

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final environmental analysis checklist and a final categorical exclusion determination are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (waters), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary § 165.T05–0427 is added to read as follows: Section 165.T05–0427 Safety Zone: On the waters of the New River, Jacksonville, North Carolina.

(a) *Location:* The following area is a safety zone: All waters of the New River, Jacksonville, North Carolina, located along the shore of USMC Camp Lejuene from the position of latitude 34°39'49" N, longitude 077°23'55" N labeled Town Pt on the chart to latitude 34°38'09" N, longitude 077°20'22" N labeled Weil Pt on the chart. All coordinates reference Datum NAD 1983.

(b) *Definitions:* Captain of the Port Representative is any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the Captain of the Port's behalf.

(c) *Regulations:* (1) In accordance with the general regulations in section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or a Captain of the Port Representative. All vessel movement within the safety zone is prohibited except as specifically authorized by the Captain of the Port or a Captain of the Port Representative. The general requirements of section 165.23 also apply to this regulation.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or authorized representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or (252) 247–4546, or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(e) *Enforcement period:* This rule is effective from 6 a.m. (est) to 4 p.m. (est) on Monday, June 23, 2008 and from 6 a.m. (est) to 4 p.m. (est) on Tuesday, June 24, 2008.

J.E. Ryan,

*Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.*

[FR Doc. E8–13551 Filed 6–16–08; 8:45 am]

BILLING CODE 4910–15–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1281

[NARA–07–0005]

RIN 3095–AA82

#### Presidential Library Facilities

**AGENCY:** National Archives and Records Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Archives and Records Administration (NARA) is issuing regulations under the Presidential Libraries Act (PLA) amendments of 1986 (codified at 44

U.S.C. 2112). Section 2112 requires the Archivist of the United States to promulgate architectural and design standards for Presidential libraries and to report to Congress before accepting title to or entering into an agreement to use land, a facility, and equipment as a Presidential library. The Archivist must also report to Congress before accepting a gift for the purpose of making any physical or material change or addition to an existing library. Because new Presidential libraries have traditionally been built by private, nonprofit charitable foundations, either by themselves or in collaboration with state and local government or universities, this rule will affect these nonfederal entities.

**DATES:** This regulation is effective July 17, 2008. The incorporation by reference of the publication listed in the rule is approved by the Director of the Federal Register as of July 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at (301) 837-1477 or Laura McCarthy at (301) 837-3023.

**SUPPLEMENTARY INFORMATION:** On December 20, 2007, NARA published a proposed rule (72 FR 72319) for a 60 day comment period on new regulations for Presidential libraries under the Presidential Libraries Act (PLA) amendments of 1986 (codified at 44 U.S.C. 2112). We received two comments on the proposed rule, from an architectural firm and a mobile shelving manufacturer. The commenters noted concern with requirements found in the architectural and design standards promulgated by the Archivist and referenced in § 1281.4; the requirements are not in the proposed regulations themselves.

Both commenters questioned the ability to comply with limiting the size of the archival depository to 70,000 square feet if the height of the mobile shelving is limited to 111", as stated in the referenced architectural and design standards, and noted that NARA has provided exceptions to that height in two recent Presidential libraries.

To address these comments, NARA has revised the architectural and design standards to allow for mobile shelving higher than 111" if the proposed shelving configuration (including the proposed fire suppression and fire detection systems) are evaluated by the designer and approved by NARA for conformance with NARA's maximum loss criteria. The method of evaluation of the proposed shelving configuration must be either by live fire testing performed at a nationally recognized live fire testing facility or by computer modeling. NARA also corrected the

maximum loss criteria to 300 cubic feet of records lost in a single fire event. This criteria applies to all NARA archival space.

The last comment by the architectural firm concerns the recommendation for building efficiency in the architectural and design standards referred to in § 1281.4. NARA recommends a design goal of at least 75% building efficiency (the ratio of usable to gross square footage) which is a major influence on the costs of operating and maintaining a facility. The firm did not believe recently constructed libraries have met this recommendation and does not believe it feasible, given the functional requirements of the width circulation for moving items in the archival spaces or the space required for large crowds. The firm believes a more realistic efficiency ratio should replace the current recommendation. NARA emphasizes that this is stated in the standards as a design *recommendation*, not a *requirement*. We must report the anticipated operations and maintenance costs in our report to Congress and a building efficiency significantly lower than 75% will affect the estimated operations and maintenance costs. As a result, we did not change the recommended building efficiency ratio in response to the firm's comment.

