4

Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25
Colorado			
Ducks	Oct. 7-Oct. 14 & Nov. 18-Jan. 7.	4	8
Geese:			
Brown's Park, Moffat County	Oct. 28-Dec. 10.	1	2
Delta and Montrose Counties	Nov. 11-Jan. 14.	Only by permit; 2 geese per day; 4 per season.	
Mesa County	Nov. 11.Jan. 14.	Only by permit; 2 4 6 geese per season.	
Gunnison County and Saguache City, west of the Continental Divide	Nov. 11-Jan. 14.	Only by permit; 1 per season	
Dolores, LaPlata and Montezuma Counties	Closed.	-	-
Remainder of State in Pacific Flyway	Sept. 30-Oct. 8 & Oct. 28-Jan. 14.	2	4
Coots	Same as for ducks.	25	25
Idaho			
Ducks			
Zone 1 (2)	Oct. 14-Dec. 11.	4	8
Zone 2 (2)	Oct. 21-Nov. 26 & Dec. 16-Jan. 6.	4	8
Geese:		3	6
Goose Area 1 (2)(5) including no more than:	Oct. 14-Jan. 7.		
Dark		2	4
Goose Area 2 (2) including no more than:	Oct. 28-Jan. 7		
Dark		2	4
Goose Area 3 (2)	Oct. 14-Jan. 7.		

Including no more than:			
Dark (Except during Nov. 11-Dec. 17 when the daily bag and possession limit may be 2 and 4, respectively).		1	2
Goose Area 4 (2) including no more than:	Oct. 14-Jan. 9.		
Dark		2	4
Coots	Same as for ducks.	25	25
Montana			
Ducks	Oct. 7-Nov. 25 & Dec. 23-Dec. 31.	4	8
Geese: (6)			
East of the Continental Divide	Sept. 30-Dec. 31.	6	6
Including no more than:			
Dark		3	6
White		3	6
West of the Continental Divide	Sept. 30-Dec. 31.	5	6
Including no more than:			
Dark		2	2
White		3	6
Coots	Same as for ducks.	25	25
Nevada			
Ducks:			
Clark County	Nov. 11-Jan. 7.	4	8
Remainder of State	Oct. 14-Dec. 11.	4	8
Dark geese:			
Clark County	Nov. 25-Jan. 21.	2	2
Remainder of State(2)	Oct. 14-Jan. 14.	2	4
White geese:			
Clark County	Nov. 25-Jan. 21.	3	3
Remainder of State(12)	Oct. 14-Jan. 14.	3	3
Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25

New Mexico			
Ducks	Oct. 7-Oct. 22 & Nov. 25-Jan. 6.	4	8
Geese:			
North of Interstate 40	Jan. 6-Jan. 21.	3	3
Including no more than:			
Dark (no more than 2 Canada geese per day and 12 per season)		2	2
White		1	1
South of Interstate 40	Oct. 21-Jan. 14.	3	3
Including no more than:			
Dark (no more than 2 Canada geese)		2	2
White		1	1
Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25
Including no more than:			
Common Moorhens		2	4
Oregon			
Ducks:		4	8
Entire State, except Morrow and Umtailla Counties	Oct. 21-Nov. 8 & Nov. 22-Dec. 31.		
Morrow and Umatilla Counties	Oct. 21-Nov. 8 & Nov. 22-Jan. 7.		
Geese (except cackling Canada, and Aleutian Canada):			
Western Oregon(3)(7)(8)	Oct. 14-Jan. 14.	2	4
Eastern Oregon, except Baker, Malheur, Klamath, and Lake Counties	Oct. 14-Jan. 14.	6	6
Including no more than:			
Dark(3)		3	6
White		3	6
Baker and Malheur Counties(3)	Oct. 14-Jan. 7.	2	4

