

# Federal Register

Friday  
February 26, 1999

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**WHEN:** March 23, 1999 at 9:00 am.

**WHERE:** Office of the Federal Register  
Conference Room  
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Washington, DC  
(3 blocks north of Union Station Metro)

**RESERVATIONS:** 202-523-4538



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# Rules and Regulations

Federal Register

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Friday, February 26, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Florfenicol Solution

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for use of florfenicol injectable solution in cattle for treatment of foot rot (bovine interdigital phlegmon).

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** William T. Flynn, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7570.

**SUPPLEMENTARY INFORMATION:** Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 1982, Union, NJ 07083-1982, filed supplemental NADA 141-063 that provides for veterinary prescription use of Nuflor® Injectable Solution (florfenicol) for treatment of cattle for bovine interdigital phlegmon (foot rot, acute interdigital necrobacillosis, infectious pododermatitis) associated with *Fusobacterium necrophorum* and *Bacteroides melaninogenicus*. The supplemental NADA is approved as of January 14, 1999, and the regulations are amended by revising 21 CFR 522.955(d)(1) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplement may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under 21 U.S.C. 360b(c)(2)(F)(iii), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning January 14, 1999, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. Three years marketing exclusivity is limited to use of the drug for treatment of bovine interdigital phlegmon associated with *F. necrophorum* and *B. melaninogenicus*.

The agency has determined under 21 CFR 25.33(d)(5) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

2. Section 522.955 is amended by revising paragraph (d)(1)(i)(B) to read as follows:

#### § 522.955 Florfenicol solution.

- \* \* \* \* \*
- (d) \* \* \*
- (1) \* \* \*

(i) \* \* \*

(B) *Indications for use.* For treatment of bovine respiratory disease (BRD) associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*. For treatment of bovine interdigital phlegmon (foot rot, acute interdigital necrobacillosis, infectious pododermatitis) associated with *Fusobacterium necrophorum* and *Bacteroides melaninogenicus*.

\* \* \* \* \*  
Dated: February 1, 1999.

**Andrew J. Beaulieu,**

*Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 99-4762 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF STATE

### 22 CFR Part 95

[Public Notice 2991]

#### Office of the Secretary; Implementation of Torture Convention in Extradition Cases

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State issues these regulations implementing the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, as required by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998, Public Law 105-277.

Article 3 of the Torture Convention prohibits, among other things, the extradition of a person to a State if there are "substantial grounds for believing" that the individual "would be in danger of being subjected to torture" in that State. In its instrument of ratification to the Torture Convention, the United States included an understanding that the Article 3 standard means that the person would be "more likely than not" to be tortured if extradited to that requesting State. This rule records procedures currently in place for considering the question of torture in appropriate cases when the Secretary of State determines whether to sign a warrant surrendering a fugitive for extradition.

**DATES:** *Effective date:* February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Samuel L. Witten, Assistant Legal Officer, Office of Law Enforcement and Intelligence, Office of the Legal Adviser, Department of State, 202-647-7324.

**SUPPLEMENTARY INFORMATION:** This rule implements certain obligations in the context of extradition undertaken by the United States as party to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("Torture Convention"). Article 3 of the Torture Convention provides that no State party "shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Promulgation of the rule is required by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998, P.L. 105-277, which provides that, not later than 120 days after the date of enactment of that Act, "the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the [Torture Convention], subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention."

Pursuant to sections 3184 and 3186 of Title 18 of the United States Criminal Code, the Secretary of State is the U.S. official responsible for determining whether to surrender a fugitive to a foreign country by means of extradition. In order to implement the obligation assumed by the United States pursuant to Article 3 of the Convention when making this determination, the Department considers, when appropriate, the question of whether a person facing extradition from the U.S. "is more likely than not" to be tortured in the State requesting extradition. These regulations record the already existing procedures followed in this consideration.

Section 95.1 provides definitions for key terms. Subsection (b) defines "torture," incorporating the definition from the Torture Convention and the understandings included in the Instrument of Ratification.

The definition set forth in subparagraph (b)(1) provides that torture includes the intentional infliction of severe pain or suffering on a person, whether physical or mental, for purposes such as obtaining from that person or a third person information or a confession; punishing that person for an act he or a third person has committed or is suspected of having committed; or intimidating or coercing

that person or a third person; or for any reason based on discrimination of any kind.

The definition also limits torture to situations where the treatment is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Subparagraph (4) further provides in this respect that torture applies only to acts directed against persons in the offender's custody or physical control; the term "acquiescence" is further defined in subparagraph (5) to mean that the public official, prior to the treatment at issue, must be aware of the activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.

The final sentence in subparagraph (1) provides that torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. The term "lawful sanctions" is further defined in subparagraph (6) which provides that it includes judicially imposed sanctions and other enforcement actions authorized by law, provided that such sanctions or actions were not adopted in order to defeat the object and purpose of the Convention to prohibit torture.

Subparagraph (b)(2) requires that the act be specifically intended to inflict severe physical or mental pain or suffering and provides that mental pain or suffering refers to prolonged mental harm caused by or resulting from certain enumerated actions. Subparagraph (3) provides that noncompliance with applicable legal procedural standards does not per se constitute torture.

Subparagraph (7) makes clear that the term "torture" refers to an extreme form of cruel and inhuman treatment. As reflected in the title to the Convention, torture does not include lesser forms of cruel, inhuman or degrading treatment or punishment.

On the standard established in Article 3 of the Torture Convention, paragraph (c) records the U.S. understanding from the Instrument of Ratification that "[w]here there are substantial grounds for believing that [a fugitive] would be in danger of being subjected to torture" means "if it is more likely than not that the fugitive would be tortured."

Paragraph (d) reflects the fact that all decisions on extradition are made by the Secretary (including an Acting Secretary in the Secretary's absence) or the Deputy Secretary, by delegation. For ease of reference, the term Secretary as used in the rule includes the Deputy Secretary.

Subsection 95.2 entitled "Application" sets forth the relevant

provisions of the Convention and describes the Secretary's authority under 18 U.S.C. 3184 and 3186 to determine whether to surrender a fugitive for extradition to a foreign country. It also explains that it is in the context of making this decision that the Department considers the question of likelihood that a given individual will be tortured.

Subsection 95.3 reflects the statutory framework in which decisions on extradition are presented to the Secretary only after a fugitive has been found extraditable by a United States judicial officer. This subsection explains that appropriate policy and legal offices in the Department review and analyze relevant information in cases where allegations relating to torture are made or the issue is otherwise brought to the Department's attention in preparing a recommendation to the Secretary as to whether or not to sign the surrender warrant. Once this analysis is complete, the Secretary may decide to surrender the fugitive to the requesting State, to deny surrender of the fugitive, or to surrender the fugitive subject to conditions.

Subsection 95.4 sets forth the fact that decisions of the Secretary concerning surrender of fugitives for extradition are matters of executive discretion not subject to judicial review. The statute requiring publication of this rule also provides that, notwithstanding any other provision of law, no court shall have jurisdiction to review these regulations, and nothing in that statute shall be construed as providing any court jurisdiction to consider or review claims raised under the Torture Convention or that statute, or any other determination made with respect to the application of the policy set forth in that statute. The statute provides for two exceptions to this lack of jurisdiction, neither of which is relevant here. The first is for review of a final order of removal pursuant to section 22 of the Immigration and Nationality Act, which is not applicable to extradition. The second allows for the possibility that the regulations themselves might provide for review; this rule does not do so.

This rule involves a foreign affairs function of the United States and thus is excluded from the procedures of Executive Order 12866 (58 FR 51735) and 5 U.S.C. 553 and 554, but has been reviewed internally by the Department to ensure consistency with the purposes thereof.

#### **List of Subjects in 22 CFR Part 95**

Extradition, Torture Treaties

For the reasons set out in the preamble, 22 CFR part 95 is added to subchapter J as follows:

**PART 95—IMPLEMENTATION OF TORTURE CONVENTION IN EXTRADITION CASES**

Sec.

95.1 Definitions.

95.2 Application.

95.3 Procedures.

95.4 Review and construction.

**Authority:** 18 U.S.C. 3181 *et seq.*; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**§ 95.1. Definitions.**

(a) *Convention* means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force for the United States on November 10, 1994. Definitions provided below in paragraphs (b) and (c) of this section reflect the language of the Convention and understandings set forth in the United States instrument of ratification to the Convention.

(b) *Torture* means:

(1) Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(2) In order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering and that mental pain or suffering refers to prolonged mental harm caused by or resulting from:

(i) The intentional infliction or threatened infliction of severe physical pain or suffering;

(ii) The administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(iii) The threat of imminent death; or

(iv) The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the

administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(3) Noncompliance with applicable legal procedural standards does not per se constitute torture.

(4) This definition of torture applies only to acts directed against persons in the offender's custody or physical control.

(5) The term "acquiescence" as used in this definition requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.

(6) The term "lawful sanctions" as used in this definition includes judicially imposed sanctions and other enforcement actions authorized by law, provided that such sanctions or actions were not adopted in order to defeat the object and purpose of the Convention to prohibit torture.

(7) Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment.

(c) *Where there are substantial grounds for believing that [a fugitive] would be in danger of being subjected to torture* means if it is more likely than not that the fugitive would be tortured.

(d) *Secretary* means Secretary of State and includes, for purposes of this rule, the Deputy Secretary of State, by delegation.

**§ 95.2 Application.**

(a) Article 3 of the Convention imposes on the parties certain obligations with respect to extradition. That Article provides as follows:

(1) No State party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

(2) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

(b) Pursuant to sections 3184 and 3186 of Title 18 of the United States Criminal Code, the Secretary is the U.S. official responsible for determining whether to surrender a fugitive to a foreign country by means of extradition. In order to implement the obligation assumed by the United States pursuant to Article 3 of the Convention, the Department considers the question of

whether a person facing extradition from the U.S. "is more likely than not" to be tortured in the State requesting extradition when appropriate in making this determination.

**§ 95.3. Procedures.**

(a) Decisions on extradition are presented to the Secretary only after a fugitive has been found extraditable by a United States judicial officer. In each case where allegations relating to torture are made or the issue is otherwise brought to the Department's attention, appropriate policy and legal offices review and analyze information relevant to the case in preparing a recommendation to the Secretary as to whether or not to sign the surrender warrant.

(b) Based on the resulting analysis of relevant information, the Secretary may decide to surrender the fugitive to the requesting State, to deny surrender of the fugitive, or to surrender the fugitive subject to conditions.

**§ 95.4 Review and construction.**

Decisions of the Secretary concerning surrender of fugitives for extradition are matters of executive discretion not subject to judicial review. Furthermore, pursuant to section 2242(d) of the Foreign Affairs Reform and Restructuring Act of 1998, P.L. 105-277, notwithstanding any other provision of law, no court shall have jurisdiction to review these regulations, and nothing in section 2242 shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or section 2242, or any other determination made with respect to the application of the policy set forth in section 2242(a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), which is not applicable to extradition proceedings.

Dated: February 18, 1999.

**Strobe Talbott,**

*Deputy Secretary of State.*

[FR Doc. 99-4560 Filed 2-25-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

[SW-FRL-6305-2]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA today is granting a petition submitted by McDonnell Douglas Corporation (McDonnell Douglas) of Tulsa, Oklahoma, to exclude from hazardous waste control (or delist) certain solid wastes generated at its U.S. Air Force Plant No. 3 facility. This action responds to McDonnell Douglas' petition to delist these wastes under those regulations that allow any person to petition the Administrator to modify or revoke any provision of certain hazardous waste regulations of the Code of Federal Regulations, and specifically provide generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. After careful analysis, EPA has concluded that the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies only to stabilized wastewater treatment sludge. The sludges were previously generated from the chemical conversion coating of aluminum operations at McDonnell Douglas' Tulsa, Oklahoma facility. The sludges were disposed of in surface impoundments which were then closed as a single Resource Conservation and Recovery Act (RCRA) landfill. The facility plans to excavate the waste from the city airport site and dispose of it offsite in a Subtitle D landfill. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under RCRA when disposed of in Subtitle D landfills.

