

Dated: August 23, 2017.

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Acting General Deputy Assistant Secretary
for Policy Development and Research.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6021-N-02]

Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2018 and Adoption of Methodology Changes for Estimating Fair Market Rents

AGENCY: Office of the Assistant
Secretary for Policy Development and
Research, HUD.

ACTION: Notice of Fiscal Year (FY) 2018
Fair Market Rents (FMRs) and adoption
of methodology changes for estimating
FMRs.

SUMMARY: Section 8(c)(1) of the United
States Housing Act of 1937 (USHA), as
amended by the Housing Opportunities
Through Modernization Act of 2016
(HOTMA), requires the Secretary to
publish FMRs not less than annually,
adjusted to be effective on October 1 of
each year. Section 8(c)(1)(B) of USHA,
as amended by HOTMA, requires that
HUD publish for comment a notice of
proposed material changes in the
methodology for estimating FMRs and a
notice containing HUD's final decisions
regarding such proposed substantial
methodological changes. On May 26,
2017, HUD published a notice
proposing changes to the methodology
used for estimating FMRs and requested
public comment.

This notice adopts HUD's May 26,
2017 proposed material changes to the
methodology for estimating FMRs and
notifies interested parties that FY 2018
FMRs are available at www.huduser.gov.
This notice also describes the methods
used to calculate the FY 2018 FMRs and
enumerates the procedures for Public
Housing Agencies (PHAs) and other
interested parties to request
reevaluations of their FMRs as required
by HOTMA. Lastly, this notice responds
to public comments HUD received on its
May 26, 2017 notice.

DATES:

Comment Due Date: October 2, 2017.

Applicability Date: October 2, 2017
unless HUD receives a request for
reevaluation of specific area FMRs as
described below.

ADDRESSES: HUD invites interested
persons to submit comments regarding

the FMRs and to request reevaluation of
the FY 2018 FMRs to the Regulations
Division, Office of General Counsel,
Department of Housing and Urban
Development, 451 Seventh Street SW.,
Room 10276, Washington, DC 20410-
0001. Communications must refer to the
above docket number and title and
should contain the information
specified in the "Request for Comments/
Request for Reevaluation" section.
There are two methods for submitting
public comments.

1. *Submission of Comments by Mail.*
Comments or requests for reevaluation
may be submitted by mail to the
Regulations Division, Office of General
Counsel, Department of Housing and
Urban Development, 451 7th Street SW.,
Room 10276, Washington, DC 20410-
0500. Due to security measures at all
federal agencies, however, submission
of comments by mail often results in
delayed delivery. To ensure timely
receipt of comments or reevaluation
requests, HUD recommends that
comments or requests submitted by mail
be submitted at least two weeks in
advance of the deadline. HUD will make
all comments or reevaluation requests
received by mail available to the public
at <http://www.regulations.gov>.

2. *Electronic Submission of
Comments.* Interested persons may
submit comments or reevaluation
requests electronically through the
Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly
encourages commenters to submit
comments or reevaluation requests
electronically. Electronic submission of
comments or reevaluation requests
allows the author maximum time to
prepare and submit a comment or
reevaluation request, ensures timely
receipt by HUD, and enables HUD to
make them immediately available to the
public. Comments or reevaluation
requests submitted electronically
through the <http://www.regulations.gov>
Web site can be viewed by other
submitters and interested members of
the public. Commenters or reevaluation
requestors should follow instructions
provided on that site to submit
comments or reevaluation requests
electronically.

Note: To receive consideration as public
comments or reevaluation requests,
comments or requests must be submitted
through one of the two methods specified
above. Again, all submissions must refer to
the docket number and title of the notice.

*No Facsimile Comments or
Reevaluation Requests.* Facsimile (FAX)
comments or requests for FMR
reevaluation are not acceptable.

*Public Inspection of Public Comments
and Reevaluation Requests.* All properly

submitted comments and reevaluation
requests and communications regarding
this notice submitted to HUD will be
available for public inspection and
copying between 8 a.m. and 5 p.m.
weekdays at the above address. Due to
security measures at the HUD
Headquarters building, an advance
appointment to review the public
comments and reevaluation requests
must be scheduled by calling the
Regulations Division at 202-708-3055
(this is not a toll-free number).
Individuals with speech or hearing
impairments may access this number
through TTY by calling the Federal
Relay Service at 800-877-8339 (toll-free
number). Copies of all comments and
reevaluation requests submitted are
available for inspection and
downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For
technical information on the
methodology used to develop FMRs or
a listing of all FMRs, please call the
HUD USER information line at 800-
245-2691 or access the information on
the HUD USER Web site <http://www.huduser.gov/portal/datasets/fmr.html>. FMRs are listed at the 40th or
50th percentile in Schedule B. For
informational purposes, 40th percentile
rents for the areas with 50th percentile
FMRs will be provided in the HUD FY
2018 FMR documentation system at
https://www.huduser.gov/portal/datasets/fmr.html#2018_query and 50th
percentile rents for all FMR areas will
be published at <http://www.huduser.gov/portal/datasets/50per.html>.

Questions related to use of FMRs or
voucher payment standards should be
directed to the respective local HUD
program staff. Questions on how to
conduct FMR surveys may be addressed
to Marie L. Lihn or Peter B. Kahn of the
Economic and Market Analysis
Division, Office of Economic Affairs,
Office of Policy Development and
Research at HUD headquarters, 451 7th
Street SW., Room 8208, Washington, DC
20410; telephone number 202-402-2409
(this is not a toll-free number), or they
may be reached at emad-hq@hud.gov.
Persons with hearing or speech
impairments may access HUD numbers
through TTY by calling the Federal
Relay Service at 800-877-8339 (toll-free
number).