Klamath and Lake Counties	Oct. 14-Jan. 14.	6	6
Including no more than:			
Dark (3), except the season on white-fronted geese does not open until Nov. 1.		3	6
White		3	6
Cackling and Aleutian Canada geese	Closed.	-	-
Brant	Dec. 30-Jan. 14.	only by permit; 2	4
Coots	Same as for ducks.	25	25
Utah			
Ducks	Oct. 7-Nov. 26 & Dec. 23-Dec. 30.	4	8
Geese:			
General Season:	Oct. 7-Jan. 2.	5	6
Including no more than:			
Dark geese		2	4
White geese		3	6
Special Seasons:			
Daggett County east of U.S. Highway 191	Oct. 28-Dec. 10.		
Including no more than:			
Canada geese		1	2
Washington County	Oct. 14-Jan. 9.		
Including no more than:			
Canada geese		2	2
Emery County, Desert Lake Wildlife Management Area	Oct. 28-Jan. 2.		
Coots	Same as for ducks.	25	25
Washington			
Ducks:		4	8
Eastern Washington(9)	Oct. 14-Oct. 22 & Nov. 4-Dec. 30.		
Western Washington(9)	Oct. 14-Oct. 22 & Nov. 11-Dec. 30.		

Geese (except cackling Canada, Aleutian Canada and brant):			
Eastern Washington(3)(10): Adams, Benton, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogon, Spokane, and Walla Walla Counties, and east of Satus Pass (Highway 97) in Klickitat County	Oct. 14-Jan. 14.	3	6
Remainder of Eastern Washington	Oct. 14-Jan. 14.	3	6
Western Washington(3)(9): Island, Skagit, Snohomish and Whatcom Counties	Oct. 14-Jan. 7.	3	6
Clark, Cowlitz, Pacific and Wahkiakum Counties		See footnotes (3) & (11)	
Remainder of Western Washington	Oct. 14-Jan. 14.	3	6
Cackling Canada geese and Aleutian Canada geese:	Closed.	-	-
Brant:			
Skagit and Whatcom Counties only.	Dec. 9, 10, 13, 14, 16, 17, 18, 19, 20, 21 and 23.	2	4
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Wyoming (13)			
Ducks	Oct. 7-Dec. 4.	4	8
Coots	Same as for ducks.	25	25
Canada Geese	Sept. 30-Dec. 28.	3	6

(1) In Arizona, the daily limit may include no more than either 1 female (hen) mallard or 1 Mexican-like duck, but not both; and not more than 2 female (hen) mallards, 2 Mexican-like ducks, or 1 of each, may be in possession.

(2) Zone/Area boundaries described in the September 19, 1989, Federal Register and/or State regulations.

(3) The season on cackling Canada geese and Aleutian Canada geese is closed.

(4) The dark goose limits may be expanded to 2 per day and 4 in possession provided they are Canada geese, except for cackling Canada and Aleutian Canada geese for which the season is closed.

(5) The season on white geese is closed in Fremont and Teton Counties.

(6) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; Benton Lake; Missoula County; and Kleinschmidt Lake.

(7) Western Oregon consists of all counties west of the summit of the Cascades excluding Kalmath and Hood River Counties. Eastern Oregon consists of all counties east of the simmit of the Cascades, including all of Kalmath and Hood River Counties. Those portions of Coos, Curry, Douglas and Lane Counties lying west of U.S. Highway 101, and that portion of western Oregon west and north of a line starting at the Columbia River at Portland, south on Interstate 5 to Hwy 22 at Salem, east on Hwy 22 to the Stayton Cutoff, south on the Stayton Cutoff to Stayton and straight south to the Santiam River, west (downstream) along the north shore of the Santiam River to Interstate 5, south on Interstate 5 to its junction with Hwy 126 at Eugene, and west on Hwy 126 to Highway 36, north on Highway 36 to forest road 5070 at Brickerville, west and south on forest road 5070 to Highway 126, west on Highway 126 to the Oregon Coast are closed to all goose hunting, except for a special Northwest Oregon permit goose hunt.

(8) Northwest Oregon Special Permit Goose Season - November 11-January 14 on Sauvie Island Wildlife Area, only in designated areas but excluding North Unit and Columbia River Beaches, Private lands of Sauvie Island (including Scappoose Flat and Deer Island), lower Columbia River Area, Ankeny NWR, Private lands adjacent to William L. Finley NWR, and Private lands adjacent to Baskett Slough NWR. See State regulations for specific boundary descriptions, times, days and other conditions of the permit season.

(9) Eastern Washington includes all areas lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County. Western Washington includes all areas lying to the west of Eastern Washington.