**EFFECTIVE DATE:** February 26, 1999.

**ADDRESSES:** The public docket for this final rule is located at the Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act Reading Room of the 7th floor from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The reference number for this docket is "F-98-OKDEL-AIRFORCEPLANT3." The public may copy material from any regulatory

docket at no cost for the first 100 pages and at a cost of \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For general and technical information concerning this notice, contact David Vogler (6PD-O), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202-2733, (214) 665-7428.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Authority*

Under 40 CFR 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of 40 CFR; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

*B. History of This Rulemaking*

McDonnell Douglas petitioned EPA to exclude from hazardous waste control its stabilized waste resulting from the treatment of waste waters originating from its chemical conversion coating of aluminum operations at the Tulsa, Oklahoma facility and disposed of in surface impoundments which have been closed as a single RCRA landfill. After evaluating the petition, EPA proposed, on July 14, 1998, to exclude McDonnell

Douglas' waste from the lists of hazardous wastes under §§ 261.31 and 261.32. See 63 FR 37797. This rulemaking addresses public comments received on the proposal and finalizes the decision to grant McDonnell Douglas' petition.

**II. Disposition of Petition**

McDonnell Douglas Corporation, Tulsa, Oklahoma

*A. Proposed Exclusion*

McDonnell Douglas petitioned the EPA to exclude from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, its wastewater treatment sludges from its chemical conversion coating of aluminum operations. These sludges were disposed of in surface impoundments and then later stabilized as part of the process of closing the impoundments as a single RCRA landfill. McDonnell Douglas Corporation, located in Tulsa, Oklahoma, petitioned for the exclusion for a maximum volume of 85,000 cubic yards of stabilized waste, described in its petition as EPA Hazardous Waste No. F019 with minor amounts of F002, F003, and F005. Approximately 5000 cubic yards of the total waste volume will consist of about 2500 cubic yards of unstabilized waste (presently located in the bottom portion of the northwest section of the closed surface impoundments) mixed with about 2500 cubic yards of materials to stabilize the waste. This exclusion only applies to the wastes as described in the petition.

Specifically, in its petition, McDonnell Douglas petitioned the Agency to exclude its waste presently listed as EPA Hazardous Waste No. F019—"Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process." The petitioned wastes are believed to also have very small amounts of wastes presently classified as F002, F003, and F005. The listed constituents of concern for these waste codes are listed in Table 1. See 40 CFR part 261, Appendix VII.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

Waste code	Basis for characteristics/listing
F019 .....	Hexavalent Chromium. Cyanide (complexed).
F002 .....	Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.
F003 .....	Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, methanol.
F005 .....	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, 2-nitropropane.

McDonnell Douglas petitioned the EPA to exclude this waste because it does not believe that the stabilized waste disposed of in a single RCRA landfill meets the criteria for which it was listed. McDonnell Douglas also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by RCRA § 3001(f)(1).

In support of its petition, McDonnell Douglas submitted: (1) descriptions of its wastewater treatment processes and the activities associated with petitioned wastes; (2) results of the total constituent list for 40 CFR 264 Appendix IX volatiles, semivolatiles, metals, pesticides, herbicides, polychlorinated biphenyls, furans, and dioxins; (3) results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for identified constituents; (4) results for total sulfide; (5) results for total cyanide; (6) results for pH; (7) results of the Multiple Extraction Procedure (MEP) for acidic, neutral, and basic extractions; (8) results of ground water monitoring; and (9) results of surface impoundment waste analysis for constituents of concern.

#### B. Summary of Responses to Public Comments

The EPA received public comments on the proposed notice published on July 14, 1998, from the Environmental Defense Fund (EDF), Earth Concerns of Oklahoma (EOC), and the Oklahoma Chapter of the Sierra Club (OCSC) as joint commenters.

#### Applicability of the Land Disposal Restriction (LDR) Requirements

*Comment:* The EDF, EOC, and OCSC (commenters) assert that "McDonnell Douglas seeks authorization to excavate the 85,000 cubic yards of landfilled waste, stabilizing with fly ash or cement kiln dust the previously untreated waste, and disposing of the treated waste in a nonhazardous waste landfill. However, it is well established this act of excavation constitutes waste generation, and thereby triggers all applicable hazardous waste requirements including treatment prior to land disposal."

*Response:* The EPA disagrees with the commenters suggestion that the petitioned waste once excavated would be subject to land disposal restrictions and associated treatment standards. According to EPA records and documents submitted by the facility, the petitioned waste was last land disposed

on or before July of 1988, prior to the effective date of an applicable land disposal prohibition. Because the waste will be delisted before being excavated from the landfill (i.e., re-generated) there will be no hazardous waste to which a land disposal prohibition could attach once the waste is excavated, and therefore, the petitioned waste will not be subject to LDRs and does not have to meet the Land Disposal Restrictions (LDRs) treatment standards before being land disposed. See 63 FR 28617-8, May 26, 1998.

The EPA evaluated the waste and the low health-based risk indicated that the waste did not need to be handled as a hazardous waste. The waste will still be considered a solid waste and managed as such under applicable state regulations.

*Comment:* Regarding the untreated waste, the commenters contend that "EPA never addressed the application of treatment standards to organic constituents nor did EPA evaluate whether the organic contaminants in the sludge are legitimately treated using fly ash, much less utilize the LDR variance process as contemplated under existing Agency policy."

*Response:* The EPA did not address the application of LDR treatment standards to the untreated waste because it will be stabilized with fly ash or cement kiln dust prior to excavation. Consolidation and in situ treatment (or stabilization) of hazardous waste within an area of contamination do not create a new point of hazardous waste generation triggering land disposal restrictions. See October 14, 1998 memorandum, "Management of Remediation Waste Under RCRA," Publication No. EP530-F-98-026, and sources cited therein. See 63 FR 28617 and 28620, May 26, 1998. Assuming the newly treated waste meets the delisting levels and all other delisting conditions prior to the point of waste regeneration, the newly treated waste will be delisted. Therefore, there will be no hazardous waste to which a land disposal prohibition can attach and land disposal treatment standards would not apply and a treatment variance is not necessary. The EPA determined that analytical results from twenty samples representing the stabilized waste indicated that the stabilization process had worked to reduce the concentrations of hazardous constituents to below levels of health-based concern. See 63 FR 37802, July 14, 1998.

Trichloroethylene, a constituent of concern to the commenters was not detected in the leachate analysis of the previously stabilized sludge. Three

other organic constituents of concern to the commenters were detected sporadically in the twenty-one samples analyzed for leachate concentrations. The leachate concentration values that were detected are as follows: ethylbenzene (0.004, 0.004, 0.003, 0.002 mg/l), toluene (0.014, 0.033, 0.006, 0.019, 0.035, 0.015, 0.009 mg/l), and xylenes (0.017, 0.019, 0.012, 0.007, 0.011 mg/l). However, these values are below drinking water Maximum Concentration Levels (MCLs) even before the 95 percent Upper Confidence Limit (UCL) was calculated or a Dilution Attenuation Factor (DAF) was applied indicating that the values are well below health-based concerns. It should be noted that these values are also very minimal concentrations.

Since analysis of the portion of the waste that had been stabilized using flyash indicated that the process had significantly reduced the concentrations and mobility of the hazardous constituents, it was considered demonstrated that the unstabilized sludges in the surface impoundments which had been closed in place as a landfill could also achieve similar levels. If delisting levels cannot be attained and the waste is placed in another land disposal unit, then the delisting states that the waste would be considered a hazardous waste and must be managed as such.

*Comment:* The commenters contend that the use of evaporation and/or dilution techniques to achieve compliance with land disposal treatment standards are not authorized under RCRA or EPA regulations.

*Response:* As stated earlier, land disposal restrictions do not apply in this situation and therefore, land disposal treatment standards do not apply also. However, EPA agrees with commenters that the organic contaminants do evaporate and some dilution does occur during the stabilization process for which the RCRA unit was authorized under a RCRA closure plan. In cases where wastes are left in-place, it is commonly authorized to stabilize sludges in this manner. Under a RCRA closure plan, which is subject to approval by the Oklahoma Department of Environmental Quality, protection of human health and the environment would be a major consideration. Also, under the rules of the Occupational Safety and Health Authority (OSHA) and under a RCRA closure plan, McDonnell Douglas is subject to meet the worker safety requirements.

In considering this particular delisting case, only three samples of five located in one small area show concentrations of total Trichloroethylene (<0.005,

<0.005, 110, 166, and 1090 mg/kg), a constituent of concern to the commenters. The corresponding TCLP leachate values are <0.1, .0.1, 0.8, 0.9, and 17.3 mg/l. Outside of this area, Trichloroethylene was not detected. Considering the small amount of waste in the small area and the short duration of time for stabilization within the unit of the waste along with other site conditions, the qualitative risk to the public appears to be minimal.

After consideration of the concerns of the commenters, EPA is adding two new conditions to the conditional delisting of the unstabilized sludges found in the bottom of the northwest section of the surface impoundments which have been closed as a landfill. McDonnell Douglas Corporation will be required to control volatile emissions from the stabilization process by collection of the volatile chemicals as they are emitted from the waste but before release to the ambient air. The facility will also be required to use adequate dust control measures.

McDonnell Douglas Corporation shall control volatile emissions from the stabilization process by collection of the volatile chemicals as they are emitted from the waste but before release to the ambient air and the facility shall use dust control measures. These two controls must be adequate to protect human health and the environment.

These two additional conditions will prevent cross-media transfer and provide more definitive protection to the public and onsite workers. These two conditions would normally be considered under a new RCRA closure (by removal) plan and under OSHA regulations but are also being addressed herein.

The delisting of the approximately 2500 cubic yards of unstabilized sludge in this area is limited to 5000 total cubic yards of stabilized waste after the materials used in the stabilization process (about 2500 cubic yards) are added. Therefore, the maximum allowable 1-to-1 dilution is not considered a major factor. The materials used to stabilize the waste raises the pH of the combined materials to a basic level which lowers the leachate concentrations of metals as confirmed by the MEP tests. The mixing of the materials in the stabilization process volatilizes the organic constituents which are then collected before entering the ambient air. A 1-to-1 dilution would not reduce the present detected TCLP concentrations (0.8, 0.9, and 17.3 mg/l TCLP) to below the delisting limit for the Trichloroethylene which is calculated at a value of .280 mg/l TCLP. This reduction must be accomplished by this alternate treatment method.

The commenters state in a footnote "EPA's proposed delisting limits for the organic contaminants will not ensure legitimate and adequate treatment because the delisting limits substantially exceed Universal Treatment Standard (UTS) and/or the limits are expressed as leachate values instead of total concentrations." In order to better demonstrate that legitimate treatment has occurred in the case of organic contaminants, EPA is adding a requirement that the organic constituents of concern in the unstabilized sludge must be treated to below the total concentration of the UTS value as well as the calculated health-based leachate concentration value. Leachate values that are higher than the total concentration are logically eliminated.

(1) *Delisting Levels:* All leachable concentrations for the constituents in (1)(A) and (1)(B) in the approximately 5,000 cubic yards of combined stabilization materials and excavated sludges from the bottom portion of the northwest lagoon of the surface impoundments which are closed as a landfill must not exceed the following levels (ppm) after the stabilization process is completed in accordance with Condition (3). Constituents must be measured in the waste leachate by the method specified in 40 CFR 261.24. Cyanide extractions must be conducted using distilled water in the place of the leaching media per 40 CFR 261.24. Constituents in (1)(C) must be measured as the total concentrations in the waste (ppm).

(A) Inorganic Constituents (leachate)  
Antimony—0.336; Cadmium—0.280;  
Chromium (total)—5.0; Lead—0.84;  
Cyanide—11.2;

(B) Organic Constituents (leachate)  
Benzene—0.28; trans-1,2-Dichloroethene—  
5.6; Tetrachloroethylene—0.280;  
Trichloroethylene—0.280

(C) Organic Constituents (total analysis)  
Benzene—10.; Ethylbenzene—10.; Toluene—  
30; Xylenes—30.; trans-1,2-Dichloroethene—  
30.; Tetrachloroethylene—6.0;  
Trichloroethylene—6.0

If delisting limits are not met, then the waste cannot be delisted and cannot be transported to a Subtitle D landfill.