This final rule contains information collection activities which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. These information collection requirements, contained in §§ 1281.8 and 1281.12 have been approved by OMB under the control number 3095-0036 with a current expiration date of June 30, 2008.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small entities. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

#### List of Subjects in 36 CFR Part 1281

Archives and records, Federal buildings and facilities, Incorporation by reference, Reporting and recordkeeping.

#### PART 1281—PRESIDENTIAL LIBRARY FACILITIES

For the reasons set forth in the preamble, add a new part 1281 in Subchapter G of Chapter XII, Title 36,

Code of Federal Regulations, to read as follows:

#### PART 1281—PRESIDENTIAL LIBRARY FACILITIES

Sec.

- 1281.1 What is the scope of this part?
- 1281.2 What publications are incorporated by reference?
- 1281.3 What definitions apply to this part?
- 1281.4 What are the architectural and design standards for Presidential libraries?
- 1281.6 What certifications must be provided to NARA?
- 1281.8 What information must be provided to NARA for its report to Congress on a new Presidential library facility?
- 1281.10 When does a foundation consult with NARA before offering a gift of a physical or material change, or addition to an existing library?
- 1281.12 What information must be provided to NARA for its report to Congress on a change or addition to a Presidential library facility?
- 1281.14 What type of endowment is required for a Presidential library?
- 1281.16 What standard does NARA use for measuring building size?

**Authority:** 44 U.S.C. 2104(a), 2112.

#### § 1281.1 What is the scope of this part?

(a) This part implements provisions of the Presidential Libraries Act, codified at 44 U.S.C. 2112(a) and (g). The Act requires the Archivist of the United States to promulgate architectural and design standards for new and existing Presidential libraries in order to ensure that such depositories preserve Presidential records subject to Chapter 22 of this title and papers and other historical materials accepted for deposit under section 2111 of this title and contain adequate research facilities. In addition the Archivist must submit a written report to the Congress before accepting new libraries or certain proposed physical or material changes or additions to an existing library; and to ensure, for existing libraries subject to the mandatory endowment requirement, that the endowment specified by 44 U.S.C. 2112(g) has been transferred to the National Archives Trust Fund before acceptance by the Archivist.

(b) This part applies to design and construction of new libraries that are offered to NARA on or after July 17, 2008 and to material changes or additions to new and existing libraries funded wholly by gift on or after that date.

#### § 1281.2 What publications are incorporated by reference?

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were

approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding addresses noted below. You may inspect a copy at the National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740 or at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The following materials are available for purchase from the Building Owners and Managers Association (BOMA), BOMA International 1201 New York Avenue, NW., Suite 300, Washington DC, 20005, <http://www.boma.org>, or the American National Standards Institute, (ANSI), Inc., 11 West 42nd Street, New York, NY 10036.

(1) ANSI/BOMA Z65.1-1996, Standard Method for Measuring Floor Areas in Office Buildings (the BOMA Standard), approved June 7, 1996; IBR approved for §§ 1281.3, and 1281.8.

(2) [Reserved]

### § 1281.3 What definitions apply to this part?

The following definitions apply to this part:

*Architectural and design standards.* This term refers to the document cited in § 1281.4.

*Archival functions.* The term means arranging, describing, reviewing, preserving, reproducing, restoring, exhibiting, and making available Presidential and other records and historical materials in the care and custody of the Presidential libraries, and includes the salaries and expenses of NARA personnel performing those functions.

*Endowment library.* This term means a Presidential library that is subject to the endowment requirements of 44 U.S.C. 2112(g). The term includes the existing libraries of presidents who took the oath of office as President for the first time on or after January 20, 1985, the proposed library of President George W. Bush, and the libraries of presidents who take the oath of office as President for the first time on or after July 1, 2002.

*Equipment.* As used in this part, the term means operating equipment that must be furnished with the new library and included in the calculation of the required endowment. Operating

equipment is fundamental to the operation of the library and is normally built into the facility or permanently mounted to the structure.

*Existing library.* This term means a Presidential library that has been accepted by the Archivist under 44 U.S.C. 2112(a) and established as part of the system of Presidential libraries managed by NARA.