(10) Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 23 and 24, Dec. 25, and Jan. 1 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County. Geese may be hunted every day during January 15-21 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties.

(11) The hunting season for all geese except Canada geese in Clark, Cowlitz, Pacific and Wahkiakum Counties is October 14 through January 14; 3 geese may be taken daily and 6 may be in possession. Canada goose season is open in the following Clark-Cowlitz-Wahkiakum Counties area: Clark County: All lands west of the boundary from Interstate 5 north to SR 502, thence north on N.E. 10th Ave., thence north on N.E. Timmen Road to La Center Road, thence west to Interstate 5, thence north to the Lewis

River; Cowlitz and Wahkiakum counties: all lands south of State Hwy 4 and west of Interstate 5. The season in the Clark-Cowlitz-Wahkiakum area is Nov. 26, December 2, 10, 16, 24, and 30, and January 6 and 13. The Canada goose season is open in Pacific County on Saturdays only, November 25 to January 1. Canada goose season shooting hours are 9 a.m. to 4 p.m. Bag limits are 3 geese per day and 6 in possession, including no more than 1 dusky Canada goose per season. See State regulations for specific conditions of these permit hunts.

(12) In Nevada, there is no open season on white geese in Ruby Valley within Elko and White Pine Counties, White River Valley of Nye County, and Pahranagat Valley of Lincoln County.

(13) In Wyoming, there is no open season on canvasbacks.

4. Section 20.106 is revised to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

The following seasons are in addition to the seasons published previously in the August 30, 1989, Federal Register.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes (unless otherwise noted), and with shooting hours from one-half hour before sunrise until sunset (unless otherwise noted) in the following areas for the dates indicated:

* * * * *

(d) In Texas in Zone A the inclusive dates are November 11, 1989, through February 11, 1990. In Zone B the inclusive dates are December 2, 1989, through February 11, 1990. In Zone C the inclusive dates are January 6, 1990, through February 11, 1990. In the remainder of the State the season is closed. See State regulations for description of zones.

* * * * *

Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

Pacific Flyway

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season dates are November 3 through November 5, November 7 through November 9, November 11 through November 13, and November 15 through November 17, 1989. Season limits are 2 sandhill cranes per season.

* * * * *

5. Section 20.107 is revised as follows:

§20.107 Seasons, limits, and shooting hours for tundra (whistling) swans.

Tundra swans may be taken only by State-issued permit. Permittees may take only one tundra swan per season. Successful permittees must immediately validate their harvest by that method required in State regulations. Shooting hours are from one-half hour before sunrise to sunset daily except as otherwise restricted--Check State hunting regulations. Seasons are:

Atlantic Flyway: (a) In North Carolina, tundra swans may be hunted from November 3, 1989, through January 31, 1990; and (b) in Virginia, tundra swans may be hunted from November 3, 1989, through January 31, 1990.

Central Flyway: (a) In Montana, tundra swans may be hunted from September 30 through December 31, 1989; and (b) in North Dakota, tundra swans may be hunted from October 7 through November 12, 1989.

Pacific Flyway: (a) In Montana, tundra swans may be hunted only in Cascade, Hill, Liberty, Pondera, Toole and Teton Counties from September 30 through December 31, 1989; (b) In Nevada, tundra swans may be hunted only in Churchill, Lyon and Pershing Counties from October 14, 1989, through January 14, 1990 (shooting hours are sunrise to sunset); (c) In Utah, tundra swans may be hunted from October 7, 1989, through January 2, 1990.

6. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit ..... 3 singly or in the aggregate.
Possession limit..... 6 singly or in the aggregate.
These limits apply during both regular hunting seasons and extended falconry seasons.
Hawking hours: One-half hour before sunrise until sunset daily--unless otherwise restricted.
CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway

Florida:

Mourning doves and white-winged doves, moorhens and rails .....Sept. 23-Dec. 1.

Woodcock .....Oct. 28-Dec. 10.

Snipe .....Nov. 1-Feb. 15.

Common moorhens and rails .....Sept. 23-Dec. 1.

Ducks and coots .....Nov. 1-Nov. 19 &
Dec. 1-Dec. 13 &
Jan. 20-Feb. 28.