*Comment:* Commenters assert that the delisting levels for the untreated sludge are less stringent than the corresponding UTS for cadmium, chromium, and lead.

*Response:* As stated previously, the land disposal restrictions do not apply to the waste that is subject to the delisting and therefore, the UTS are not required to be met. The delisting levels were calculated using the EPACML model and health-based concentrations for drinking water. The resulting calculated health-based concentrations are above the UTS standards.

However, in evaluating the data, it should be noted that the actual concentrations of these three

constituents in the petitioned waste are below the UTS concentrations when the 95 percent UCL is calculated (see next response for an explanation of the 95 percent UCL). Furthermore, since the stabilization reduced the actual concentrations of the three constituents in the 80,000 cubic yards of stabilized waste to below the 95 percent UCL of the UTS, it would be reasonably expected that similar results would be obtained after the 2500 cubic yards of unstabilized sludges undergoes the stabilization process and that each sample would yield concentrations below the UTS values. In any case, the calculated health-based concentrations must be met before the petitioned waste is excluded from Subtitle C management.

*Comment:* The commenters indicate a concern that several samples of the stabilized sludge leach levels "sometimes fails to achieve the UTS for cadmium." They indicate that "these exceedances are relevant because the treatment standards are established and enforced through grab sampling, thus every sample must conform to the requisite treatment standards."

*Response:* In delisting, samples are often composited in order to establish the mean concentration of the entire waste stream or waste volume to be disposed of in the landfill. This value is more representative of the waste. The highest concentration value identified in a group of samples is generally used as a screening level. If the waste does not pass the initial screening evaluation and the sample size is large enough, then the 95 percent UCL of the mean concentration is calculated for all samples within the sample population. This concentration is used as a representative value for evaluation purposes beyond the initial screening. One grab sample usually does not represent a waste stream or waste volume (depending on sample size and homogeneity). See USEPA Petitions to Delist Hazardous Wastes A Guidance Manual, Second Edition, March 1993; USEPA RCRA Sampling Procedures Handbook, August 1989; and USEPA SW-846, Test Methods for Evaluating Solid Waste, Volume II.

As shown in the proposed exclusion (63 FR 37803, July 14, 1998), the cadmium leachate concentration value for the stabilized waste for the 95 percent UCL of the mean concentration value is calculated at 0.0236 mg/l which yielded a compliance point concentration of 0.00042 mg/l which is well below the health-based level of 0.005 mg/l for cadmium used in the delisting decision making. It should also be noted that the 95% UCL

concentration value of 0.0236 mg/l TCLP is also below the UTS concentration level for cadmium of 0.11 mg/l TCLP.

The EPA is also concerned about the presence of wastes which are not stabilized as indicated by either individual or composited samples. Instead of allowing the approximately 2500 cubic yards of unstabilized waste identified by sampling to be simply mixed in with the 80,000 cubic yards of stabilized sludges, EPA calculated health-based delisting levels for the constituents of concern. This was done to insure that the unstabilized waste with elevated concentrations would be stabilized to the calculated delisting limits. These delisting limits are established based on health considerations and are relatively low concentration levels.

If delisting levels cannot be attained and the waste is to be placed in another land disposal unit, McDonnell Douglas is required to manage the unstabilized waste as hazardous waste in accordance with to Subtitle C requirements and the required technology standards.

#### The Delisting Limits for the Untreated Sludge

*Comment:* The commenters requested that EPA increase the active life of the landfill as used in the modified EPA Composite Landfill Model (EPACML) from the 20 years for use in delisting (See 56 FR 32998, July 18, 1991) to a 30 year period as used in the promulgation of the petroleum refinery listing determination See 63 FR 42139, August 6, 1998.

The commenters were concerned that the increased active life would increase the waste volume and thus the DAF which would then change the calculated delisting levels to more conservative values which might cause some of the delisting values for the unstabilized sludge to be unprotective. Similarly, the evaluation of the stabilized sludge could also prove to be incorrect.

*Response:* The published EPACML values for DAFs as compared to waste volumes are based on a facility generating the charted waste volume on a per year basis for 20 years. For example, a 1000 cubic yard volume in the table represents 20,000 cubic yards of total waste disposed. Since this is a one-time delisting, the waste volume is not generated on a yearly basis for 20 years and is thus finite. Therefore, in McDonnell Douglas' case, the waste volume must be divided by 20 to yield a DAF that corresponds to the actual total volume. That is to say, to use the table, 85,000 cubic yards is the same volume as 4,250 cubic yards per year for

20 years. See 56 FR 33000, July 18, 1991.

If the 30 year landfill life was applied, the modified EPACML model would be rerun increasing waste volumes and thus DAFs. The DAFs would not be changed in a straight line relationship as suggested by the commenters. See 56 FR 32999, July 18, 1991.

However, in this specific case, if the change to 30 years was made, the increased waste volumes would be divided by 30 instead of 20 for a one-time delisting thus yield similar DAF values and similar delisting limits to those presently used.

The conclusion is that a change to a 30 year active life would not make a significant difference in the DAF used in the calculations for the waste delisted in this instance and the petitioned waste would still qualify for delisting.

#### Delisting of the Stabilized Sludge

*Comment:* The commenters contend that EPA should impose cadmium delisting limits and verification testing requirements for the previously stabilized sludge in order to ensure the cadmium is treated sufficiently to achieve the desired leach values consistent with the reduced DAFs based upon a minimum 30 year landfill life.

*Response:* As previously explained, the application of the 30 year landfill active life would not make a significant difference for a one-time delisting since the waste volume is finite. Therefore, the second sample of cadmium would remain below health-based delisting levels for a calculated theoretical down-gradient receptor well using the modified EPACML. The appropriate evaluation of cadmium as a constituent of concern has been previously addressed in this notice.

No verification testing is being required for the previously stabilized waste. It was determined that the facility presented sufficient amounts of information to demonstrate that the previously stabilized waste met the delisting criteria. Verification testing is being required to demonstrate that delisting limits are met for the approximately 5000 cubic yards of newly stabilized waste which is processed by mixing the 2500 cubic yards of presently unstabilized waste with stabilization materials.

*Comment:* Furthermore, the commenters were concerned about "EPA's reliance on onsite groundwater monitoring data to refute the modeling prediction."

*Response:* The EPA did not use ground water monitoring data to refute the modeling predications. As previously shown, the modeling

predictions stand on their own merit and fully support the granting of the petition.

Ground water monitoring data was evaluated as an additional source of information. The ground water data indicated that constituents of concern had not been detected at nearby detection monitoring wells at concentrations of regulatory concern, therefore this information was considered to support the petition. Conversely, if ground water monitoring data had shown concentrations above levels of concern had been detected, this information would have supported denial of the petition.

#### Typographical Error Correction

The EPA is correcting the compliance point concentration value for nickel found in Table 4B. of the proposed exclusion (63 FR 37803, July 14, 1998) which should be 0.005 mg/l and not 10.005 mg/l as printed.

In the Delisting Levels section, EPA is correcting the Hexavalent Chromium constituent to read "Chromium (total)" to be consistent with the MCL and the regulatory TCLP usage of total chromium instead of hexavalent chromium. Total chromium leachate values were used to calculate the delisting levels and should be reflected as total chromium leachate in the delisting levels sections instead of hexavalent chromium leachate (63 FR 37804 and 37807, July 14, 1998).

(A) Inorganic Constituents (leachate)  
Antimony-0.336; Cadmium-0.280; Chromium (total)-5.0; Lead-0.84; Cyanide-11.2;

#### C. Final Agency Decision

For reasons stated in both the proposal and this notice, EPA believes that McDonnell Douglas' petitioned waste should be excluded from hazardous waste control. The EPA, therefore, is granting a final one-time exclusion to McDonnell Douglas Corporation, located in Tulsa, Oklahoma, for a maximum of 85,000 cubic yards of stabilized waste, described in its petition as EPA Hazardous Waste No. F019 with minor amounts of F002, F003, and F005. A conditional one-time exclusion is granted for approximately 5000 cubic yards of the total waste volume. This 5000 cubic yards of waste consists of 2500 cubic yards of unstabilized waste located in the bottom portion of the northwest section of the surface impoundments which were closed as a single RCRA landfill plus the stabilization materials to be added. This waste is required to undergo stabilization and verification testing before being considered as excluded

from Subtitle C regulation. Requirements for control of emissions from volatilization or airborne dust during the stabilization process have been included in this one-time exclusion. This exclusion only applies to the wastes as described in the petition.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation. See 40 CFR part 260, Appendix I. McDonnell Douglas plans to dispose of the excluded waste in one or more Subtitle D landfills.

### III. Limited Effect of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, and Illinois) are authorized to administer a delisting program in lieu of the Federal program, (i.e., to make their own delisting decisions). Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, McDonnell Douglas must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

### IV. Effective Date

This rule is effective February 26, 1999. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become

effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

### V. Regulatory Impact

Under Executive Order (E.O.) 12866, EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. The effect of this rule is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. The reduction is achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling a facility to treat its waste as non-hazardous. As discussed in EPA's response to public comments, this rule is unlikely to have an adverse annual effect on the economy of \$100 million or more. Therefore, this rule does not represent a significant regulatory action under the Executive Order, and no assessment of costs and benefits is necessary. The Office of Management and Budget (OMB) has exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

### VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This regulation will not have an adverse impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

### VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

### VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, today's delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

### IX. Submission to Congress and General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability, etc. Section 804 exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedures, or practice that do not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3). This rule will become effective on the date of publication in the **Federal Register**.

**X. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks**

The E.O. 13045 is entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines: (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because this is not a n economically significant regulatory action as defined by E.O. 12866.

**XI. Executive Order 12875**

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is

unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

**XII. Executive Order 13084**

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

**XIII. National Technology Transfer and Advancement Act**

Under Section 12(d) if the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) That are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

**Lists of Subjects in 40 CFR Part 261**

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f)

Dated: February 23, 1999.

**William L. Luthans,**  
*Acting Director, Multimedia Planning and Permitting Division.*

For the reasons set out in the preamble, 40 CFR part 261 is to be amended as follows:

**PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX to Part 261 add the following waste stream in alphabetical order by facility to read as follows:

**Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22**

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * * * *	* * * * *	* * * * *
McDonnell Douglas Corporation .....	Tulsa, Oklahoma ...	Stabilized wastewater treatment sludges from surface impoundments previously closed as a landfill (at a maximum generation of 85,000 cubic yards on a one-time basis). EPA Hazardous Waste No. F019, F002, F003, and F005 generated at U.S. Air Force Plant No. 3, Tulsa, Oklahoma and is disposed of in Subtitle D landfills after February 26, 1999.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>McDonnell Douglas must implement a testing program that meets the following conditions for the exclusion to be valid:</p> <p>(1) <i>Delisting Levels:</i> All leachable concentrations for the constituents in Conditions (1)(A) and (1)(B) in the approximately 5,000 cubic yards of combined stabilization materials and excavated sludges from the bottom portion of the northwest lagoon of the surface impoundments which are closed as a landfill must not exceed the following levels (ppm) after the stabilization process is completed in accordance with Condition (3). Constituents must be measured in the waste leachate by the method specified in 40 CFR 261.24. Cyanide extractions must be conducted using distilled water in the place of the leaching media per 40 CFR 261.24. Constituents in Condition (1)(C) must be measured as the total concentrations in the waste(ppm).</p> <p>(A) Inorganic Constituents (leachate) Antimony-0.336; Cadmium-0.280; Chromium (total)-5.0; Lead-0.84; Cyanide-11.2;</p> <p>(B) Organic Constituents (leachate) Benzene-0.28; trans-1,2-Dichloroethene-5.6; Tetrachloroethylene-0.280; Trichloroethylene-0.280</p> <p>(C) Organic Constituents (total analysis). Benzene-10.; Ethylbenzene-10.; Toluene-30.; Xylenes-30.; trans-1,2-Dichloroethene-30.; Tetrachloroethylene-6.0; Trichloroethylene-6.0.</p> <p>McDonnell Douglas Corporation shall control volatile emissions from the stabilization process by collection of the volatile chemicals as they are emitted from the waste but before release to the ambient air. and the facility shall use dust control measures. These two controls must be adequate to protect human health and the environment.</p> <p>The approximately 80,000 cubic yards of previously stabilized waste in the upper northwest lagoon, entire northeast lagoon, and entire south lagoon of the surface impoundments which were closed as a landfill requires no verification testing.</p> <p>(2) <i>Waste Holding and Handling:</i> McDonnell Douglas must store as hazardous all stabilized waste from the bottom portion of the northwest lagoon area of the closed landfill as generated until verification testing as specified in Condition (3), is completed and valid analyses demonstrate that Condition (1) is satisfied. If the levels of constituents measured in the samples of the stabilized waste do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in a Subtitle D landfill in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels set in Condition (1), the waste generated during the time period corresponding to this sample must be restabilized until delisting levels are met or managed and disposed of in accordance with Subtitle C of RCRA.</p> <p>(3) <i>Verification Testing Requirements:</i> Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. McDonnell Douglas must stabilize the previously unstabilized waste from the bottom portion of the northwest lagoon of the surface impoundment (which was closed as a landfill) using fly ash, kiln dust or similar accepted materials in batches of 500 cubic yards or less. McDonnell Douglas must analyze one composite sample from each batch of 500 cubic yards or less. A minimum of four grab samples must be taken from each waste pile (or other designated holding area) of stabilized waste generated from each batch run. Each composited batch sample must be analyzed, prior to disposal of the waste in the batch represented by that sample, for constituents listed in Condition (1). There are no verification testing requirements for the stabilized wastes in the upper portions of the northwest lagoon, the entire northeast lagoon, and the entire south lagoon of the surface impoundments which were closed as a landfill.</p> <p>(4) <i>Changes in Operating Conditions:</i> If McDonnell Douglas significantly changes the stabilization process established under Condition (3) (e.g., use of new stabilization agents), McDonnell Douglas must notify the Agency in writing. After written approval by EPA, McDonnell Douglas may handle the wastes generated as non-hazardous, if the wastes meet the delisting levels set in Condition (1).</p>