Electronic Data Availability. This
Federal Register notice will be available
electronically from the HUD User page
at <https://www.huduser.gov/portal/datasets/fmr.html>. **Federal Register**
notices also are available electronically
from <https://www.federalregister.gov/>

the U.S. Government Printing Office Web site. Complete documentation of the methods and data used to compute each area's FY 2018 FMRs is available at https://www.huduser.gov/portal/datasets/fmr.html#2018_query. FY 2018 FMRs are available in a variety of electronic formats at <https://www.huduser.gov/portal/datasets/fmr.html>. FMRs may be accessed in PDF as well as in Microsoft Excel. Small Area FMRs based on FY 2018 Metropolitan Area Rents for the Dallas, TX HUD Metro FMR Area are available in Microsoft Excel format at the same web address. Small Area FMRs for all other metropolitan FMR areas are available at: <http://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>.

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. In the Housing Choice Voucher (HCV) program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family. See 24 CFR 982.503. HUD also uses the FMRs to determine initial renewal rents for some expiring project-based Section 8 contracts, initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solution Grants program, calculation of maximum award amounts for Continuum of Care recipients and the maximum amount of rent a recipient may pay for property leased with Continuum of Care funds, and calculation of flat rents in Public Housing units. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities and is typically set at the 40th percentile of the distribution of gross rents. HUD's FMR calculations represent HUD's best effort to estimate the 40th percentile gross rents paid by recent movers into standard quality units in each FMR area. In addition, all rents subsidized under the HCV program must meet reasonable rent standards.

As of October 2, 2000 (65 FR 58870), HUD required FMRs to be set at the 50th

percentile for areas where HUD determined higher FMRs were needed to help families assisted under certain HUD programs find and lease decent and affordable housing. On November 16, 2016 (81 FR 80567), HUD published a Final Rule entitled "Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs" (Small Area FMR final rule), with an effective date of January 17, 2017. The Small Area FMR final rule eliminates the 50th percentile FMR provisions in the FMR regulations (24 CFR 982.503(f))¹ and provides that areas currently designated as 50th percentile areas remain 50th percentile areas until their current 3-year eligibility period expires. At the end of the 3-year eligibility period, these areas revert to 40th percentile FMR status. (If they meet the deconcentration criteria specified in 24 CFR 982.503(f), available at: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title24-vol4/pdf/CFR-2016-title24-vol4-sec982-503.pdf>, they may petition HUD to maintain payment standards based on 50th percentile rents on that basis.)

The following areas completed their 3 years of 50th percentile eligibility in FY 2017 and will revert to 40th percentile FMR status in FY 2018:

FY 2017 50TH-PERCENTILE FMR AREAS REVERTING TO 40TH PERCENTILE FMRs IN FY 2018

Albuquerque, NM Metropolitan Statistical Area (MSA)	
Chicago-Joliet-Naperville, IL HUD Metro FMR Area	
Denver-Aurora-Broomfield, CO MSA	
Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area	
Urban Honolulu, HI MSA	
Kansas City, MO-KS HUD Metro FMR Area	
Milwaukee-Waukesha-West Allis, WI MSA	
Riverside-San Bernardino-Ontario, CA MSA	
Tacoma, WA HUD Metro FMR Area	
Virginia Beach-Norfolk-Newport News, VA-NC MSA	

The following is a list of FMR areas that retain 50th percentile FMRs for FY 2018, along with the year that they will revert to 40th percentile status:

FY 2018 50TH-PERCENTILE FMR AREAS AND YEAR OF REVERSION TO 40TH PERCENTILE FMRs

Bergen-Passaic, NJ HUD Metro FMR Area	2020
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¹ Separately from the Small Area FMR regulations, HUD also calculates and published 50th percentile rent estimates for the purposes of Success Rate Payment Standards as defined at 24 CFR 982.503(e) (estimates available at: <http://www.huduser.gov/portal/datasets/50per.html>), which policy was not changed by the Small Area FMR rule.

FY 2018 50TH-PERCENTILE FMR AREAS AND YEAR OF REVERSION TO 40TH PERCENTILE FMRs—Continued

Baltimore-Columbia-Towson, MD MSA	2019
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	2019
San Diego-Carlsbad-San Marcos, CA MSA	2020
Spokane, WA HUD Metro FMR Area	2020
Washington, DC-VA-MD HUD Metro FMR Area	2019
West Palm Beach-Boca Raton, FL HUD Metro FMR Area	2019

II. Procedures for the Development of FMRs and Changes in FMR Methodology

Section 8(c)(1) of the USHA, as amended by HOTMA (Pub. L. 114–201, approved July 29, 2016), requires the Secretary of HUD to publish FMRs not less than annually. Section 8(c)(1)(A) states that each FMR "shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply . . ." Section 8(c)(1)(B) requires that HUD publish, not less than annually, new FMRs on the World Wide Web or in any other manner specified by the Secretary, and that HUD must also notify the public of when it publishes FMRs by **Federal Register** notice. After notification, the FMRs "shall become effective no earlier than 30 days after the date of such publication," and HUD must provide a procedure for the public to comment and request a reevaluation of the FMRs in a jurisdiction before the FMRs become effective. Consistent with the statute, HUD is issuing this notice to notify the public that FY 2018 FMRs are available at <https://www.huduser.gov/portal/datasets/fmr.html> and will become effective on October 2, 2017. This notice also provides procedures for FMR reevaluation requests.

In addition, Section 8(c)(1)(B) of the USHA, as amended by HOTMA, requires that HUD publish for comment in the **Federal Register** a notice of proposed material changes in the methodology for estimating FMRs and a notice containing HUD's final decisions regarding such proposed substantial methodological changes and responses to public comments. On May 26, 2017 (82 FR 24377), HUD published a **Federal Register** notice proposing changes to the methodology used to calculate FMRs (Changes to Methodology notice) with a comment period that ended on June 26, 2017. This notice contains HUD's final decisions on the proposed changes to

the FMR methodology and responses to public comments.

In the Changes to Methodology notice, HUD proposed several methodological changes in the way that HUD calculates FMRs. Most of the changes focused on the way HUD assessed the statistical quality of the ACS estimates or on using as much local information as possible when calculating FMRs. The proposed changes were as follows:

- Add a “number of observations” criterion to the existing margin of error criterion when assessing the statistical reliability of ACS estimates.
- Use “all-bedroom” rents when calculating the recent mover factor when the two-bedroom rents are not statistically reliable before moving to a larger encompassing geography’s two-bedroom recent mover rents for this factor.