Georgia:

Ducks, mergansers, coots, gallinules and sea ducks .....Nov. 14-Feb. 28.

Maine:

Ducks, coots, and mergansers:

North Zone (Units 1-5) .....Oct. 6-Oct. 7 &
Oct. 30-Nov. 8 &
Nov. 20-Jan. 20.

South Zone (Units 608).....Oct. 6-Oct. 7 &
Oct. 23-Nov. 22 &
Dec. 11-Jan. 20.

Maryland:

Mourning doves .....Sept. 1-Oct. 21 &
Nov. 3-Dec. 28.

Rails .....Sept. 1-Dec. 16.

Woodcock .....Oct. 5-Jan. 19.

Snipe .....Oct. 2-Nov. 24 &
Nov. 27-Jan. 18.

Ducks .....Oct. 13-Oct. 16 &
Nov. 22-Nov. 24 &
Dec. 1-Mar. 10.

Canada Geese and brant.....Nov. 14-Nov. 24 &
Dec. 4-Mar. 9.

Snow Geese (including blue).....Oct. 25-Nov. 24 &
Dec. 4-Feb. 17.

Massachusetts:

All permitted ducks and coots.....Oct. 1-Jan. 8.

New Hampshire:

Ducks, coots, mergansers:

Inland Zone .....Oct. 30-Nov. 21 &
Dec. 2-Jan. 24.

Coastal Zone .....Oct. 10-Nov. 21 &
Dec. 19-Jan. 21.

New Jersey:

Ducks ..... Oct. 2-Jan. 6 & Mar. 1-Mar. 10.

New York:

All waterfowl species:

North Zone ..... Oct. 1-Oct. 6 & Oct. 28-Nov. 4.
South Zone ..... Oct. 1-Oct. 10 & Oct. 23-Oct. 26.
Western Zone ..... Oct. 1- Oct. 14 &
Long Island Zone ..... Nov. 3-Nov. 16.

Pennsylvania:

Mourning doves ..... Sept. 1-Dec. 16.

Ducks and geese ..... Oct. 7-Jan. 7.

South Carolina:

Ducks, coots, and mergansers ..... Oct. 7-Nov. 21 & Nov. 26-Dec. 11.

Virginia:

Woodcock and snipe ..... Oct. 17-Jan. 31.

Mourning doves and rails ..... Sept. 1-Nov. 30 & Dec. 23-Jan. 7.

Ducks (except sea ducks), coots, mergansers, moorhens, and gallinules ..... Oct. 7-Oct. 14 & Nov. 20-Dec. 2 & Dec. 15-Mar. 10.

Mississippi Flyway

Illinois:

Ducks, mergansers, coots, mourning doves, woodcock and rails ..... Sept. 1-Dec. 16.

Indiana:

Mourning doves ..... Oct. 17-Nov. 9 & Jan. 1-Jan. 23.

Woodcock ..... Sept. 1-Sept. 15.

Ducks, coots and mergansers:

North Zone ..... Sept. 24-Oct. 12 & Oct. 16-Nov. 6 & Dec. 4-Jan. 8
South Zone ..... Sept. 24-Oct. 20 & Oct. 29-Dec. 8 & Dec. 31-Jan. 8
Ohio River Zone ..... Sept. 24-Nov. 22 & Nov. 27-Dec. 8 & Jan. 4-Jan. 8

Iowa:

Ducks and coots ..... Sept. 1-Dec. 16.

Geese ..... Sept. 1-Sept. 27 & Oct. 14-Dec. 16.

Kentucky:

Ducks, coots, mergansers, and geese (except Canada geese in the Fulton County Zone) ..... Oct. 22-Jan. 31.

Canada geese (Fulton County Zone).....Oct. 26-Jan. 31.

Michigan:

Snipe, rails and moorhens.....Sept. 1-Dec. 16.

Ducks and coots.....Oct. 4-Jan. 18.

Minnesota:

All migratory game birds (See State regulations for restrictions).....Sept. 1-Dec. 16.

Mississippi:

Mourning Doves.....Nov. 15-Nov. 30 & Feb. 1-Mar. 3.

Ducks, coots, and mergansers.....Nov. 1-Nov. 30 & Jan. 23-Mar. 10.