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
*	*	*
*	*	*
*		

(5) *Data Submittals*: Records of operating conditions and analytical data from Condition (3) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Oklahoma, or both, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. § 1001 and 42 U.S.C. § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

(6) *Reopener Language*

(a) If McDonnell Douglas discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then McDonnell Douglas must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate within 10 days of discovering that condition.

(b) Upon receiving information described in paragraph (a) from any source, the Regional Administrator or his delegate will determine whether the reported condition requires further action. Further action may include revoking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

(7) *Notification Requirements*: McDonnell Douglas must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activity. The one-time written notification must be updated if the delisted waste is shipped to a different disposal facility. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

[FR Doc. 99-4830 Filed 2-25-99; 8:45 am]  
BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 567**

[Docket No. NHTSA-99-5074]

RIN 2127-AG65

**Vehicle Certification; Contents of Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks; Correction**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Correction to final rule.

**SUMMARY:** In a final rule published on February 11, 1999, at 64 FR 6815, NHTSA amended its regulations on vehicle certification to require the certification label for multipurpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 6,000 pounds or less to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. This final rule was incorrectly identified as "Docket No. NHTSA-99-5047." The docket number should be corrected to read "Docket No. NHTSA-99-5074." Any petitions for reconsideration of this final rule should reference the docket number as corrected by this notice.

Issued on: February 23, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99-4862 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR 571

[Docket No. NHTSA-99-5123]

RIN 2127-AH55

#### Federal Motor Vehicle Safety Standards; Light Vehicle Brake Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** Lucas Varsity Light Vehicle Braking Systems (LVBS), a subsidiary of Lucas Varsity Automotive of Livonia, MI, submitted a petition for reconsideration and for certain other modifications to the hydraulic brake standard. The petitioner first asked NHTSA to delay the compliance date of the antilock brake system (ABS) malfunction indicator lamp (MIL) activation protocol of the standard until September 1, 2002. The protocol is currently scheduled to become mandatory on and after March 1, 1999. Second, the petitioner asked NHTSA to continue in effect the existing lamp activation protocol and extend that protocol to all hydraulically-braked vehicles.

LVBS argued that the new lamp activation protocol presents significant compliance problems both for manufacturers and original equipment (OEM) customers. LVBS was also concerned about what it perceived as lack of coordination between the hydraulic brake standard and the light vehicle braking systems standard.

In order to provide LVBS and other manufacturers similarly situated sufficient time to design and test systems that will comply with the MIL activation protocol set forth in the recent amendments to the hydraulic brake standard, NHTSA has decided to delay the mandatory compliance date of the new MIL activation requirements from March 1 until September 1, 1999. This amendment is being issued as an interim final action given the short time remaining before the current March 1, 1999 compliance date. NHTSA also solicits comments on this amendment.

**DATES:** *Effective date:* The amendment made by this interim final rule is effective February 26, 1999.

*Comments:* Submit your comments on this interim final rule early enough so that they will be received in Docket Management on or before April 27, 1999.

**ADDRESSES:** Refer in your comments to the docket number noted in the heading and submit your comments to: Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590. The docket room is open from 10:00 a.m. to 5:00 p.m., Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

*For technical issues:* Mr. Jeffrey Woods, Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, telephone (202) 366-6206; fax (202) 493-2739.

*For legal issues:* Mr. Walter Myers, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366-2992; fax (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 10, 1995 NHTSA published a final rule amending Federal Motor Vehicle Safety Standard (Standard) Nos. 105, *Hydraulic and electric brake systems* and 121, *Air brake systems* (60 FR 13216) (hereinafter referred to as the "ABS final rule").<sup>1</sup> The ABS final rule requires medium and heavy hydraulic and air-braked vehicles to be equipped with an ABS that directly controls the wheels of at least one front axle and the wheels of at least one rear axle.

The ABS final rule amended Standard No. 105 to require, among other things, that each vehicle with a gross vehicle weight (GVWR) of over 10,000 pounds (lbs) (4,536 kilograms (kg)) be equipped with an ABS MIL. Paragraph S5.3.3(a) of Standard No. 105, as amended, requires the MIL to activate when a condition specified in S5.3.1 exists and remain activated as long as the condition exists, whenever the ignition switch is in the "on" position, whether or not the engine is running. The lamp must not activate, however, when the system is

functioning properly, except as a check of lamp function whenever the ignition is first turned to the "on" position.

Paragraph S5.3.3(b) of Standard No. 105, as amended, requires that each message of a malfunction in the ABS be stored after the ignition switch is turned to the "off" position and automatically reactivated when the ignition switch is again turned to the "on" position. That activation is in addition to the required check of lamp function whenever the ignition is turned to the "on" position.

The American Automobile Manufacturers Association (AAMA), the Truck Trailer Manufacturers Association (TTMA), the American Trucking Association (ATA), and brake manufacturers Rockwell WABCO and Midland-Grau, among others, submitted petitions for reconsideration of the ABS final rule. They requested in pertinent part that the agency define a pre-existing malfunction as a malfunction that existed when the ignition was last turned to the "off" position. The agency granted that request and amended paragraph S5.3.3(b) accordingly (60 FR 63965, December 13, 1995).

NHTSA received 13 petitions for reconsideration of the December 13, 1995 final rule, including those from Ford Motor Company, General Motors, Kelsey-Hayes (now LVBS), and the Recreational Vehicle Industry Association addressing the MIL activation protocol. In its January 1996 petition for reconsideration, Kelsey-Hayes requested that NHTSA reconsider the MIL activation protocol. Kelsey-Hayes requested that the MIL be allowed to remain activated until a low-speed drive away allows the system to verify that the vehicle's wheel speed sensors were functioning properly. NHTSA responded to those petitions for reconsideration by final rule of March 16, 1998 (63 FR 12660) declining to amend the activation lamp protocol. The agency stated that the standardized protocol would enable Federal and state safety inspectors to determine the operational status of a vehicle's ABS without the vehicle moving; would preclude confusion among drivers as to how the MIL functions; and would be consistent with Economic Commission for Europe (ECE) requirements, thereby promoting international harmonization.

##### The Petition

On October 16, 1998, LVBS, formerly Kelsey-Hayes, submitted a petition for reconsideration,<sup>2</sup> asking NHTSA to

<sup>1</sup> NHTSA published 3 final rules on that date that amended the brake standards for medium and heavy vehicles. In addition to the ABS final rule, one reinstates stopping distance requirements for air-braked heavy vehicles and the other establishes stopping distance requirements for hydraulic-braked heavy vehicles (60 FR 13286 and 13297 respectively).

<sup>2</sup> Although LVBS styled its petition as a petition for reconsideration, in the text of the petition LVBS stated that it petitions the Administrator of NHTSA "pursuant to the provisions of 49 CFR, Part 552."

extend the compliance date of the MIL activating protocol specified in the amendments to Standard No. 105 (referred to by LVBS as the "New 105"), currently scheduled to become mandatory on March 1, 1999, to coincide with the mandatory compliance date of September 1, 2002 for trucks, buses, and multipurpose passenger vehicles to which Standard No. 135, *Light vehicle brake systems*, is applicable. LVBS stated that this would allow NHTSA and industry representatives to work together to establish a coordinated lamp activation protocol. LVBS also asked NHTSA to continue in effect the current lamp activation protocol in Standard No. 105 pending future rulemaking to standardize the lamp activation protocols on all hydraulic braked vehicles and, further, that the current lamp activation protocol be extended to all hydraulically braked vehicles.

LVBS asserted that the new lamp activation protocol presents significant compliance problems for manufacturers and OEM customers that can be avoided by relatively modest changes to Standard No. 105. LVBS is also concerned about the "lack of coordination" between the "new" Standard No. 105 and Standard No. 135. Specifically, LVBS stated that the lamp activation protocols in Standard Nos. 105 and 135, although similar, differ in subtle but material respects. Thus, LVBS argued that unless Standard No. 105 is coordinated with Standard No. 135, when the latter becomes mandatory on September 1, 2002, many vehicle platforms may be covered by as many as three different lamp activation protocols. This in turn will give rise to serious engineering, manufacturing, maintenance, and product liability problems. This is particularly true with vans, since their configurations vary so widely within the same platforms.

Navistar International Transportation Corporation (Navistar), by letter dated October 27, 1998, expressed support for the changes LVBS asked for in its petition, "in the interest of clarity and

coordination." Navistar stated that it is desirable to have common ABS lamp illumination requirements for air and hydraulic braked vehicles so that everyone, including drivers, mechanics, fleet operators and inspectors know what illumination of the lamp means. Accordingly, Navistar supports a technical review by NHTSA and other interested parties to develop ABS lamp illumination protocols for all vehicles equipped with ABS.

The AAMA also sent NHTSA a letter supporting the LVBS petition. AAMA stated that LVBS requested a delay in the March 1, 1999 compliance date for the new Standard No. 105 requirements for two reasons. The first is to allow LVBS additional time for full validation of the software it has developed to bring its ABS into compliance with the amendments to Standard No. 105. AAMA explained that its member companies purchase ABS from LVBS and are concerned that without full validation of the LVBS process, unintended problems could result. AAMA asserted that the second reason for the LVBS petition is to give NHTSA time to resolve the inconsistencies in the lamp activation protocols among the various brake standards. AAMA urged NHTSA to provide a quick response to the petition, acknowledging that such an extraordinary request is necessitated by "a failure on industry's part," but again expressed concern over the unintended malfunctions that could result from LVBS not having the additional time to identify and resolve such inconsistencies.

#### Agency Decision

It is apparent that, although the amendments to Standard No. 105 were first published on March 10, 1995 and the last petition for reconsideration was resolved by final rule on March 16, 1998, LVBS, a major supplier of ABS for the automotive industry, has not completed the design or redesign of its ABSs in time to comply with the new MIL activation protocol requirements of Standard No. 105. NHTSA understands that LVBS can program the necessary software, but would not be able to fully test its systems and equipment and resolve any unanticipated problems before the March 1, 1999 deadline. Since this situation affects not only LVBS but vehicle manufacturers as well, the agency has tentatively decided to extend the compliance date of paragraph S5.3.3(b) of Standard No. 105, as amended, from March 1, 1999 until September 1, 1999. While LVBS asked for approximately three years to complete the testing, NHTSA believes three years is far in excess of what is

needed for an expedited testing program. This would seem especially true since the vehicle manufacturers can assist in the testing and validation. Accordingly, as stated above, NHTSA is extending the compliance date for S5.3.3(b) of Standard No. 105 for six months, that is from March 1, 1999 to September 1, 1999.