*Facility operations.* This term means those activities, including administrative services, involved with maintaining, operating, protecting, and improving a Presidential library.

*Foundation.* This term means a private organization organized under state law to construct a new Presidential library. The term usually refers to nonprofit charitable organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code (26 CFR 501(c)(3)). The term specifically includes “foundation” and “institute,” as those terms are used in 44 U.S.C. 2112(a)(1)(B).

*Historical materials.* The term “historical materials” has the meaning set forth at 44 U.S.C. 2101.

*New library.* This term means a Presidential library for a President who took the oath of office as President for the first time on or after January 20, 1985, that has not been accepted by the Archivist under 44 U.S.C. 2112(a). Presidential libraries that have been accepted by the Archivist and established as part of the system of Presidential libraries that are managed by NARA are “existing libraries.”

*Physical or material change or addition.* This term means any addition of square footage, as defined by the BOMA Standard (incorporated by reference in § 1281.2) or any physical or material change to the existing structure of an existing library that results in a significant increase in the cost of facility operations.

*Presidential library.* This term means a Presidential archival depository as defined in 44 U.S.C. 2101.

*Presidential records.* The term has the meaning set forth at 44 U.S.C. 2201.

### § 1281.4 What are the architectural and design standards for Presidential libraries?

The Archivist is required by 44 U.S.C. 2112(a)(2) to promulgate architectural and design standards for Presidential libraries. The standards address the architectural, design, and structural requirements of a new Presidential library and additions or renovations, and they ensure that Presidential libraries are safe and efficient to operate and provide adequate and secure research and museum facilities. A copy of the standards is provided to the

foundation upon request and is available from the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Rd., College Park, MD 20740-6001.

### § 1281.6 What certifications must be provided to NARA?

(a) The foundation must provide to NARA design and construction certifications specified in the architectural and design standards.

(b) Any item that NARA finds is not in compliance with the architectural and design standards must be corrected by the foundation or, if not corrected by the foundation, will be corrected by NARA with the foundation paying the full cost of taking necessary corrective action.

### § 1281.8 What information must be provided to NARA for its report to Congress on a new Presidential library facility?

(a) NARA must submit a report to Congress on a proposed new library pursuant to 44 U.S.C. 2112(a)(3). The foundation that is building the library must help NARA as necessary in compiling the information needed for this report. If a State, political subdivision, university, institution of higher learning, or institute participates in the construction of the new library (e.g., by making land available for the facility), that party is subject to the same requirement. Requested information must be sent to the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Rd., College Park, MD 20740-6001 far enough in advance of the anticipated date of transfer of the Library for NARA to compile and submit the report so that it may lie before Congress for the minimum time period specified in 44 U.S.C. 2112(a)(5). The normal lead time for submitting the required information is a least six months in advance of the anticipated date of transfer, but the submission date is subject to negotiation between NARA and the foundation in specific cases. The collection of information by NARA for these purposes has been approved under the Paperwork Reduction Act by the Office of Management and Budget with the control number 3095-0036.

(b) Paragraph (a)(3) of 44 U.S.C. 2112 lists the information that NARA must include in its report to Congress. The foundation and NARA will agree as part of the planning process for a new library on what information the foundation will provide and when. The same requirement applies to other entities involved in the construction of a new library (e.g., a local government or university). Foundations will normally be responsible, at a minimum, for

providing the following information to NARA:

(1) A description of the land, facility, and equipment offered as a gift or to be made available without transfer of title, which must include:

(i) The legal description of the land, including plat, and evidence of clear title to the land upon which the library is constructed;

(ii) Site plan, floor plans, building sections and elevations, artist's representation of building and grounds;

(iii) Description of building contents, including furniture, equipment, and museum installations; and

(iv) Measurement of the facility in accordance with § 1281.16.

(2) A statement specifying the estimated total cost of the library and the amount of the endowment required pursuant to 44 U.S.C. 2112(g);

(3) An offer or other statement setting forth the terms of the proposed agreement for transfer or use of the facility, if any;

(4) Copies of any proposed agreements between the state, other political subdivision, the donating group, other institutions, and the United States which may affect ownership or operation of the library facility;

(5) A statement of and copies of any proposed agreements concerning the proposed support of library programs by non-federal sources; and

(6) A statement on cost-saving design features of the building.

(7) A written certification that the library and the equipment therein will comply with NARA standards.