Missouri (except the Lower St. Francis River Area):

Mourning doves.....Sept. 1-Dec. 16.

Ducks, coots, and mergansers.....Sept. 30-Jan. 14.

Ohio

Rails, gallinules and moorhens.....Sept. 1-Nov. 9.

Snipe.....Sept. 1-Nov. 25 & Dec. 4-Dec. 23.

Woodcock.....Sept. 22-Nov. 25.

Wisconsin:

Rails, woodcock, snipe, and gallinules.....Sept. 1-Dec. 16.

Ducks, mergansers, and coots.....Oct. 7-Jan. 21.

Central Flyway

Colorado:

Ducks, mergansers and coots.....Sept. 1-Oct. 6 & Oct. 18-Nov. 3.

Montana: (1)

Waterfowl and coots.....Sept. 16-Dec. 31.

Doves.....Sept. 1.

Nebraska:

Ducks, mergansers, coots and geese.....Sept. 1-Sept. 27 & Oct. 14-Dec. 16.

New Mexico:

Doves.....Sept. 1-Nov. 5 & Nov. 21-Dec. 30.

Band-tailed pigeons.....Sept. 1-Nov. 30.

Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.....Oct. 14-Jan. 28.

Ducks, coots, moorhens and snipe:

North Zone.....Sept. 5-Dec. 20.
South Zone.....Nov. 9-Feb. 23.

Canada and white-fronted geese.....Oct. 7-Jan. 21.

Snow, blue, and Ross' geese:

Middle Rio Grande Valley.....Nov. 1-Feb. 15.

Remainder of State in Flyway.....Nov. 14-Feb. 28.

North Dakota:

All legal migratory game species.....Sept. 1-Nov. 12.

Oklahoma:

Duck, mergansers, and coots .....Oct. 7-Jan. 21.

Texas:

Mourning doves, white-winged doves, rails, and gallinules .....Sept. 1-Nov. 20 & Jan. 1-Jan. 26.

Ducks .....Nov. 18-Mar. 4.

Geese:

West of U.S. 81.....Oct. 21-Feb. 4.
East of U.S. 81 .....Nov. 11-Feb. 25.

Cranes .....Nov. 11-Feb. 25.

Woodcock and snipe.....Oct. 28-Feb. 11.

Wyoming:

Mourning doves .....Sept 1-Oct. 15.

Snipe and rails (4).....Sept. 16-Nov. 24.

Duck, coots, mergansers, and geese (4).....Oct. 7-Dec. 31.

Pacific Flyway

California:

Ducks, coots, mergansers and geese:

Northeastern Zone.....Oct. 14-Jan. 28.
Colorado River Zone.....Oct. 13-Jan. 27.
Southern Zone.....Oct. 14-Jan. 28.
Balance of State .....Oct. 28-Feb. 11.

Colorado:

Ducks, mergansers and coots.....Sept. 23-Oct. 6 & Oct. 15-Nov. 17.

Idaho:

Waterfowl (except geese) and doves .....Sept. 1-Oct. 8 & Mar. 1-Mar. 10.

Geese.....Sept. 1-Sept. 27.

Montana: (1)

Waterfowl and coots .....Sept. 16-Dec. 31.

Doves .....Sept. 1.

Nevada: (2)

Ducks, mergansers, coots, moorhens and snipe.....Jan. 12-Feb. 28.

New Mexico:

Doves .....Sept. 1-Nov. 5 & Nov. 21-Dec. 30.

Band-tailed pigeons .....Sept. 1-Nov. 30.

Ducks, coots, moorhens and snipe:

North Zone ..... Sept. 22-Jan. 6.
South Zone ..... Oct. 7-Jan. 21.

Canada and white-fronted geese ..... Oct. 7-Jan. 21.

Snow, blue and Ross' geese ..... Oct. 7-Jan. 21.

Oregon (3):

Doves and pigeons ..... Sept. 1-Dec. 16.

Ducks, coots, and snipe ..... Oct. 1-Jan. 15.

Utah:

Doves and pigeones ..... Sept. 1-Dec. 16.

Ducks, coots, snipe, mergansers, and geese ..... Oct. 7-Jan. 21.

Washington:

Ducks, coots, snipe, mergansers, and geese ..... Oct. 14-Jan. 28.