In addition, the agency will examine the differences between the MIL activation protocols in its different braking standards. Contrary to the assertions in the LVBS petition, however, NHTSA does not believe any action is needed in this rulemaking. There are no inconsistencies among the different requirements and no other brake manufacturers have reported any difficulties in simultaneously meeting these requirements. The agency will consider addressing these differences in a separate rulemaking.

NHTSA finds that the issuance of this interim final rule without prior opportunity for public comment is necessary because LVBS, a major ABS manufacturer, has stated that it is having considerable difficulty in meeting the March 1, 1999 compliance date of the new MIL activation protocol of paragraph S5.3.3(b), Standard No. 105. This could have an adverse effect on a significant part of the automotive industry since LVBS supplies a large percentage of the ABSs currently installed on hydraulic-braked vehicles with GVWRs greater than 10,000 lb. This amendment imposes no new costs or requirements, but rather provides brake manufacturers additional time and flexibility to comply with the new requirements and thereby provide complying systems to their vehicle manufacturer customers.

#### Rulemaking Analyses and Notices

##### (a) Executive Order 12866 and DOT Regulatory Policies and Procedures

This document has not been reviewed under Executive Order 12866, *Regulatory Planning and Review*.

NHTSA has analyzed the impact of this rulemaking action and has determined that it is not "significant" within the meaning of the DOT's regulatory policies and procedures. This action tentatively extends the compliance date of the antilock brake system malfunction indicator lamp activation protocol of paragraph S5.3.3(b), Standard No. 105, from March 1, 1999 until September 1, 1999. This action does not impose any new requirements or costs on automotive or brake manufacturers. Rather, it gives them more time and additional flexibility in meeting the new

Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, contains procedures for the submission and disposition of petitions for rulemaking or for a decision that a motor vehicle or item of equipment does not comply with an applicable Federal motor vehicle safety standard or contains a defect relating to motor vehicle safety. Moreover, 49 CFR § 553.35, *Petitions for reconsideration*, provides that any petition for reconsideration must be "received not later than 45 days after publication of the rule in the **Federal Register**." Petitions submitted after that date will be treated as petitions submitted under Part 552. In view of these provisions, NHTSA is treating the LVBS petition as a petition for rulemaking under Part 552 rather than as a petition for reconsideration under Part 553.

requirements. Thus, the agency concludes that the impacts of this action are so minimal that a full regulatory evaluation is not required. For a discussion of the costs of implementing the amendments to Standard No. 105, including the malfunction indicator lamp requirements of paragraph S5.3.3(b), see the ABS final rule of March 10, 1995 (60 FR 13216, at 13253).

*(b) Regulatory Flexibility Act*

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* I hereby certify that this interim final rule will not have a significant economic impact on a substantial number of small entities. The following is NHTSA's statement providing the factual basis for the foregoing certification (5 U.S.C. 605(b)).

This interim final rule would primarily affect the manufacturers of brake systems and medium and heavy vehicle manufacturers. The Small Business Administration's regulations at 13 CFR Part 121 define a "small business," in part, as a business entity "which operates primarily within the United States" (13 CFR 121.105(a)).

SBA's size standards are organized according to Standard Industrial Classification (SIC) codes. Under that classification system, SIC No. 3711, "Motor Vehicles and Passenger Car Bodies," has a small business size standard of 1,000 employees or fewer. SIC code No. 3714, "Motor Vehicle Parts and Accessories," has a small business size standard of 750 employees or fewer. NHTSA believes that brake system manufacturers would fall within SIC code No. 3714 and may include both large and small businesses. On the other hand, NHTSA believes that medium and heavy vehicle manufacturers would fall within SIC code No. 3711 and are primarily large businesses.

As pointed out in (a) above, this interim final rule does not impose any new requirements but simply extends the compliance date of one requirement of the amendments to Standard No. 105 for 6 months, from March 1 until September 1, 1999. NHTSA also notes that the cost of brake systems and new medium and heavy vehicles would not be affected by this interim final rule.

*(c) Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980, Pub. L. 96-511, as amended, there are no information collection requirements associated with this interim final rule.

*(d) National Environmental Policy Act*

NHTSA has analyzed this interim final rule under the National Environmental Policy Act and has determined that this rule will not have a significant impact on the human environment.

*(e) Executive Order 12612, Federalism*

NHTSA has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

*(f) Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of more than \$100 million annually. This interim final rule does not meet the definition of a Federal mandate because it merely extends the compliance date of an pending requirement. It creates no new requirements nor involves any additional costs. Annual expenditures will not exceed the \$100 million threshold.

*(g) Civil Justice Reform*

This rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance that is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the state's own use. Section 30161 of Title 49, U.S.C. sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

**Comments**

Interested persons are invited to submit comments on this document. It is requested but not required that any such comments be submitted in duplicate (original and 1 copy).

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage

commenters to detail their primary arguments in concise fashion. Necessary attachments, however, may be appended to those comments without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address noted in **FOR FURTHER INFORMATION CONTACT** above. One copy from which the purportedly confidential business information has been deleted should be submitted to Docket Management (see **ADDRESSES** above). A request for confidentiality should be accompanied by a cover letter setting forth the information called for in 49 CFR Part 512, *Confidential Business Information*.

All comments received on or before the close of business on the comment closing date indicated above for this interim final rule will be considered, and will be available to the public for examination in the docket at the above address, both before and after the comment closing date. To the extent possible, comments received after the closing date will be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on today's interim final rule will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the comment closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rule docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving those comments, the docket supervisor will return the postcard by mail.

**List of Subjects in 49 CFR Part 571**

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

1. The authority citation for Part 571 of Title 49, CFR, continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.105 is amended by revising S5.3.3(b) to read as follows:

**§ 571.105 Standard No. 105; Hydraulic and electric brake systems.**

\* \* \* \* \*

S5.3.3 (a) \* \* \*

(b) For vehicles manufactured on and after September 1, 1999 with GVWRs greater than 10,000 lbs, each message about the existence of a malfunction, as described in S5.3.1(c), shall be stored in the antilock brake system after the ignition switch is turned to the "off" position and the indicator lamp shall be automatically reactivated when the ignition switch is again turned to the "on" position. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the "on" (run) position. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a malfunction that existed when the key switch was last turned to the "off" position.

\* \* \* \* \*

Issued on: February 23, 1999.

**Ricardo Martinez,**  
Administrator.

[FR Doc. 99-4822 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-59-P

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 697**

[Docket No. 990119023-9023-01; I.D. 111898B]

RIN 0648-AL38

**Atlantic Sturgeon Fishery; Moratorium in Exclusive Economic Zone**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** NMFS issues this direct final rule prohibiting the possession in, or harvest from, the exclusive economic zone (EEZ) of Atlantic sturgeon from Maine through Florida. The intent of the rule is to provide protection for the overfished stock of Atlantic sturgeon, to ensure the effectiveness of state regulations, and to aid in the rebuilding of the stock.

**DATES:** This rule is effective May 27, 1999 without further action, unless an adverse comment or a notice of intent to

submit an adverse comment is received by March 29, 1999. If an adverse comment or a notice of intent is received, the NMFS will publish a timely withdrawal of the rule in the *Federal Register*.

**ADDRESSES:** Comments on the direct final rule should be sent to, and copies of supporting documents, including an Environmental Assessment/Regulatory Impact Review, are available from Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, National Marine Fisheries Service, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Paul Perra, 301-427-2014.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), 16 U.S.C. 5101 *et seq.*, states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ, i.e., from 3 to 200 nautical miles. These regulations must be (1) necessary to support the effective implementation of an Interstate Fishery Management Plan (ISFMP) developed by the Atlantic States Marine Fisheries Commission (Commission) and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act (16 U.S.C. 1851).

Historically, Atlantic sturgeon were managed by individual states until 1989 when the Commission adopted an Atlantic Sturgeon ISFMP (Atlantic Sturgeon Plan) in response to low levels of Atlantic sturgeon. The Commission approved and implemented Amendment 1 to its Atlantic Sturgeon Plan on June 11, 1998. Amendment 1 proposed to restore Atlantic sturgeon spawning stocks to population levels that will provide for sustainable fisheries. Its primary objective is to establish 20 protected year classes in each and every spawning stock, which should eventually allow for controlled commercial harvests on self-sustaining spawning stocks. Amendment 1 mandates that all Atlantic coastal jurisdictions close their Atlantic sturgeon fisheries, implement a stock monitoring program, adhere to stocking and aquaculture guidelines, and establish a means for tracking

importation of foreign Atlantic sturgeon products.

All Atlantic coastal marine fisheries jurisdictions closed their Atlantic sturgeon fisheries prior to the passage of Amendment 1. Amendment 1 mandates that these closures remain in place until the Commission determines that the stocks have recovered. Because of the species' life history (7 to 30 years for females to reach maturity) and depletion of Atlantic sturgeon stocks, the Commission believes the Atlantic sturgeon recovery will take about 41 years. Jurisdictions that do not comply with Amendment 1 could face federally imposed closures on their fisheries under section 807(c) of the ACFCMA. In addition, Amendment 1 requests that the Secretary prohibit the possession of Atlantic sturgeon in the EEZ, and monitor bycatch of Atlantic sturgeon in the dogfish and monkfish fisheries and, if such bycatch is excessive, implement measures to reduce the bycatch.

To support the Commission's Atlantic sturgeon conservation efforts under Amendment 1, Federal regulations are needed in the EEZ to provide protection for Atlantic sturgeon in Federal waters, and to close loopholes in state landing laws that would exist without the Federal regulations. No Federal regulations currently exist to control Atlantic sturgeon fishing in the EEZ. Therefore, while no landing of the species would be allowed in Atlantic coastal jurisdictions, it can be taken in the EEZ, where it can be legally killed, consumed, or shipped to a non-Atlantic coastal jurisdiction for sale. Atlantic sturgeon products, especially eggs sold as caviar, bring a high price, i.e., about \$50 per pound, to fishermen. Therefore, law enforcement efforts to maintain closed fisheries are a very important part of the management for this species. A Federal regulation in the EEZ to prohibit possession of Atlantic sturgeon will improve the ability of state law enforcement agencies to enforce their own Atlantic sturgeon state closures. Furthermore, a Federal prohibition on possession should close any "loopholes" in state laws if persons take Atlantic sturgeon in the EEZ and attempt to land them in states. This rule should deter poaching of Atlantic sturgeon in the EEZ by imposing Federal penalties, which are generally stricter than state penalties, on individuals who do not comply with the EEZ closure.

The U.S. Department of Commerce's National Marine Fisheries Service and U.S. Department of the Interior's Fish and Wildlife Service have recently conducted an Endangered Species Status Review (Status Review) of the

species in response to a Listing Petition received in 1997. The results of that review have determined that the species does not warrant listing as threatened or endangered under the Endangered Species Act at this time.

#### Purpose

Atlantic sturgeon have been directly harvested utilizing various gears including gill nets, traps, pound nets, otter trawls, harpoons, trammel nets, weirs, stake row nets, and seines. The Commission's Atlantic Sturgeon Plan stated that recreational hook-and-line fishing in the United States is insignificant, but noted an emerging directed sport fishery for Atlantic sturgeon in the Canadian Maritimes. However, there is no evidence that a recreational fishery ever developed in the United States for Atlantic sturgeon. Many authors have cited over-harvesting as the single major cause of the precipitous decline in abundance of Atlantic sturgeon.