- Calculate Small Area FMRs directly, rather than using the ratio method, when statistically reliable information at the ZIP Code Tabulation Area (ZCTA) level is available. The ratio method would still be used when statistically reliable data was not available for individual ZCTAs.

- Link ZCTAs to the smallest metropolitan area available as their parent FMR area for the ratio method rather than defaulting to the Office of Management and Budget (OMB)—defined metropolitan area as the parent. This would allow HUD to take advantage of the differing recent mover factors available across subdivided OMB metropolitan areas (areas labeled as HUD Metro FMR Areas).

In response to the Changes to Methodology notice, a total of 22 individual comments were received and posted on the *Regulations.gov* site at <https://www.regulations.gov/docket?D=HUD-2017-0033>. Most of the comments that addressed the proposed methodology changes responded favorably to the changes. HUD provides responses to the public comments received later in this preamble (see section VII below). After considering all public comments received, HUD has decided to adopt all of the proposed methodology changes. HUD calculated the FY 2018 FMRs using the revised methodology incorporating the adopted changes.

III. FMR Methodology

This section provides a brief overview of how HUD computes the FY 2018 FMRs. For complete information on how HUD determines FMR areas, and on how HUD derives each area’s FMRs, see the online documentation at https://www.huduser.gov/portal/datasets/fmr.html#2018_query.

In conjunction with the use of 2015 American Community Survey (ACS) data, HUD has implemented the following geography changes: Effective May 1, 2015, Shannon County, South Dakota (state code 46, county code 113) changed its name to Oglala Lakota County, South Dakota (state code 46, county code 102) and effective July 1, 2015, the Wade Hampton Census Area, Alaska (state code 02, county code 270) changed its name to the Kusilvak Census Area, Alaska (state code 02, county code 158).

A. Base Year Rents

For FY 2018 FMRs, HUD updates the base rents using the U.S. Census Bureau’s 5-year ACS data collected between 2011 through 2015 (released in December of 2016). One of the changes proposed in the Changes to Methodology notice and adopted in this notice addresses the statistical reliability of the ACS data used in the FMR calculations. In prior years, HUD used ACS estimates where the margin of error of the estimate is less than half the size of the estimate itself. For FY 2018 FMRs, HUD now pairs this “margin of error” test with an additional test based on the number of survey observations supporting the estimate. The Census Bureau does not provide HUD with an exact count of the number of observations supporting the ACS estimate; rather, the Census Bureau provides HUD with categories of the number of survey responses underlying the estimate, including whether the estimate is based on more than 100 observations. Using these categories, HUD requires that, in addition to the “margin of error” test, ACS rent estimates must be based on at least 100 observations in order to be used as base rents.

For areas in which the 5-year ACS data for two-bedroom, standard quality gross rents do not pass the statistical reliability tests (*i.e.*, have a margin of error ratio greater than 50 percent or fewer than 100 observations), HUD will use an average of the base rents over the three most recent years (provided that there is data available for at least two of these years),² or if such data is not available, using the two-bedroom rent data within the next largest geographic area, which for a non-metropolitan area

would be the state non-metro area rent data.

HUD has updated base rents each year based on new 5-year data since FY 2012, for which HUD used 2005–2009 ACS data. HUD is also updating base rents for Puerto Rico FMRs using the 2011–2015 Puerto Rico Community Survey (PRCS); HUD first updated the Puerto Rico base rents in FY 2014 based on 2007–2011 PRCS data collected through the ACS program.

HUD historically based FMRs on gross rents for recent movers (those who have moved into their current residence in the last 24 months) measured directly. However, due to the way Census constructs the 5-year ACS data, HUD developed a new method for calculating recent-mover FMRs in FY 2012, which HUD continues to use in FY 2018: HUD assigns all areas a base rent, which is the two-bedroom standard quality 5-year gross rent estimate from the ACS; then, because HUD’s regulations mandate that FMRs must be published as recent mover gross rents, HUD applies a recent mover factor to the base rents assigned from the 5-year ACS data.³ The calculation of the recent mover factor is described below.

B. Recent Mover Factor

Following the assignment of the standard quality two-bedroom rent described above, HUD applies a recent mover factor to these rents. HUD calculates the recent mover factor as the change between the 5-year 2011–2015 standard quality two-bedroom gross rent and the 1 year 2015 recent mover gross rent for the recent mover factor area. HUD does not allow recent mover factors to lower the standard quality base rent; therefore, if the 5-year standard quality rent is larger than the comparable 1-year recent mover rent, the recent mover factor is set to 1.

The calculation of the recent mover factor for FY 2018 contains several modifications that were proposed in the Changes to Methodology notice, and are now being adopted. The first change is the addition of a new test to determine the statistical reliability of the 1-year ACS recent mover data. The margin of error test is now paired with a count of observations test, similar to the test used for base rent data. Therefore, in order for a recent mover gross rent estimate to be

² For FY 2018, the three years of ACS data in question are 2013, 2014 and 2015. The 2013 data are adjusted to be denominated in 2015 dollars using the growth in CPI-based gross rents measured between 2013 and 2015. Similarly, the 2014 gross rent data is adjusted to 2015 denominated dollars using the growth in CPI-based gross rents measured between 2014 and 2015.

³ HUD’s regulations incorporate recent mover data into FMR calculations because the gross rents of those who most recently moved into their units likely depicts the most current market conditions observable through the ACS. Rents paid by renters renewing existing leases may not reflect the most current market conditions, in part because these renters may have clauses within their leases that predetermine the annual increases in rents paid (*i.e.*, rent escalator clauses).

considered statistically reliable, the estimate must have a margin of error ratio that is less than 50 percent, and the estimate must be based on 100 or more observations.

The second change incorporated into the FY 2018 recent mover factor calculation concerns the data used when an FMR area does not have statistically reliable two-bedroom recent mover data. In this circumstance, if the “all-bedroom”⁴ 1-year recent mover ACS data for the FMR area is statistically reliable, HUD will use the “all-bedroom” data to calculate the recent mover factor instead of using two-bedroom data from the next larger geography. Incorporating “all-bedroom” rents into the recent mover factor calculation when statistically reliable two-bedroom data is not available preserves the use of local information to the greatest extent possible.