**§ 1281.10 When does a foundation consult with NARA before offering a gift of a physical or material change, or addition to an existing library?**

A foundation must consult with the Office of Presidential Libraries before beginning the process of offering a gift for the purpose of making a physical or material change or addition to a new or existing library. NARA will furnish the interested foundation the current architectural and design standards as specified in § 1281.4. Others may request a single copy by writing the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Road, College Park, Maryland 20740-6001.

**§ 1281.12 What information must be provided to NARA for its report to Congress on a change or addition to a Presidential library facility?**

(a) NARA must submit a report to Congress on a proposed physical or material change or addition to an existing library that is being funded wholly by gift. The foundation or other party offering the gift to NARA must

help NARA as necessary in compiling the information needed for the report. Required information must be sent to the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Rd., College Park, MD 20740-6001, far enough in advance of the Archivist's acceptance of the gift for NARA to compile and submit the report to Congress in accordance with 44 U.S.C. 2112(a)(5). The normal lead time for submitting the required information on physical or material changes or additions is at least nine (9) months in advance of the anticipated date that work will begin on the physical or material change or addition to the library. The collection of information contained in this section has been approved under the Paperwork Reduction Act by the Office of Management and Budget with the control number 3095-0036.

(b) Paragraph (a)(4) of 44 U.S.C. 2112 lists the information that NARA must include in its report to Congress. The donor and NARA will agree as part of the planning process what information the donor will provide and when, but donors will normally be responsible, at a minimum, for providing the following information to NARA:

(1) A description of the gift, which must include as appropriate:

(i) The legal description of the land, including plat;

(ii) Site plan, floor plans, building sections and elevations, artist's representation of building and grounds as they will be affected by the gift;

(iii) Description of building contents that are part of the gift, including furniture, equipment, and museum installations;

(iv) For endowment libraries, a measurement of the addition or change to the facility in accordance with § 1281.16; and

(v) A review of all critical spaces where NARA holdings will be stored, used, or exhibited, including information on life-safety, environmental, holdings storage, and other systems against NARA standards.

(2) A statement of the estimated total cost of the proposed physical or material change or addition to the library, and, for endowment libraries, an estimate of the amount of the additional endowment required pursuant to 44 U.S.C. 2112(g).

(3) A statement of the purpose of the proposed change or addition.

(4) A written certification that the library and the equipment therein will comply with NARA standards after the change or addition is made.

**§ 1281.14 What type of endowment is required for a Presidential library?**

(a) *Endowment requirement—new libraries.* The foundation or organization that is offering NARA a new Presidential library must establish an endowment for the library, by gift or bequest, in the National Archives Trust Fund before the Archivist may accept the transfer of the library. The purpose of the endowment is to help NARA defray the cost of facility operations. The endowment requirement for the prospective new library of President George W. Bush is set forth in paragraphs 2 and 3 of 44 U.S.C. 2112(g). The endowment requirements for the new libraries of presidents taking the oath of office from the first time on or after July 1, 2002, are set forth in paragraphs 2, 3, and 5 of 44 U.S.C. 2112(g).

(b) *Endowment requirement—change or addition to an endowment library.* For a proposed physical or material change or addition to an endowment library that is being funded wholly by gift, the foundation or other organization that is offering the gift must agree, as a condition of the gift, to transfer monies by gift or bequest to the library's existing endowment in the National Archives Trust Fund in an amount sufficient to satisfy the requirements of paragraphs 2, 3, and 5 of 44 U.S.C. 2112(g). The Archivist must determine that the additional endowment monies have been transferred to the Trust Fund before he accepts the gift of the physical or material change or addition.

(c) *Use of endowment income.* The income from a library's endowment is available to cover the cost of facility operations, but is not available for the performance of archival functions.

(d) *Calculating a library's endowment.* The formulas for calculating the required endowment are set forth in 44 U.S.C. 2112(g)(3)–(5).

(e) *Equipment costs that must be included in the endowment calculation.* The cost of all operating equipment provided with a new library must be included in the endowment calculation pursuant to 44 U.S.C. 2112(g)(3). The Archivist will provide in the architectural and design standards, a list of equipment guidelines, recommendations, and minimum requirements for a foundation's use in designing and building a new library. The list is not exhaustive and requirements may change with evolving technology, program requirements, and the final library design.