#### Directed Harvest

At one time, fisheries for sturgeon were concentrated during the spawning migration in every major coastal river along the Atlantic Coast. By 1860, commercial fisheries were established coastwide in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Virginia. Records of landings were first kept in 1880, when the U.S. Fisheries Commission started compiling statistical information on commercial fishing landings. Harvest in these early years was heavy, and approximately 3,350 mt (7.4 million lb) were landed in 1890. The majority of the fishery for a 50-year time period (from 1870 to 1920) was conducted on the Delaware River and in the Chesapeake Bay System, with New Jersey and Delaware reporting the greatest landings. Landings reported until 1967 likely included both Atlantic and shortnose sturgeon. Shortnose sturgeon were granted Federal protection in 1967, and, therefore, harvest became illegal in subsequent years. During the 1970's, the average catch was approximately 68 mt (150,000 lb) per year, and, in the 1980's, the average catch was approximately 56.7 mt (125,000 lb) per year. By the 1980's, the focus of fishing effort shifted to South Carolina, North Carolina, and Georgia, which accounted for nearly 80 percent of the total U.S. landings. Catch between 1990 and 1996 was centered in the Hudson River and coastal New York and New Jersey. In 1990 and 1991, the average catch was approximately 90.7 mt (200,000 lb) per year. Since 1991, the

catch has declined yearly to a low of 0.38 mt (843 lb) in 1997.

In a March, 1998, Stock Status Review, the Commission indicated that the Atlantic sturgeon spawning stocks of the entire Atlantic Coast are severely overfished, that, in some cases, they may have been extirpated (Connecticut River in New England and St. Johns River in Florida), and that fishing mortality had significantly contributed to the decline of the stocks. Little coast-wide information is available on the populations and survival of young Atlantic sturgeon. However, there are some spawning stocks in which reproduction appears to be occurring (Hudson River, NY; Delaware River, DE and NJ; James and possibly York Rivers, VA; Roanoke and Cape Fear Rivers, NC; Waccamaw, Santee, Ashepoo, Combahee, Edisto, Savannah and possibly Cooper Rivers, SC; and Savannah and Altamaha Rivers, GA). Also, a few south Atlantic river systems, which have had closed Atlantic sturgeon fisheries for a number of years, appear to be experiencing some rebuilding of juvenile populations.

#### Bycatch

The Stock Status Review also found that the known bycatch of Atlantic sturgeon is not a significant threat to the stocks. However, because any mortality may slow the recovery period for the species, each Atlantic coast state should carry out monitoring programs for Atlantic sturgeon bycatch to insure that the magnitude and effects of bycatch can be determined.

The direct final rule would prohibit the harvest (catch and retention) of Atlantic sturgeon from the Atlantic coast EEZ. The rule provides the strongest possible conservation measure under the ACFCMA, is easy to understand and enforce, and is in the best long-term economic interests of both commercial and recreational fishermen. It eliminates any claim that Atlantic sturgeon were caught in the EEZ, when fishermen might otherwise have caught fish illegally in state waters. Enforcement of the prohibition is straightforward because possession of Atlantic sturgeon on board a vessel in the EEZ would be a violation of the regulation. The prohibition also includes possession of Atlantic sturgeon taken as incidental catch (bycatch) while fishing for other species, since such bycatch must be released to the water as soon as possible. It allows for the development of a stock rebuilding program and, therefore, for the resumption of the fishery in the future.

NMFS believes that this direct final rule is compatible with the

Commission's efforts to protect Atlantic sturgeon in state waters. Under Amendment 1 to the Atlantic Sturgeon Plan, Atlantic sturgeon may not be landed in any of the Atlantic Coastal states, and the Commission anticipates a 41-year rebuilding program. This direct final rule would prohibit the possession in or the harvest from the EEZ of Atlantic sturgeon from Maine through Florida.

#### Classification

This rule is consistent with section 5103b of the Atlantic Coastal Fisheries Cooperative Management Act.

Under the authority of 5 U.S.C. 553(b)(B), NMFS is waiving the requirement to provide prior notice and an opportunity for public comment as these procedures are unnecessary. All Atlantic Coastal states through the Commission's Amendment 1 to the Atlantic Sturgeon Plan have closed their Atlantic sturgeon fisheries as of June 11, 1998, and anticipate a 41-year closure. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause for waiving prior notice and an opportunity for public comment. NMFS believes this action is non-controversial and does not expect to receive any comments. However, should NMFS receive an adverse comment or a notice of intent to submit an adverse comment, NMFS will withdraw this rule and issue a proposed rule with an opportunity for public comment.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The direct final rule has been determined to be not significant for purposes of E.O. 12866.

#### List of Subjects in 50 CFR Part 697

Fisheries, Fishing, Intergovernmental relations.

Dated: February 22, 1998.

**Andrew A. Rosenberg, Ph.D.,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Chapter VI, part 697, is amended as follows:

#### PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for 50 CFR part 697 continues to read as follows:

**Authority:** 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.* 2. In §697.2, the definition for "Directed fishery" is removed, the definition for "Retain" is revised, and the definitions

for "Atlantic sturgeon," "Natural Atlantic sturgeon," and "Stocked Atlantic sturgeon," are added in alphabetical order to read as follows:

**§ 697.2 Definitions.**

\* \* \* \* \*

*Atlantic sturgeon* means members of stocks or populations of the species *Acipenser oxyrinchus*.

\* \* \* \* \*

*Natural Atlantic sturgeon* means any Atlantic sturgeon that is not the result of a commercial aquaculture operation, and includes any naturally occurring Atlantic sturgeon (those Atlantic sturgeon naturally spawned and grown in rivers and ocean waters of the Atlantic Coast).

\* \* \* \* \*

*Retain* means to fail to return any species specified under § 697.7 of this chapter to the sea immediately after the hook has been removed or after the species has otherwise been released from the capture gear.

\* \* \* \* \*

*Stocked Atlantic sturgeon* means any Atlantic sturgeon cultured in a hatchery that is placed in rivers and ocean waters of the Atlantic Coast to enhance the Atlantic sturgeon spawning stocks.

\* \* \* \* \*

3. In § 697.7, paragraph (d) is added to read as follows:

**§ 697.7 Prohibitions.**

\* \* \* \* \*

(d) *Atlantic sturgeon fishery*. In addition to the prohibitions set forth in § 600.725, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for Atlantic sturgeon in the EEZ.

(2) Harvest any Atlantic sturgeon from the EEZ.

(3) Possess any natural or stocked Atlantic sturgeon in or from the EEZ.

(4) Retain any Atlantic sturgeon taken in or from the EEZ.

(5) Possess any natural Atlantic sturgeon parts, including Atlantic sturgeon eggs, in the EEZ.

[FR Doc. 99-4852 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-22-F

# Proposed Rules

Federal Register

Vol. 64, No. 38

Friday, February 26, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 723

RIN 0560-AF51

#### National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Binder (Types 42-44 and 53-55) Tobaccos

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

**SUMMARY:** The Secretary of Agriculture (the Secretary) is required by the Agricultural Adjustment Act of 1938, as amended, (the Act) to proclaim by March 1, 1999, for referendum purposes, national marketing quotas for cigar filler and binder (types 42-44 and 53-55) tobacco for the 1999-2000, 2000-2001 and 2001-2002 marketing years (MYs) and to determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 and 53-55) kinds of tobacco for the 1999-2000 MY. The public is invited to submit written comments, views, and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, and other related matters which are discussed in this proposed rule.

**DATES:** Comments must be received on or before noon March 1, 1999, in order to be assured of consideration.

**ADDRESSES:** Comments must be submitted to the Director, Tobacco and Peanuts Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0514, 1400 Independence Avenue, S.W., Washington, DC 20250-0514. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through

Friday, except holidays in Room 5750-South Building, 1400 Independence Avenue, S.W., Washington, DC 20250-0514.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, S.W., Washington, DC 20250-0514, telephone 202-720-5346. Copies of the cost-benefit assessment prepared for the rule can be obtained from Mr. Tarczy.

#### SUPPLEMENT INFORMATION:

##### Executive Order 12866

This proposed rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

##### Federal Assistance Program

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

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since neither FSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

##### Paperwork Reduction Act

These proposed amendments do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

##### Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

## Discussion

The proposed rule would amend 7 CFR part 723 to set forth the 1999-crop marketing quotas for these five kinds of tobacco.

Section 312(b) of the Act, provides that the Secretary shall determine and announce, not later than March 1, 1999, with respect to the kinds of tobacco specified in this proposed rule, the amount of the national marketing quota which will be in effect for MY 1999 in terms of the total quantity of tobacco which may be marketed that will allow a supply of each kind of tobacco equal to the reserve supply level.

Also, Section 312(c) of the Act requires for this year that, within 30 days after proclamation of national marketing quotas for cigar filler and binder (types 42-44 and 53-55) tobacco, the Secretary must conduct a referendum of farmers engaged in the 1998 production of such kind of tobacco to determine whether they favor or oppose marketing quotas for MYs 1999, 2000 and 2001. This referendum is required because MY 1998 is the last year of the 3 consecutive MYs for which marketing quotas previously proclaimed will be in effect for this kind of tobacco.

The Secretary will proclaim the results of the referendum. As provided in the Act, if more than one-third of the farmers voting in a referendum for this kind of tobacco oppose the quota, the national marketing quota previously proclaimed will not become effective.

Section 313(g) of the Act authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion, through county FSA committees, the national acreage allotment to tobacco producing farms, less a reserve not to exceed 1 percent thereof for new farms, to make corrections and adjust inequities in old farm allotments, through the national factor. The national factor is determined by dividing the preliminary quota (the sum of quotas for old farms) into the quota determined for the MY in question (less the reserve). Procedures will continue unchanged for (1) converting marketing quotas into acreage allotments; (2) apportioning

allotments among old farms; (3) apportioning reserves for use in (a) establishing allotments for new farms, and (b) making corrections and adjusting inequities in old farm allotments; and (4) holding referenda.

For four of these five kinds of tobacco, supply and demand are in balance.

Thus, changes in 1999 marketing quotas for these four kinds will likely be small.

#### Request for Comments

This rule proposes to amend 7 CFR part 723, subpart A to include 1999-crop national marketing quotas for fire-cured (type 21), fire-cured (types 22–23), dark-air cured (types 35–36), Virginia sun-cured (type 37) and cigar-filler and binder (types 42–44 and 53–55) tobaccos. These five kinds of tobacco account for about 4 percent of total U.S. tobacco production.

Comments are requested concerning the proposed establishment of the national marketing quotas for the subject tobaccos at the following levels:

##### (1) Fire-Cured (Type 21) Tobacco

The 1999-crop national marketing quota for fire-cured (type 21) tobacco will range from 2.2 to 3.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.9 to 1.1.

##### (2) Fire-Cured (Types 22–23) Tobacco

The 1999-crop national marketing quota for fire-cured (types 22–23) tobacco will range from 32.0 to 40.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.8 to 1.0.

##### (3) Dark Air-Cured (Types 35–36) Tobacco

The 1999-crop national marketing quota for dark air-cured (types 35–36) tobacco will range from 9.0 to 11.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.8 to 1.0.

##### (4) Virginia Sun-Cured (Type 37) Tobacco

The 1999-crop national marketing quota for Virginia sun-cured (type 37) tobacco will range from 110,000 to 140,000 pounds. This range reflects the assumption that the national acreage factor will range from 0.9 to 1.1.

##### (5) Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

The 1999-crop national marketing quota for cigar-filler and binder (types 42–44 and 53–55) tobaccos will range from 4.0 to 4.6 million pounds. This range reflects the assumption that the national acreage factor will range from

0.8 to 1.0. Accordingly, comments are requested with respect to the foregoing issues.

#### List of Subjects in 7 CFR Part 723

Acreage allotments, marketing quotas, penalties, reporting and recordkeeping requirements, tobacco.

Accordingly, it is proposed that 7 CFR part 723 be amended as follows:

#### PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

**Authority:** 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (g) to read as follows:

##### § 723.113 Fire-cured (type 21) tobacco

\* \* \* \* \*

(g) The 1999-crop national marketing quota will range from 2.2 million pounds to 3.0 million pounds.

3. Section 723.114 is amended by adding paragraph (g) to read as follows:

##### § 723.114 Fire-cured (types 22–23) tobacco

\* \* \* \* \*

(g) The 1999-crop national marketing quota will range from 32.0 million pounds to 40.0 million pounds.

4. Section 723.115 is amended by adding paragraph (g) to read as follows:

##### § 723.115 Dark air-cured (types 35–36) tobacco

\* \* \* \* \*

(g) The 1999-crop national marketing quota will range from 9.0 million pounds to 11.0 million pounds.