Wyoming:

Mourning doves ..... Sept. 1-Oct. 15

Snipe and rails (4) ..... Sept. 16-Nov. 24.

Ducks, coots, mergansers, and geese (4) ..... Oct. 7-Dec. 31.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

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(1) In Montana, the bag limit is 2 and the possession limit is 6.

(2) In Nevada, the bag limit is 2 and the possession limit is 4. Hawking hours are sunrise to sunset.

(3) In Oregon, the daily bag and possession limits may include no more than 1 pigeon.

(4) In Wyoming, the daily bag and possession limit may include no more than 2 of the following species: snipe, rails, ducks, coots, mergansers, and geese.

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federal register

Thursday
September 28, 1989

Part VI

Department of Education

Office of Postsecondary Education

Reauthorization of the Higher Education Act of 1965; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Reauthorization of the Higher Education Act of 1965

AGENCY: Department of Education.

ACTION: Notice of public hearings and request for public comment on the reauthorization of the Higher Education Act of 1965.

SUMMARY: The Secretary of Education announces public hearings and invites written comments from the public regarding the reauthorization of the Higher Education Act of 1965.

DATES: Written comments must be submitted on or before December 1, 1989. Public hearings are scheduled to be held on October 10, 11, 17, 18, 24, 25 and 31 and November 1, 7, 8, 14, 15, 20 and 21.

ADDRESSES: Written comments should be addressed to Dr. James B. Williams, Acting Assistant Secretary for Postsecondary Education, U.S. Department of Education, 400 Maryland Ave., SW., Room 4060, ROB-3, Washington, DC 20202. The locations for the public hearings and the office to contact if you would like to participate are as follows:

October 10–11, 1989

Boston, Massachusetts, Sulfolk University, C. Walsh Theater, 55 Temple Street, Boston, Massachusetts 02114. Contact: Office of the Secretary's Regional Representative, (617) 223–9317.

October 17–18, 1989

Atlanta, Georgia, Morris Brown College, Hickman Student Center—Cunningham Auditorium, Martin Luther King, Jr. Drive and Sunset Avenue, Atlanta, Georgia 30314. Contact: Office of the Secretary's Regional Representative, (404) 331–2502.

October 24–25, 1989

Salt Lake City, Utah, University of Utah, Skaggs Hall—Auditorium, 50 N. Medical Drive, Salt Lake City, Utah 84132. Contact: Office of Secretary's Regional Representative, (303) 844–3544.

October 31 and November 1, 1989

Kansas City, Missouri—Kansas City, Kansas, National Federation of State High School Associations, Hall of Fame Conference Room, 11724 Plaza Circle, Kansas City, Missouri 64153. Contact: Office of the Secretary's Regional Representative, (816) 891–7972.

November 7–8, 1989

Dallas Texas, Bill J. Priest Institute for Economic Development, Atrium Suite, Room 2200, 1402 Corinth, Dallas, Texas 75215. Contact: Office of the Secretary's Regional Representative, (214) 767–3626.

November 14–15, 1989

San Francisco, California, Golden Gate State University, Conference Room, 6th Floor, 536 Mission Street, San Francisco, California 94105. Contact: Office of the Secretary's Regional Representative, (415) 556–4921.

November 20–21, 1989

Washington, DC, George Washington University, Marvin Center—Rooms 402, 404, 406, 2121 I Street, NW., Washington, DC 20052. Contact: Office of the Secretary's Regional Representative (215) 596–1001.

FOR FURTHER INFORMATION CONTACT: Dr. James B. Williams at 202–732–3547.

SUPPLEMENTARY INFORMATION: The Secretary is requesting public comments on the reauthorization of all Titles of the Higher Education Act of 1965 as amended.

Need for Reauthorization

The authorization for most programs of the Higher Education Act of 1965, as amended, expires September 30, 1991. In order to contribute in a timely manner to the congressional reauthorization discussions, the Secretary is beginning a review of higher education programs at this time. The Secretary intends to submit the Department's proposal to reauthorize the Higher Education Act in conjunction with the President's fiscal year 1992 Budget, in January 1991. To ensure an opportunity for public participation, the Secretary invites public comments on this reauthorization effort.