(f) *Formula for a shared use library building.* For endowment purposes, the construction cost of a shared use library

building containing both NARA and Foundation-controlled areas will be determined using the following formula: The percentage of the usable square footage of the NARA-controlled areas to the usable square footage of the entire building multiplied by the cost of the entire building. That figure is then used in calculating a library's endowment as specified by subsection (d) of this section and 44 U.S.C. 2112(g)(3)–(5).

**§ 1281.16 What standard does NARA use for measuring building size?**

For purposes of 44 U.S.C. 2112(g)(3) and (4), and this part, NARA has adopted the BOMA Standard (incorporated by reference in § 1281.2) as the standard for measuring the size of the facility and the value for calculating the endowment. The architectural and design standards contain the description of the area to be measured as to obtain the useable square footage and the exclusions to the measurement.

Dated: June 5, 2008.

**Allen Weinstein,**

*Archivist of the United States.*

[FR Doc. E8–13465 Filed 6–16–08; 8:45 am]

BILLING CODE 7515–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

[WT Docket No. 99–87; RM–9332; FCC 08–127]

#### Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In the *Fourth Memorandum Opinion and Order* in WT Docket No. 99–87 (*Fourth Memorandum Opinion and Order*), the Federal Communications Commission (Commission or FCC) clarifies the Commission's *Third Report and Order* in this docket, and takes the opportunity to correct the inadvertent deletion of language in the rules regarding the schedule for Private Land Mobile Radio systems in the 150–174 MHz and 421–512 MHz bands to transition to narrowband kHz technology.

**DATES:** Effective July 17, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Melvin Spann, Mobility Division, Wireless Telecommunications Bureau, at [Melvin.Spann@FCC.gov](mailto:Melvin.Spann@FCC.gov), or (202) 418–1333.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Fourth Memorandum Opinion and Order* in WT Docket No. 99–87 (*Fourth Memorandum Opinion and Order*), FCC 08–127, adopted on March 12, 2008, and released on March 13, 2008. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by sending an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. The *Fourth Memorandum Opinion and Order* addresses issues raised in the *Third Report and Order* (*Third Report and Order*) at 72 FR 19387, April 18, 2007, in this WT Docket No. 99–87 proceeding. The Commission takes the following significant actions in the *Fourth Memorandum Opinion and Order*: (i) clarifies that it intends to provide notice and seek comment prior to adopting final rules establishing a 6.25 kHz migration schedule and that licensees that have already commenced the transition to 12.5 kHz technology in order to comply with the 2013 deadline should not suspend or abandon those efforts; and (ii) revises 47 CFR 90.209(b)(5) of the Commission's rules to restore language relating to the 2013 deadline that was inadvertently removed in an unrelated rulemaking proceeding, and to revise that language to make it more precise.

#### I. Procedural Matters

##### A. Paperwork Reduction Act Analysis

2. The *Fourth Memorandum Opinion and Order* does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

#### II. Ordering Clauses

3. Pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and

§ 1.2 of the Commission's rules, 47 CFR 1.2, the Request for Clarification filed by Kenwood USA Corporation, Communications Sector on May 9, 2007 is granted to the extent set forth herein.

4. Pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Reconsideration filed by City of New York on May 18, 2007 is granted to the extent set forth herein.

5. The rule changes as set forth will become effective July 17, 2008.

6. The Commission's Consumer and Governmental Affairs Bureau shall send a copy of this *Fourth Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR part 90

Communications equipment, Radio. Federal Communications Commission. **Marlene H. Dortch,** *Secretary.*

#### Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

#### PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 2. Section 90.209 is amended by revising footnote 3 to the table in paragraph (b)(5) to read as follows:

#### § 90.209 Bandwidth limitations.

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

<sup>3</sup> Operations using equipment designed to operate with a 25 kHz channel bandwidth will be authorized a 20 kHz bandwidth. Operations using equipment designed to operate with a 12.5 kHz channel bandwidth will be authorized a 11.25 kHz bandwidth. Operations using equipment designed to operate with a 6.25 kHz channel bandwidth will be authorized a 6 kHz bandwidth. All stations must operate on channels with a bandwidth of 12.5 kHz or less beginning January 1, 2013, unless the operations meet the efficiency standard of § 90.203(j)(3).

\* \* \* \* \*

[FR Doc. E8–13628 Filed 6–16–08; 8:45 am]

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