5. Section 723.116 is amended by adding paragraph (g) to read as follows:

\* \* \* \* \*

##### § 723.116 Sun-cured (type 37) tobacco

\* \* \* \* \*

(g) The 1999-crop national marketing quota will range from 110,000 to 140,000 pounds.

6. Section 723.117 is amended by adding paragraph (g) to read as follows:

##### § 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco

\* \* \* \* \*

(g) The 1999-crop national marketing quota will range from 4.8 million pounds to 6.0 million pounds.

Signed at Washington, DC on February 24, 1999.

**Keith Kelly,**

*Administrator, Farm Service Agency.*

[FR Doc. 99–5016 Filed 2–24–99; 4:13 pm]

BILLING CODE 3410–05–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 96–NM–110–AD]

RIN 2120–AA64

#### Airworthiness Directives; Dornier Model 328–100 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that would have required repetitive inspections for chafing of various control cables, and replacement of any chafed cable with a serviceable cable. That proposal was prompted by chafing of various control cables found during inspections conducted at the manufacturer's facility and at overhaul facilities. This new action revises the proposed rule by expanding the areas to be inspected to detect damage and discrepancies, and providing for corrective action, if necessary; by adding a requirement for repetitive inspections of certain fairleads/swivel guides to detect damage and other discrepancies, and corrective action, if necessary; and by extending the compliance time for the initial inspections. The actions specified by this new proposed AD are intended to prevent failure of the pilot's control cables for the autopilot, elevator, rudder, aileron, and engine, which could result in reduced controllability of the airplane.

**DATES:** Comments must be received by March 23, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:**  
Norman B. Martenson, Manager,  
International Branch, ANM-116, FAA,  
Transport Airplane Directorate, 1601  
Lind Avenue, SW., Renton, Washington  
98055-4056; telephone (425) 227-2110;  
fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-110-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 96-NM-110-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Dornier Model 328-100 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 26, 1997 (62 FR 14371). That NPRM would have required inspections for chafing of various control cables, and replacement of any chafed cable with a serviceable cable. That NPRM was prompted by chafing of various control cables found

during inspections conducted at the manufacturer's facility and at overhaul facilities. Such chafing, if not corrected, could cause the pilot's control cables for the autopilot, elevator, rudder, and engine to be ineffective, and could result in reduced controllability of the airplane.

**Actions Since Issuance of Previous Proposal**

Since the issuance of that NPRM, the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, has advised the FAA that the area of inspection identified in that NPRM for all Dornier 328-100 series airplanes should be expanded to include certain cable locations and fairleads/swivel guides of the rudder and aileron control systems. Those areas are similar in design to the areas proposed to be inspected by that NPRM, and therefore are subject to the same unsafe condition.

The LBA has further advised the FAA that an increase in the initial inspection threshold is warranted, based on in-service experience. The FAA finds that the inspection threshold of 3,000 flight hours recommended by the LBA will provide an acceptable level of safety.

**Explanation of New Service Information**

The manufacturer has issued Dornier 328 Alert Service Bulletin ASB-328-00-011, Revision 1, dated June 5, 1996, which includes the following changes from the original issue of the service bulletin, which was referenced as the appropriate source of service information in the NPRM:

- Revision 1 adds procedures for repetitive detailed visual inspections to detect damage (excessive wear and broken wires) of the rudder control cables in the area of frame 15 and the aileron control cables in the area of fuselage frames 15, 24, and 26; and replacement with new or serviceable cables if damage exceeds specified limits.
- Revision 1 adds procedures for repetitive detailed visual inspections to detect discrepancies (incorrect installation and misalignment) of the engine control cable fairleads/swivel guides in the areas of the fuselage conduit seal housing and the wing/nacelle fairleads/swivel guides, and readjustment of discrepant fairleads/swivel guides.
- Revision 1 extends the compliance time for the initial inspections from 2,000 to 3,000 flight hours.
- Revision 1 provides additional maintenance manual references for accomplishment of certain actions.

- Revision 1 recommends that the inspections be repeated at regular intervals (the original issue of the alert service bulletin recommended that the inspections be repeated one time only).

- Clarify the requirement to adjust the tension in the autopilot cables by specifying accomplishment of the adjustment one time only (during the initial inspection).

The LBA classified this alert service bulletin as mandatory and issued German airworthiness directive 96-001/2, dated August 15, 1996, in order to ensure the continued airworthiness of these airplanes in Germany.

The FAA has revised this supplemental NPRM to require accomplishment of the actions specified in the alert service bulletin described previously.

**Consideration of Comments Received**

Since the issuance of that NPRM, the FAA has given due consideration to the comments received in response to the NPRM.

**Request To Revise Criteria for Cable Replacement Requirements**

One commenter indicates that the proposed requirement to replace any chafed cable—2 regardless of the amount of chafing detected—2 would result in automatic cable replacements for insignificant wear and impose an unjustifiable hardship on operators. The commenter adds that cables having wear and broken wires within the limits specified in the Dornier 328-100 Aircraft Maintenance Manual (which is referenced in Alert Service Bulletin ASB-328-00-011, Revision 1) would meet type design requirements. The commenter proposes that cables be replaced only if the chafe limit exceeds 20% on any strand, stating that this would provide more than enough margin to make it through the next inspection interval.

The FAA partially concurs with the request to revise the replacement criteria. The commenter's suggested limit for chafing is more conservative than the 50-percent limit allowed by the maintenance manual. Based on information provided by the manufacturer and the LBA, the FAA has determined that the limit for wear and broken wires specified by the maintenance manual will meet the strength requirements for the affected type design. The supplemental NPRM has been revised to propose requiring the replacement of damaged cables with new or serviceable cables if the detected damage exceeds the limits specified in the maintenance manual.

## Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

## Cost Impact

The FAA estimates that 51 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$18,360, or \$360 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

## Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part

39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Dornier:** Docket 96–NM–110–AD.

**Applicability:** All Model 328–100 series airplanes, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the pilot's control cables for the autopilot, elevator, rudder, aileron, and engine, which could result in reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 3,000 total flight hours, or within 200 flight hours after the effective date of this AD, whichever occurs later: Perform detailed visual inspections to detect damage (extensive wear and broken wires) and discrepancies (incorrect installation and misalignment) of the control cables and fairleads/swivel guides for the autopilot, elevator, rudder, aileron, and engine; as applicable; in accordance with Dornier Alert Service Bulletin ASB–328–00–011, Revision 1, dated June 5, 1996. Repeat the inspections thereafter at intervals not to exceed 1,500 flight hours.

(1) If any damage is found that exceeds the limits specified in the alert service bulletin, prior to further flight, replace the damaged cable with a new or serviceable cable, in accordance with the alert service bulletin.

(2) If any discrepancy is found, prior to further flight, perform applicable corrective actions, in accordance with the alert service bulletin.

(b) Concurrent with the initial inspection required by paragraph (a) of this AD, perform a one-time adjustment of the tension in the autopilot control cables, in accordance with Dornier Alert Service Bulletin ASB–328–00–011, Revision 1, dated June 5, 1996.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager,

International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Note 3:** The subject of this AD is addressed in German airworthiness directive 96–001/2, dated August 15, 1996.

Issued in Renton, Washington, on February 19, 1999.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–4794 Filed 2–25–99; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Airspace Docket No. 98–ANM–22]

RIN 2120–AA66

#### Proposed Temporary Restricted Area; Orchard, ID

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to establish a temporary Restricted Area 3203D (R–3203D) over Orchard, ID, for the period June 5–26, 1999. The Idaho Army National Guard has requested that this temporary restricted area be established to support its annual training requirements. This temporary area would be established adjacent to the existing Restricted Area R–3203A.

**DATES:** Comments must be received on or before April 12, 1999.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANM–500, Docket No. 98–ANM–22, Federal Aviation Administration, 1601 Lind Avenue, Renton, WA 98055–4056.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. An

informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue, Renton, WA, 98055-4056.

Send comments on environmental and land-use aspects to: The State of Idaho, Military Division, Headquarters Idaho Army National Guard, Boise Air Terminal, 4040 W. Guard Street, Boise, ID 83705-8048.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98-ANM-22." The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land-use aspects to: The State of Idaho, Military Division, Headquarters Idaho Army National Guard, Boise Air Terminal, 4040 W. Guard Street, Boise, ID 83705-8048. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

An electronic copy of this document may be downloaded, using a modem and suitable software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the **Federal Register's** electronic bulletin board service (telephone: 202-512-1661). Internet users may reach the **Federal Register's** web page at <http://www.access.gpo.gov/nara/index.html> for access to recently published rulemaking documents.

##### The Proposal

The FAA is proposing an amendment to 14 CFR part 73 of the Federal Aviation Regulations to establish temporary Restricted Area R-3203D, over Orchard, ID, adjacent to the existing Restricted Area R-3203A, to assist the Idaho Army National Guard in supporting its annual training requirements. The proposed restricted area would be effective June 5-26, 1999. Expansion in the number of gun batteries assigned to field artillery units, along with requirements that each assigned battery accomplish several moves per day to different firing points, has created the need to temporarily expand the available restricted airspace to provide for more effective training. All artillery firing would be directed into existing impact areas located approximately in the center of R-3203A. The temporary restricted area is needed to provide protected airspace to contain the projectiles during flight between the surface firing point and entry into the existing restricted area. The proposed temporary restricted area would be utilized for Idaho Army National Guard Field Artillery firing and would be released to the FAA for public use during periods it is not required for military training. The coordinates for this airspace. Docket are based on North American Datum 83. Section 73.32 of part 73 of the Federal Aviation

Regulations was republished in FAA Order 7400.8 dated October 27, 1998.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### Environmental Review

This proposal will be subjected to environmental review prior to any FAA final regulatory action.

##### List of Subjects in 14 CFR Part 73

Airspace, Incorporation by reference, Navigation (air).

##### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

##### PART 73—SPECIAL USE AIRSPACE

1. The authority citation for 14 CFR part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

##### § 73.32 [Amended]

2. Section 73.32 is amended as follows:

##### R-3203D Orchard Training Area, ID [New]

Boundaries. Beginning at lat. 43°14'00" N., long. 116°16'30" W.; at lat. 43°17'51" N., long. 116°16'25" W.; at lat. 43°19'02" N., long. 116°14'45" W.; at lat. 43°19'02" N., long. 116°06'36" W.; at lat. 43°15'58" N., long. 116°01'12" W.; at lat. 43°15'00" N., long. 116°01'00" W.; at lat. 43°17'00" N., long. 116°05'00" W.; at lat. 43°17'00" N., long. 116°12'00" W.; to point of beginning.

Designated altitudes. Surface to and including 22,000 feet MSL.

Times of use. As scheduled by NOTAM 24 hours in advance for the period June 5-26, 1999.

Controlling agency. FAA Boise ATCT.  
Using agency. Commanding General Idaho Army National Guard.

Issued in Washington, DC, on February 22, 1999.

**Reginald C. Matthews,**

*Acting Program Director for Air Traffic  
Airspace Management.*

[FR Doc. 99-4835 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 255

[Docket No. OST-99-5132; Notice No. 99-3]

RIN 2105-AC75

#### Second Extension of Computer Reservations Systems (CRS) Regulations

**AGENCY:** Office of the Secretary,  
Department of Transportation.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** For the second time, the Department is proposing to revise its rules governing airline computer reservations systems (CRSs), 14 C.F.R. part 255, by changing the rules' expiration date from March 31, 1999, to March 31, 2000. If the Department does not change the expiration date in the rules (14 CFR part 255), the rules will terminate on March 31, 1999. The proposed extension of the current rules will cause the rules to remain in effect while the Department carries out its reexamination of the need for CRS regulations. The Department tentatively believes that the current rules should be maintained because they appear to be necessary for promoting airline competition and helping to ensure that consumers and their travel agents can obtain complete and accurate information on airline services. The rules were previously extended from December 31, 1997, to March 31, 1999.

**DATES:** Comments must be submitted on or before March 12, 1999.

**ADDRESSES:** Comments must be filed in Room PL-401, Docket OST-99-5132, U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments.