However, where statistically reliable “all-bedroom” data is not available, HUD will continue to base FMR areas’ recent mover factors on larger geographic areas, following the same procedures as in FY 2017: HUD tests data from differently sized geographic areas in the following order (from small to large), and bases the recent mover factor on the first statistically reliable sample size.

- For metropolitan areas that are subareas of larger metropolitan areas, the order is the FMR area, metropolitan area, aggregated metropolitan parts of the state, and state.

- For metropolitan areas that are not divided, the order is the FMR area, aggregated metropolitan parts of the state, and state.

- In non-metropolitan areas, the order is the FMR area, aggregated non-metropolitan parts of the state, and state.

The process for calculating each area’s recent mover factor is detailed in the FY 2018 FMR documentation system available at: https://www.huduser.gov/portal/datasets/fmr.html#2018_query. Applying the recent mover factor to the standard quality base rent produces an “as of” 2015 recent mover two-bedroom base gross rent for the FMR area.

C. Other Rent Survey Data

HUD calculated base rents for the insular areas using the 2010 decennial census of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands beginning with the FY 2016 FMRs.⁵ This 2010 base year data

⁴ “All-bedroom” refers to estimates aggregated together regardless of the number of bedrooms in the dwelling unit.

⁵ The ACS is not conducted in the Pacific Islands (Guam, Northern Marianas and American Samoa) or

was updated to 2013 for the FY 2016 FMRs and is updated through 2015 for the FY 2018 FMRs using national ACS data.

HUD does not use ACS data to establish the base rent or recent mover factor for 12 areas where the FY 2018 FMR was adjusted based on survey data:

- Survey data collected in 2014 is used to adjust the FMRs for three non-metropolitan counties in Vermont (Bennington County, Windham County and Windsor County).
- Survey data from 2015 is used to adjust the FMRs for Portland, OR and Oakland, CA.
- Survey data from 2016 is used to adjust the FMRs for Burlington, VT; Kauai County, HI; Maui County, HI; San Francisco, CA; Portland, ME; and Vallejo-Fairfield, CA.
- Survey data from 2017 is used to adjust the FMR for Santa Rosa, CA.

For larger metropolitan areas that have valid ACS one-year recent mover data, survey data may not be any older than the midpoint of the calendar year for the ACS one-year data. Since the ACS one-year data used for the FY 2018 FMRs is from 2015, larger areas may not use survey data collected before June 1, 2015 for the FY 2018 FMRs. Smaller areas without 1-year ACS data, including the above counties in Vermont, may continue to use local survey data until the mid-point of the 5-year ACS data is more recent than the local survey.⁶

D. Updates From 2015 to 2016 and Forecast to FY 2018

HUD updates the ACS-based “as of” 2015 rent through the end of 2016 using the annual change in gross rents measured through the CPI from 2015 to 2016 (CPI update factor). As in previous years, HUD uses local CPI data coupled with Consumer Expenditure Survey data for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. In FMR areas that don’t meet this criterion, including Class B and C size metropolitan areas and non-metropolitan areas, HUD uses CPI data aggregated at the Census region level. Additionally, HUD is using CPI data

the US Virgin Islands. As part of the 2010 Decennial Census, the Census Bureau conducted “long-form” sample surveys for these areas. The results gathered by this long form survey have been incorporated into the FY 2018 FMRs.

⁶ The 2012–2016 5-Year ACS data and the 2016 1-Year ACS data will be used to calculate the FY 2019 FMRs. These data will be more current than the 2014 data from the Vermont survey areas and the 2015 survey data in Portland, OR and Oakland, CA. Consequently, the 2016 ACS information will be used to calculate FMRs in these areas in FY 2019.

collected locally in Puerto Rico as the basis for CPI adjustments from 2015 to 2016 for all Puerto Rico FMR areas.

Following the application of the appropriate CPI update factor, HUD trends the gross rent estimate from 2016 to FY 2018 using a national forecast of expected growth in gross rents. This forecast produces “as of” FY 2018 FMRs.

E. Bedroom Rent Adjustments

HUD updates the bedroom ratios used in the calculation of FMRs annually. The bedroom ratios which HUD used in the calculation of FY 2018 FMRs have been updated using average data from three five-year ACS data series (2009–2013, 2010–2014, and 2011–2015). The bedroom ratio methodology used in this update is unchanged from previous calculations using 2000 Census data. HUD only uses estimates with a margin of error ratio of less than 50 percent. If an area does not have reliable estimates in at least two of the previous three ACS releases, bedroom ratios for the area’s larger parent geography are used.

HUD uses two-bedroom units for its primary calculation of FMR estimates. This is generally the most common size of rental unit and, therefore, the most reliable to survey and analyze. After estimating two-bedroom FMRs, HUD calculates bedroom ratios for each FMR area which relate the prices of smaller and larger units to the cost of two-bedroom units. To prevent illogical results in particular FMR areas, HUD establishes bedroom interval ranges which set upper and lower limits for bedroom ratios nationwide, based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations.

In the calculation of FY 2018 FMR estimates, HUD set the bedroom interval ranges as follows: Efficiency FMRs are constrained to fall between 0.64 and 0.85 of the two-bedroom FMR; one-bedroom FMRs must be between 0.75 and 0.87 of the two-bedroom FMR; three-bedroom FMRs (prior to the adjustments described below) must be between 1.15 and 1.34 of the two-bedroom FMR; and four-bedroom FMRs (again, prior to adjustment) must be between 1.26 and 1.64 of the two-bedroom FMR. Given that these interval ranges partially overlap across bedroom sizes, HUD further adjusts bedroom ratios for a given FMR area, if necessary, to ensure that higher bedroom-count units have higher rents than lower bedroom-count units within that area. The bedroom ratios for Puerto Rico follow these constraints.

HUD also further adjusts the rents for three-bedroom and larger units to reflect HUD's policy to set higher rents for these units.⁷ This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates.