Objectives of the Reauthorization

The objectives of the Department's reauthorization effort include:

- Ensuring and enhancing the role of postsecondary education in the production and dissemination of knowledge, technologies, and culture in our society.
- Improving the contribution of postsecondary education to the productivity and health of the U.S. economy, and improving the international competitiveness of the U.S. economy.
- Improving the postsecondary education participation and completion rates of academically qualified individuals from minority and disadvantaged groups.
- Improving the quality of postsecondary education in all institutional sectors, for individuals from all backgrounds.
- Ensuring that unnecessary paperwork is eliminated and information collected from the public is effectively used.
- Protecting the financial interests of students and American taxpayers in the student financial assistance programs.
- Improving efficiency of all resources—State, Federal and private.

The Secretary has formed a Reauthorization Task Force whose goals are to review the current authorities and delivery systems under the Higher Education Act, evaluate suggested modifications in and alternatives to these programs and systems, and recommend reauthorization options to the Secretary. The Task Force includes representatives from the following units of the Department of Education: The Office of Planning, Budget, and Evaluation; the Office of Postsecondary Education; the Office of Legislation; the Office of Management; the Office of the General Counsel; the Office of Inspector General; the Office of Educational Research and Improvement; the Office of Vocational and Adult Education; the Office of Intergovernmental and Interagency Affairs; and the Office of the Under Secretary of Education.

How the Information Will be Used

Before making its recommendations to the Secretary, the Reauthorization Task Force will examine proposed modifications and alternatives to assess their effects on current programs and systems and the students who receive the benefits and services. The proposals will then be evaluated in relation to the goals of the Higher Education Act and the above-noted objectives of the reauthorization efforts.

Issues for Public Comment

The Secretary solicits comments and suggestions regarding reauthorization of the Higher Education Act. Comments are especially invited on such issues as the following:

General Issues

What is the appropriate role of the Federal government in higher education? Does the Federal government have particular responsibilities to specific populations or for specific purposes? What is the appropriate role of the Federal government in promoting access, addressing need, recognizing merit, and/or promoting excellence?

Student Aid Issues

Financing

What is the appropriate role of students and their families and governments at the local, State, and Federal levels in the financing of higher education? Are the current student aid programs adequately serving the appropriate populations most effectively, most equitably, and most cost-effectively?

Merit-based Aid

Are new programs needed or should existing programs be modified to provide merit-based aid to encourage academic achievement/persistence? Should such aid also be need-based? Should such aid be an entitlement or campus-based/discretionary?

Need Analysis

Should a single need analysis system (instead of several different systems) be established and implemented for allocating Federal aid? Should the need analysis methodologies be removed from the statute?

Proprietary Vocational Schools

Should proprietary schools continue to participate in the Title IV programs and, if so, should they be subject to unique requirements? Should the Department have the authority to promulgate regulations for different postsecondary sectors according to their particular characteristics?

Correspondence Schools

Should correspondence schools or programs participate in the student assistance programs?

Ability-to-Benefit

Should students admitted on the basis of the "ability-to-benefit" provisions continue to receive student aid? Should these provisions be modified?

Independent Student Definition

Should the independent student definition be modified? Should aid officer discretion in this area be modified?

Program Delivery System and Quality Control

How can title IV aid delivery be improved? How can award error be reduced?

Aid Packaging

Should institutions have standardized aid packaging policies based on student characteristics such as class level or income level?

Pell Grants

What should the goal of the program be, in terms of who receives what level of aid? Should the maximum or minimum award amount for a Pell Grant be changed? Should Pell and Supplemental Grants be consolidated?

Grant Aid and Debt Burden

What is the appropriate mix of grant and loan assistance? Should freshman year grants be increased in order to minimize debt burden, promote access and encourage completion of postsecondary education? Should aid officers have the authority to limit GSL eligibility in order to avoid "unnecessary" or overly burdensome indebtedness?

GSL Default Reduction

How might the GSL default rate be reduced? Should risk be shared among all parties in the program? Are supplemental preclaims assistance payments effective in reducing defaults?

Student Loan Restructuring

How might the availability of loan capital be expanded? What is the appropriate level of Federal interest subsidization? Should Stafford (GSL) loans be phased out or should their financing structure be reformed?