HUD derives FMRs for units with more than four bedrooms by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. Similarly, HUD derives FMRs for single-room occupancy units by subtracting 25 percent from the zero-bedroom FMR (*i.e.*, they are set at 0.75 times the zero-bedroom (efficiency) FMR).⁸

F. Limit on FMR Decreases

Within the Small Area FMR final rule published on November 16, 2016, HUD amended 24 CFR 888.113 to include a limit on the amount that FMRs may annually decrease. The current year's FMRs resulting from the application of the bedroom ratios, as discussed in section (E) above, may be no less than 90 percent of the prior year's FMRs for units with the same number of bedrooms. Accordingly, if the current year's FMRs are less than 90 percent of the prior year's FMRs as calculated by the above methodology, HUD sets the current year's FMRs equal to 90 percent of the prior year's FMRs. For areas using Small Area FMRs in the administration of their voucher programs (*i.e.*, Dallas and the demonstration PHAs who opted to continue using Small Area FMRs), the FY 2018 Small Area FMRs may be no less than 90 percent of the FY 2017 Small Area FMRs. For all other metropolitan areas, for which Small Area FMRs are calculated so that they may be used for other allowable purposes if desired (*e.g.*, exception payment standards, public housing flat rents), the FY 2018 Small Area FMRs may be no less than 90 percent of the FY 2017 metropolitan area-wide FMRs.

⁷ As mentioned above, HUD applies the interval ranges for the three-bedroom and four-bedroom FMR ratios prior to making these adjustments. In other words, the adjusted three- and four-bedroom FMRs can exceed the interval ranges, but the unadjusted FMRs cannot.

⁸ As established in the interim rules implementing the provisions of the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105-276). In 24 CFR 982.604.

IV. Manufactured Home Space Surveys

HOTMA changed the manner in which vouchers are used to subsidize manufactured home units. Please see HUD's Notice from January 18, 2017 (82 FR 5458) for more detailed information concerning the use of vouchers for manufactured home units. Due to the nature of these changes, HUD will no longer be publishing exception rents for Manufactured Home Space pad rents.

V. Small Area FMRs

PHAs in the Dallas, TX HUD Metro FMR Area (HMFA)⁹ continue to use Small Area FMRs per the terms of a court-entered settlement. These Small Area FMRs are listed in the Schedule B addendum. Other metropolitan PHAs interested in using Small Area FMRs in the operation of their Housing Choice Voucher program should contact their local HUD field office to request approval from HUD to do so.

As proposed in the Changes to Methodology notice, HUD is also making changes in the manner in which FY 2018 Small Area FMRs are calculated. In order to use more local data, HUD is calculating Small Area FMRs directly from the standard quality gross rents provided to HUD by the Census Bureau for ZIP Code Tabulation Areas (ZCTAs), when such data is statistically reliable, instead of using the current rent ratio calculation. The ZCTA two-bedroom equivalent 40th percentile gross rent is analogous to the standard quality base rents set for metropolitan areas and non-metropolitan counties. For each ZCTA with statistically reliable gross rent estimates, using the expanded test of statistical reliability noted previously in this notice (*i.e.*, estimates with margins of error ratios below 50 percent and based on at least 100 observations), HUD will calculate a two-bedroom equivalent 40th percentile gross rent using the first statistically reliable gross rent distribution data from the following data sets (in this order): two-bedroom gross rents, one-bedroom gross rents, and three-bedroom gross rents. If either the one-bedroom or three-bedroom gross rent data is used because the two-bedroom gross rent data is not statistically reliable, the one-bedroom or three-bedroom 40th percentile gross rent will be converted to a two-bedroom equivalent rent using the bedroom ratios for the ZCTA's parent metropolitan area. In order to add increased stability to these Small Area FMR estimates, HUD

⁹ The Dallas, TX HMFA is also known as the Dallas-Plano-Irving, Texas Metro Division. This area is comprised of the following Texas counties: Collin, Dallas, Denton, Ellis, Hunt, Kaufman, and Rockwall.

will average the latest three years of gross rent estimates.¹⁰

For ZCTAs without usable gross rent data by bedroom size, HUD will continue to calculate Small Area FMRs using the rent ratio method similar to that HUD has used in past Small Area FMR calculations. To calculate Small Area FMRs using a rent ratio, HUD divides the median gross rent across all bedrooms for the small area (a ZIP code) by the similar median gross rent for the metropolitan area of the ZIP code. In small areas where the median gross rent is not statistically reliable, HUD substitutes the median gross rent for the county containing the ZIP code in the numerator of the rent ratio calculation. HUD multiplies this rent ratio by the current two-bedroom rent for the metropolitan area containing the small area to generate the current year two-bedroom rent for the small area.

Similar to other changes described in this notice, HUD is changing the linkage between the small area and its containing metropolitan area as proposed in the May 26, 2017 **Federal Register** notice. For FY 2018 HUD is linking each ZCTA to its published FMR area; that is, each ZCTA is linked to its parent HMFA, if it exists, rather than link the ZCTA to its parent OMB-defined metropolitan area (Core-Based Statistical Area, or CBSA) as was previously done. If no parent HUD FMR area exists, the ZCTA will continue to be linked to its parent CBSA. This change is implemented to take advantage of the more localized recent mover factors for subareas of OMB-defined metropolitan areas when available.

As in FY 2017, HUD continues to use a rolling average of ACS data in calculating the Small Area FMR rent ratios. HUD believes coupling the most current data with previous year's data minimizes excessive year-to-year variability in Small Area FMR rent ratios due to sampling variance. Therefore, for FY 2018 Small Area FMRs, HUD has updated the rent ratios to use an average of the rent ratios calculated from the 2009–2013, 2010–2014, and 2011–2015 5-year ACS estimates.

VI. Request for Public Comments and FMR Reevaluations

HUD will continue to accept public comments on the methods HUD uses to calculate FY 2018 FMRs, including

¹⁰ For example, for FY 2018 FMRs using this methodology, HUD would average the gross rents from 2013, 2014 and 2015 5-Year ACS estimates. The 2013 and 2014 gross rent estimates would be adjusted to 2015 dollars using the metropolitan area's gross rent CPI adjustment factors.

Small Area FMRs and the FMR levels for specific areas. Due to its current funding levels, HUD no longer has sufficient resources to conduct local surveys of rents to address comments filed regarding the FMR levels for specific areas. PHAs may continue to fund such surveys independently, as specified below, using administrative fees if they so choose.) HUD continually strives to calculate FMRs that meet the statutory requirement of using “the most recent available data” while also serving as an effective program parameter.

PHAs or other interested parties interested in requesting HUD reevaluation of its FY 2018 FMRs, as provided for under section 8(c)(1)(B) of USHA, must follow the following procedures:

1. By the end of the comment period, such reevaluation requests must be submitted publicly through www.regulations.gov or directly to HUD as described above. PHAs representing at least half of the voucher tenants in multijurisdictional areas must agree that the re-evaluation is necessary.

2. In order for a reevaluation to occur, the requestor(s) must supply HUD with data more recent than the 2015 American Community Survey data used in the calculation of the FY 2018 FMRs. HUD requires data on gross rents paid in the FMR area for standard quality rental housing units. The data delivered must be sufficient for HUD to calculate a 40th and 50th percentile two-bedroom rent. Should this type of data not be available, requestors may gather this information using the survey guidance available at <https://www.huduser.gov/portal/datasets/fmr/NoteRevisedAreaSurveyProcedures.pdf> and <https://www.huduser.gov/portal/datasets/fmr/PrinciplesforPHA-ConductedAreaRentSurveys.pdf>.

3. On or about October 3, HUD will post a list, at <https://www.huduser.gov/portal/datasets/fmr.html>, of the areas requesting reevaluations and where FY 2017 FMRs remain in effect.

4. Data for reevaluations must be supplied to HUD no later than Friday January 5, 2018. On Monday January 8, 2018, HUD will post at <https://www.huduser.gov/portal/datasets/fmr.html> a listing of the areas failing to deliver data and making the FY 2018 FMRs effective in these areas.

5. HUD will use the data delivered by January 5, 2018 to reevaluate the FMRs and following the reevaluation, will post revised FMRs with an accompanying **Federal Register** notice stating the revised FMRs are available, which will include HUD responses to comments filed during the comment period.

6. Any data supporting a change in FMRs supplied after January 5, 2018 will be incorporated into FY 2019 FMRs.

7. PHAs operating in areas where the calculated FMR is lower than the published FMR (*i.e.*, those areas where HUD has limited the decrease in the annual change in the FMR to 10 percent) may request payment standards below the basic range (24 CFR 982.503(d)) and reference the “unfloored” rents (*i.e.*, the unfinalized FMRs calculated by HUD prior to application of the 10-percent-decrease limit) depicted in the FY 2018 FMR Documentation System (available at: https://www.huduser.gov/portal/datasets/fmr.html#2018_query).

Questions on how to conduct FMR surveys may be addressed to Marie L. Lihn or Peter B. Kahn of the Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research at HUD headquarters, 451 7th Street SW., Room 8208, Washington, DC 20410; telephone number 202-402-2409 (this is not a toll-free number), or they may be reached at emad-hq@hud.gov.

For small metropolitan areas without one-year ACS data and non-metropolitan counties, HUD has developed a method using mail surveys that is discussed on the FMR Web page: <https://www.huduser.gov/portal/datasets/fmr.html#fmrsurvey>. This method allows for the collection of as few as 100 one-bedroom, two-bedroom and three-bedroom recent mover (tenants that moved in last 24 months) units.

While HUD has not developed a specific method for mail surveys in areas with 1-year ACS data, HUD would apply the standard established for Random-Digit Dialing (RDD) telephone rent surveys. HUD will evaluate these survey results to determine whether they would establish a new FMR statistically different from the current FMR, which means that the survey confidence interval must not include the FMR. The survey should collect results based on 200 one-bedroom and two-bedroom eligible recent mover units to provide a small enough confidence interval for significant results in large market mail surveys. Areas with statistically reliable 1-year ACS data are not considered to be good candidates for local surveys due to the size and completeness of the ACS process.

Other survey methods are acceptable in providing data to support reevaluation requests if the survey method can provide statistically reliable, unbiased estimates of the gross rent of the entire FMR area. In general,

recommendations for FMR changes and supporting data must reflect the rent levels that exist within the entire FMR area and should be statistically reliable.

PHAs in non-metropolitan areas may, in certain circumstances, conduct surveys of groups of counties. HUD must approve all county-grouped surveys in advance. PHAs are cautioned that the resulting FMRs may not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that in counties where FMRs are based on the combined rents in the cluster of FMR areas, HUD will not revise their FMRs unless the grouped survey results show a revised FMR statistically different from the combined rent level.

Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative by structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The current 5-year ACS data should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD has developed guidance on how to provide data-supported comments on Small Area FMRs using HUD's special tabulations of the distribution of gross rents by bedroom unit size for ZIP Code Tabulation Areas. This guidance is available at <https://www.huduser.gov/portal/datasets/fmr.html> in the FY 2018 FMR section and should be used by interested parties in commenting on whether or not the level of Small Area FMRs are too high or too low (*i.e.*, Small Area FMRs that are larger than the gross rent necessary to make 40 percent of the units accessible for an individual zip code or that are smaller than the gross rent necessary to make 40 percent of the units accessible for a given zip code). HUD will post revised Small Area FMRs after confirming commenters' calculations.

As stated earlier in this notice, HUD is required to use the most recent data

available when calculating FMRs. Therefore, in order to re-evaluate an area's FMR, HUD requires more current rental market data than the 2015 ACS. HUD encourages a PHA or other interested party that believes the FMR in their area is incorrect to file a comment even if they do not have the resources to provide market-wide rental data. In these instances, HUD will use the comments, should survey funding be restored, when determining the areas HUD will select for HUD-funded local area rent surveys.