Foreign Schools

Given the lack of controls that exist over foreign schools, should participation of such schools in the GSL program be limited or prohibited?

SLS, PLUS and Income Contingent Loans

How well are these programs working? Should they be expanded? Should graduated as well as income-contingent payment be allowed or required?

Public Service Incentives

Should eligibility for Federal student aid be conditioned on prior or future public service? Should a public service program be authorized? What specific kinds of public/community service might be encouraged? Are there other ways in which Federal student aid or other HEA programs can be used to stimulate community service (e.g., loan cancellations)?

Institutional Aid

TRIO and other "Outreach" Progams

Are current programs appropriately addressing the need for higher education support services among disadvantaged and minority groups? What approaches can be taken to promote access and retention? Should all postsecondary outreach programs be consolidated?

Veterans' Educational Outreach Programs (VEOP)

Has the program served its purpose; does it duplicate other Federal efforts? Is the Department of Education the correct agency to administer the program?

Title III

Should the Title III institutional aid programs be restructured, e.g., by simplifying or tightening the eligibility criteria? Has the endowment program been effective in strengthening the financial independence and self-sufficiency of schools?

Howard University

Should the Howard authorizing legislation be incorporated into the HEA? What mechanisms (funding levels, matching requirements, etc.) will promote Howard's development and implementation of long-range plans for construction, academic enhancement, research, and endowment fund expansion?

Minority Institutions

Should the Federal Government provide special general grant assistance to institutions enrolling significant percentages of blacks, Hispanics or other minorities or disadvantaged students and, if so, what form should such aid take? In particular, aside from student assistance, what assistance could the Department provide to such institutions that would encourage persistence and graduation?

International Education

What is the appropriate Federal role in fostering excellence in international education and foreign language studies?

Graduate Education

What is the appropriate Federal role in fostering excellence in graduate education? Are there particular national needs which the Department should address? Should existing programs be consolidated? The number of minority graduate students and faculty in certain academic fields, especially the sciences, is disproportionately low. Should the Department develop strategies to address this situation?

Community Colleges

What are the special problems and needs of two-year institutions and are the current institutional aid programs addressing them? Should changes to

other HEA programs that assist two-year institutions be recommended?

Facilities Renovation and Construction

Is new Federal grant or loan activity needed for research facilities and/or for general educational "infrastructure" renovation?

Educational Demonstrations

What are the current and upcoming issues affecting higher education that could or should be addressed through Federal demonstration or development grants?

Fund for the Improvement of Postsecondary Education

Is the current design of the Fund for the Improvement of Postsecondary Education program the most effective one possible for (1) ensuring that Federal resources are directed to Federal priorities and (2) making broadly available the knowledge and experience gained from federally supported projects?

Library Programs

Is there a need for Federal support of college and university libraries? If need exists, how should a Federal program or programs be structured to disburse Federal funds to address those needs?

The Secretary encourages interested parties to submit written comments on these program areas and issues to the Department's Reauthorization Task Force at the District of Columbia address provided in this notice and to participate in one of the public hearings. The Secretary encourages those attending the hearings to provide a written copy of their comments and be prepared to answer specific questions on their proposals. Written comments should be submitted no later than December 1, 1989 to the contact person named in this notice.

Format for Comments

The hearings and request for comments are designed to elicit the views of interested parties on how the current higher education programs can be improved to meet: (1) The goals of the Act and (2) the objectives of the reauthorization effort as stated in this notice.

The Secretary requests that each respondent identify his or her role in higher education and the perspective from which he or she views the postsecondary education system—either as a representative of an association, agency, school (private or public, two-year, four-year, etc.), financial institution, or as a lender, parent, student, or private citizen. In proposing modifications or alternatives, respondents may want to address the main elements of each program or group of programs. These elements include, but are not limited to:

Program goals and activities.
Students and/or institutions served.
Eligibility criteria.
Delivery system mechanisms.
Budgetary impact and cost analysis.

The Secretary urges each commenter to be specific regarding his or her proposals and to include, if possible, the data requirements, timing, procedures, technology, delegation of responsibility, and actual legislative language that the commenter proposes for the improved or redesigned program.

Dated: September 25, 1989.

Lauro F. Cavazos,

Secretary of Education.

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