VII. Public Comments on the May 26, 2017 Proposed FMR Change Notice

As noted above, HUD received 22 comments on the Changes to Methodology notice. Most of the comments that addressed the proposed methodology changes responded favorably to the changes. Commenters choosing to address these methodological changes were "cautiously optimistic" about these changes. However, one commenter specifically opposed the use of "all bedroom" rents for the recent mover factor while another commenter specifically supports the use of "all bedroom" recent mover rents.

Based on the limited comments received on the proposed methodology changes, which are generally favorable to HUD's proposed changes, HUD has decided to implement each of the proposed methodological changes in the calculation of the FY 2018 FMRs.

The following summaries of comments and responses also include responses to other comments regarding the calculation of FMRs that were not responsive to the specific methodology changes.

A. Timeliness and Data Sources

Comments: A significant number of commenters offered comments on the timeliness of the data HUD uses in the calculation of FMRs and urged HUD to consider conducting local surveys or otherwise compile its own source of national survey data.

HUD Response: Generally, HUD uses the American Community Survey (ACS) as the primary source of data to calculate FMRs. The ACS is the only known source of data from which HUD may calculate a 40th percentile gross rent paid by recent movers in each FMR area. For the FY 2018 FMRs, the most current ACS data was collected in 2015. The 2015 survey responses are aggregated and analyzed by the Census Bureau during 2016 and are released in September and December 2016. There is no more current data on the level of gross rents paid available during 2017

when HUD is calculating the FMRs for the upcoming fiscal year.

HUD augments the data on gross rents paid collected through the ACS by the change in gross rents measured through the Consumer Price Index (CPI) which captures the change in gross rents between 2015 and 2016. In order to measure the change in gross rents, HUD constructs a gross rent index using 2 CPI components—Rent of Primary Residence, and Housing—Fuels and Utilities. These gross rent change factors are calculated for local metropolitan areas and where metropolitan data does not exist, HUD uses data available at the Census regional level. The local data utilized in this process covers approximately 46 percent of the national population.

Finally, for FY 2018, HUD continues to use HUD's nationwide forecast of expected growth in gross rents. HUD continues to explore forecasting expected changes in gross rents for metropolitan areas; however, HUD has yet to generate forecasts that consistently provide better estimates across all localities. While HUD continues to improve the quality of its local forecasts, HUD will explore if other sources of data provide more timely update factors than those calculated from the CPI.

HUD has carefully considered the comments concerning HUD conducting local rent surveys. The Federal Government currently makes a significant investment in collecting socio-economic data through the Census Bureau's American Community Survey. Since the ACS is the replacement for the decennial census long form survey, households receiving the survey are compelled to complete it; consequently, the ACS has far superior response rates and quality controls embedded in the data processing than HUD could achieve in any survey program it could construct. Therefore, HUD believes that is a waste of Federal resources to duplicate the efforts of the ACS.

Comment: HUD's FMRs should be calculated based on average rents per square foot with adjustments for local rental market conditions.

HUD Response: Average rent per square foot may be a commonly available statistic in some markets and may provide some additional information regarding rental market conditions in those markets; however, without the underlying data used to calculate the average rent per square foot statistic, HUD is unable to calculate a 40th or 50th percentile rent. Furthermore, attempting to incorporate rent per square foot metrics into the FMR calculations would introduce

additional complications in determining gross rents.

Comment: Multiple commenters suggested that HUD use data from Comprehensive Housing Market Analysis reports conducted by HUD's field economists in the FMR calculations.

HUD Response: The data used in HUD's Comprehensive Housing Market Analysis reports generally captures asking rents for newly constructed Class A rental units in large housing complexes. These data are not appropriate for setting Fair Market Rents for several reasons. First, asking rents typically do not equate to recent mover gross rent paid. Additionally, Class A apartment rental rates are generally not representative of the gross rents available across the entire rental stock of an FMR area. However, as stated earlier, HUD will investigate if there are more current and local sources of data that could replace the CPI based update factors currently used in the FMR calculations.

B. Comments on Proposed Changes

Comment: The changes to the calculation of Small Area FMRs directly from the ZCTA data are welcomed; however, HUD should aggregate ZCTAs to get to a statistically reliable estimate rather than move to the county level ratios.

HUD Response: HUD's use of the county level ratios as a proxy for the ZCTA level FMRs when there is not statistically reliable data is in line with HUD's policy for moving to the next higher encompassing geography for calculating FMRs. Aggregating ZCTAs presents a myriad of challenges that cannot be addressed quickly. HUD will study what options may be available for proxies to ZCTA level rents when the ZCTA data are not statistically reliable. If HUD finds a suitable method, HUD will propose this in a future notice of proposed FMR changes.

Comment: Several commenters suggested that following a successful FMR "appeal", HUD should immediately move to change a PHA's HAP amount.

HUD Response: HUD incorporates all of the reevaluated FMRs in the first calculation of Renewal Funding Inflation Factors following the effective date of the reevaluated FMRs.

Comment: HUD should review the bedroom ratio calculations, with a specific review of the 3-bedroom and 4-bedroom bonuses incorporated into the bedroom ratio calculations.

HUD Response: HUD updates the bedroom ratio calculations each year, incorporating the most current ACS data

into the process. The ratios are bounded and limited so that standard relationships are maintained (*i.e.* 0-bedroom ratios are not larger than 1-bedroom ratios, etc.). HUD maintains that its policy of providing bonuses for 3- and 4-bedroom units allows voucher families to be more competitive for these scarce larger rental dwelling units. PHAs not having difficulty placing families in large units may use payment standard flexibility to set 3- and 4-bedroom payment standards lower relative to the FMRs than other payment standards, or use the unadjusted 3- and 4-bedroom FMRs as the basis for exception payment standard requests of less than 90 percent of these FMRs.

Comment: Several commenters suggested that HUD should do a better job of forward trending FMR estimates.

HUD Response: As stated earlier, HUD continues to refine its forecasting of expected changes in gross rents at the metropolitan area level. In addition, HUD will explore the use of alternative measures of rental market growth that may be available.

C. Other Issues

Comment: The geographic area definitions used in certain areas of Puerto Rico are not contiguous and should be reviewed. Once the area definitions are reviewed, the comment requests HUD to undertake local rent surveys for the new areas and publish FMRs based on these new areas and survey data. Furthermore, the commenter expressed concern about the high cost of utilities not being incorporated into the FMRs.

HUD Response: HUD will review the area definitions in Puerto Rico and will determine if sufficient data exists within the Puerto Rico Community Survey (PRCS) to allow HUD to adjust the discontinuous areas. If changes are possible, HUD will propose them in a future FMR methodology change **Federal Register** notice. HUD is reliant on the PRCS data as HUD does not have the funding necessary to conduct its own local rent surveys. In past years, HUD incorporated an additional utility cost adjustment into the calculation of FMRs; however, the Consumer Price Index (CPI) data collected within Puerto Rico never measured an increase in expenditures in fuels and utilities associated with housing. HUD is using CPI data collected in Puerto Rico through the end of 2016, which includes the December 2016 electricity costs cited by the commenter.

Comment: Single Room Occupancy Rents in New Hampshire are too low.

HUD Response: HUD regulations at 24 CFR 888.113(f)(2) set the Single Room

Occupancy FMR at 75 percent of the 0-bedroom FMR. HUD updates the bedroom ratios used to calculate the 0-, 1-, 3-, and 4-bedroom FMRs annually using the most current data available.

Comment: The FMRs and Small Area FMRs are too high. Data was submitted to waive the use of these FMRs, but no response from HUD has been received.

HUD Response: This is likely a Public Housing Flat Rent exception rent request which is not handled by the HUD office that calculates FMRs. Public Housing Flat Rent exception rent requests are processed by HUD's Office of Public and Indian Housing. HUD recommends the commenter reach out to their local PIH representative for a status update.

VIII. Environmental Impact

This Notice involves the establishment of FMR schedules, which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are available at <https://www.huduser.gov/portal/datasets/fmr.html>.

Dated: August 22, 2017.

Todd M. Richardson,

Deputy Assistant, Secretary, Office of Policy Development, Office of Policy Development and Research.

Fair Market Rents for the Housing Choice Voucher Program

Schedule B—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—Most FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. HUD is using the metropolitan CBSAs, which are made up of one or more counties, as defined by OMB, with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Micropolitan Areas.

b. Modifications to OMB Definitions—Following OMB guidance, the estimation procedure for the FY 2018 FMRs incorporates the OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data and updated by the 2010 Census in February 28, 2013. The adjustments made to the 2000

definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly are continued. To follow HUD's policy of providing FMRs at the smallest possible area of geography, no counties were added to existing metropolitan areas due to recent updates in metropolitan area definitions. All counties added to metropolitan areas by the CBSA will still be treated as separate counties for FMR calculations; that is, the rents from a county that is a sub-area will not be used in the remaining metropolitan sub-area rent determination. All metropolitan areas that have been subdivided by HUD will use ACS data which conforms to HUD's area definition if statistically reliable information exists. If statistically reliable data for the HUD defined area is not available, HUD uses information from larger encompassing geographies, as described elsewhere in this notice.

The specific counties and New England towns and cities within each state in MSAs and HMFAs were not changed by the February 28, 2013 OMB metropolitan area definitions. These areas are listed in Schedule B, available online at <https://www.huduser.gov/portal/datasets/fmr.html>.

2. Unit Bedroom Count Adjustments

Schedule B, available at <https://www.huduser.gov/portal/datasets/fmr.html>, shows the FMRs for zero-bedroom through four-bedroom units. The Schedule B addendum shows Small Area FMRs for all PHAs operating using Small Area FMRs (please see section V of this notice for a list of participating PHAs). The FMRs for unit sizes larger than four bedrooms may be calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

3. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in the online Schedule B are listed alphabetically by metropolitan FMR area and by non-metropolitan county within each state and are available at <https://www.huduser.gov/portal/datasets/fmr.html>.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that

are in more than one state can be identified by consulting the listings for each applicable state.

c. Two non-metropolitan counties are listed alphabetically on each line of the non-metropolitan county listings.

d. The New England towns and cities included in a non-metropolitan county are listed immediately following the county name.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2017-N100; FXES11130300000-178-FF03E00000]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

DATES: We must receive any written comments on or before October 2, 2017.

ADDRESSES: Send written comments by U.S. Mail to the Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458; or by electronic mail to *permitsR3ES@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Carlita Payne, (612) 713-5343.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; ESA), prohibits certain activities with endangered and threatened species unless the activities are specifically authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the ESA authorizes the

permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the permit number when you submit comments. Documents and other information the applicants have submitted with the applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Applications

Proposed activities in the following permit requests are for the recovery and enhancement of survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE36875C	Gregory Gerke, Carmel, IN.	Rusty patched bumble bee (<i>Bombus affinis</i>).	Indiana	Conduct presence/absence surveys	Capture, handle, release.	New.
TE37601C	Emilie Snell-Rood, Saint Paul, MN.	Rusty patched bumble bee (<i>Bombus affinis</i>).	Minnesota	Conduct presence/absence surveys, document habitat use.	Capture, handle, release.	New.
TE64070B	SWCA Inc., Bismarck, ND.	Rusty patched bumble bee (<i>Bombus affinis</i>), Dakota skipper (<i>Hesperia dactotae</i>), poweshiek skipperling (<i>Oarisma poweshiek</i>).	Illinois, Indiana, Iowa, Maine, Massachusetts, Minnesota, Ohio, Virginia, Wisconsin.	Conduct presence/absence surveys	Capture, handle, release.	Amend, renew.
TE40247C	Minnesota Department of Natural Resources, Saint Paul, MN.	Rusty patched bumble bee (<i>Bombus affinis</i>).	Minnesota	Conduct presence/absence surveys	Capture, handle, release.	New.
TE41469C	G.E.I. Consultants, Inc., Green Bay, WI.	Kirtland's warbler (<i>Setophaga kirtlandii</i>).	Wisconsin	Conduct presence/absence surveys	Harass, use bird call recordings.	New.

Public Availability of Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive in response to this notice are available for public inspection, by appointment, during

normal business hours at the address listed in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.