**FOR FURTHER INFORMATION CONTACT:** Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

**SUPPLEMENTARY INFORMATION:** In 1992 the Department adopted its rules governing CRS operations—14 CFR part

255—because CRSs had become essential for the marketing of airline services for almost all airlines operating in the United States. 57 FR 43780 (September 22, 1992). We determined that the rules were necessary to ensure that the owners of the systems—all of which were then airlines or airline affiliates—did not use them to unreasonably prejudice the competitive position of other airlines or to provide misleading or inaccurate information to travel agents and their customers. We found that regulations were needed because travel agents relied on CRSs to provide airline information and bookings for their customers and because almost all airlines received most of their bookings from travel agencies. Our rules will expire on March 31, 1999, unless we readopt them or extend the expiration date. 62 FR 66272 (December 18, 1997). By issuing an advance notice of proposed rulemaking, we began a proceeding to determine whether the rules are necessary and should be readopted and, if so, whether they should be modified. 62 FR 47606 (September 10, 1997). We are proposing here to extend the expiration date for the current rules to March 31, 2000, so that they will remain in force while we conduct our overall reexamination of the rules.

We have set a short comment period of fourteen days so that we can publish a final decision on this proposal before the rules' current expiration date. Our advance notice of proposed rulemaking has given interested persons an opportunity to comment on whether the rules should be maintained. Almost all of the commenters support a continuation of the rules, albeit with changes, and virtually none urge us to end the rules.

#### The CRS Business

The CRS business in the United States consists of four CRSs, each of which is affiliated with one or more U.S. airlines. A CRS contains information on airline services and other travel services sold through the system and provides that information to system users. A CRS enables travel agents and other users to find out what airline seats and fares are available and book a seat on each airline that "participates" in the system, that is, that makes its services saleable through the CRS. Travel agents—the major users of the systems—access a CRS through computer terminals, which are normally leased from the system. Consumers can also access a CRS through an on-line computer service or an Internet website.

The fees paid by airlines and other travel suppliers participating in a system generate most of the revenues

received by each CRS. An airline participant pays a fee whenever a booking on that airline is made through the system (most of the systems also charge fees for related transactions, such as booking changes and cancellations). Other travel suppliers pay similar fees. Many, but not all, travel agencies subscribing to a system also pay fees, but such subscriber fees, unlike airline fees, are generally disciplined by competition.

#### Regulatory Background

CRSs became essential for airline distribution in the early 1980s, when travel agents came to depend on the systems to find out what services were available and to make bookings. At that time each of the systems operating in the United States, with one minor exception, was owned by a single airline, and each owner airline used its system to prejudice competing airlines and to give consumers biased or incomplete information in order to obtain more bookings. These practices caused the agency formerly responsible for the economic regulation of airlines, the Civil Aeronautics Board ("the Board"), to adopt rules governing the operations of airline-affiliated CRSs. 49 FR 32540 (August 15, 1984). The Board found that regulations were essential to keep the systems from causing substantial harm to airline competition and to prevent consumers from being misled. The Board adopted its regulations primarily under its authority under section 411 of the Federal Aviation Act, later recodified as 49 U.S.C. 41712, to prevent unfair methods of competition and unfair and deceptive practices in air transportation and the sale of airline transportation. The Board's rules were affirmed on review. *United Air Lines v. CAB*, 766 F.2d 1107 (7th Cir. 1985).

The Board's major rules required each system to make participation available to all airlines on non-discriminatory terms, to offer at least one unbiased display, and to make available to each airline participant any marketing and booking data from bookings for domestic travel that it chose to generate from its system. The rules also prohibited certain contract terms that limited the travel agencies' ability to switch systems or use more than one system.

We assumed the Board's responsibilities for airline regulation after the Board's sunset on December 31, 1984. See *United Air Lines*, supra, 766 F.2d at 1109. To ensure that the rules would be reexamined, the Board's rules contained a sunset date, December 31, 1990. We reexamined the rules and

adopted revised rules. 57 FR 43780 (September 22, 1992). To maintain the Board's rules in effect pending the completion of that reexamination, we extended their expiration date. 55 FR 53149 (December 27, 1990); 56 FR 60915 (November 29, 1991); 57 FR 22643 (May 29, 1992).

We readopted the rules with revisions, because we found that the rules were still necessary: (1) Market forces did not discipline the price or level of service offered participating airlines by the systems, (2) CRS owners could use their control of the systems to prejudice airline competition if there were no rules, and (3) systems could bias their displays of airline services if there were no rules requiring unbiased displays. 57 FR at 43783-43787.

Our rules, like the Board's rules, included a sunset date, December 31, 1997. 14 CFR 255.12; 57 FR at 43829-43830 (September 22, 1992). To begin our current reexamination of the rules, we published an advance notice of proposed rulemaking asking interested persons to comment on whether we should readopt the rules and, if so, with what changes. 62 FR 47606 (September 10, 1997). Shortly after issuing that advance notice, we amended the rules twice to further promote competition. 62 FR 59784 (November 5, 1997); 62 FR 66272 (December 18, 1997). We adopted those amendments largely because market forces did not appear to discipline CRS firms insofar as terms for airline participation were concerned.

Almost all of the parties responding to our advance notice of proposed rulemaking have urged us to maintain CRS rules, although these parties also argued that various changes should be made to the rules, mostly to strengthen them. No party urged us to eliminate the rules, and few disputed the need for the continued regulation of the CRS business. Thus we believe that an extension of the current rules pending completion of the current reexamination of those rules would be consistent with the positions already taken by the commenters.

#### **Previous Extension of the Rules' Sunset Date**

Because we were unable to complete our reexamination of the rules by the original sunset date, December 31, 1997, we amended the rules to extend them until March 31, 1999. 62 FR 66272 (December 18, 1997). We found that the extension was necessary to prevent the potential harm that would arise if the CRS business were not regulated and that it would not impose substantial costs on the industry. The only party that commented on the proposed

extension, America West Airlines, supported it.

#### **Our Proposed Extension of the CRS Rules**

We are again proposing to change the expiration date for our CRS rules to March 31, 2000, so that the rules will remain in effect while we conduct our reexamination of the need for the rules and the rules' effectiveness. The completion of our overall reexamination of our rules, including the need to give parties an adequate opportunity to file comments and reply comments in response to our future notice of proposed rulemaking, will require substantial time and cannot be finished by the current expiration date, March 31, 1999.

We regret our inability to complete the reexamination of the rules by our target date, since the Department is fully aware of the importance of maintaining rules governing CRS operations that reflect current industry conditions, but the process has taken more time than anticipated. In addition, the Department has had to address other airline competition issues that appeared to be more urgent, such as the development of enforcement guidelines on unfair exclusionary behavior, 63 FR 17919 (April 10, 1998) and the exercise of the Department's responsibility to review the competitive effects of the three alliances between major U.S. airlines that were announced in early 1998. Furthermore, several recent developments in airline distribution, such as the growth of Internet services and the cuts in travel agency commissions made by major airlines for bookings made both by traditional travel agencies and Internet services, are requiring additional study by the staff.

We recognize that a number of parties contend that there is a compelling need for certain additional CRS regulations, such as rules limiting airline booking fees and giving travel agency subscribers additional rights to cancel CRS contracts. See 62 FR 60195 (November 7, 1997), requesting comments on a petition filed by America West, and the Emergency Petition for Rulemaking filed on November 18, 1998, by the Association of Retail Travel Agents, Docket OST-98-4775. We are considering whether some issues are of such overriding importance that they should be addressed before the completion of the overall reexamination of the rules.

We tentatively conclude that we should amend the rules to change the sunset date from March 31, 1999, to March 31, 2000. As we stated in proposing the earlier extension, a

temporary extension of the current rules will preserve the status quo until we determine which rules, if any, should be adopted. Allowing the current rules to expire could be disruptive, since the systems, airlines, and travel agencies have been conducting their operations in the expectation that each system will comply with the rules. Systems, airlines, and travel agencies, moreover, would be unreasonably burdened if the rules were allowed to expire and we later determined that those rules (or similar rules) should be adopted, since they could have changed their business methods in the meantime.

The primary basis for extending the rules is the need to protect airline competition and consumers against unreasonable practices. Our past examinations of the CRS business and airline marketing caused us to conclude that CRSs were still essential for the marketing of the services of almost all airlines. 57 FR 43780, 43783-43784 (September 22, 1992). We found that rules were needed because the airlines depended on travel agencies as their principal distribution arm, because travel agencies relied on CRSs, because most travel agency offices used only one CRS, because creating alternatives for CRSs and getting travel agencies to use them had been difficult, and because airlines were unable to cause agencies to use one CRS instead of another. 57 FR at 43783-43784, 43831. If an airline did not participate in a system used by a travel agency, that agency was less likely to book its customers on that airline. Since marginal revenues are important in the airline industry, an airline could not afford to lose access to a significant source of revenue. An airline (or other firm) could not practicably create a system that could compete with the existing systems. Almost all airlines therefore had to participate in each CRS, and CRSs did not need to compete for airline participants. 57 FR at 43783-43784.

We doubt that industry developments since our last major rulemaking have undermined our earlier findings. We believe that most airline bookings in the United States are still made by travel agencies, that travel agencies still rely almost entirely on CRSs to determine what airline services are available and to make bookings, and that few travel agency offices make extensive use of more than one CRS. For example, while several low-fare airlines initially operated without participating in any system, most of those airlines have concluded that they need to participate in each system. 62 FR at 47608. While consumer use of the Internet to make bookings is growing dramatically,

Internet bookings still make up a very small percentage of total airline bookings. Moreover, Internet sites (except airline sites) typically use a system as their booking engine.

As noted above, almost all of the parties that responded to the advance notice of proposed rulemaking stated that the rules remained necessary, and most urge us to strengthen them further to protect airlines and travel agencies against potential abuses by system owners.

Thus, while our staff has not completed its current study of the CRS business and we have not issued a notice of proposed rulemaking finding that the rules should be readopted, we tentatively believe that our past findings on the need for CRS rules are still valid, at least for the purpose of a short-term extension of the rules' expiration date. If we continue the current rules, those regulations will protect airline competition and consumers against the injuries that would otherwise occur, given our earlier findings on the market power of the systems and each airline owner's potential interest in using its affiliated CRS to prejudice the competitive position of other airlines. Continuing the rules in effect should not impose significant costs on the systems and their owners, since they have already adjusted their operations to comply with the rules and since the rules do not impose costly burdens of a continuing nature on the systems.

Finally, there is an additional basis for our tentative determination that we should maintain the current rules in effect pending our reexamination of the rules. We adopted the rules in part to carry out our obligation under section 1102(b) of the Federal Aviation Act, recodified as 49 U.S.C. 40105(b), to act consistently with the United States' obligations under treaties and bilateral air services agreements. Many of those bilateral agreements assure the airlines of each party a fair and equal opportunity to compete. We have held that the fair and equal opportunity to compete includes, among other things, a right to have an airline's services fairly displayed in CRSs. Our rules against display bias and discriminatory treatment help to provide foreign airlines with a fair and equal opportunity to compete in the United States. 57 FR at 43791-43792. The European Union, Canada, and Australia, among other countries, have adopted rules regulating CRS operations that help give U.S. airlines a fair opportunity to sell their services in the countries covered by the rules.

## Regulatory Process Matters

### Regulatory Assessment

This rulemaking is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and has not been reviewed by the Office of Management and Budget under that order. Executive Order 12866 requires each executive agency to prepare an assessment of costs and benefits for each significant rule under section 6(a)(3) of that order. The proposal is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

Maintaining the current rules should impose no significant costs on the CRSs. The systems have already taken all the steps necessary to comply with the rules' requirements on displays and functionality, and complying with those rules on a continuing basis does not impose a substantial burden on the systems. Maintaining the rules will benefit participating airlines, since otherwise they would be subjected to unreasonable terms for participation, and will benefit consumers, who might otherwise obtain incomplete or inaccurate information on airline services. The rules also contain provisions that are designed to prevent abuses in the systems' competition with each other for travel agency subscribers.

When we conducted our last major CRS rulemaking, we included a tentative regulatory impact statement in our notice of proposed rulemaking and made that analysis final when we issued our final rule. We believe that analysis remains applicable to our proposal to extend the rules' expiration date. As a result, no new regulatory impact statement appears to be necessary. However, we will consider comments from any party on that analysis before we make our proposal final.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

### Small Business Impact

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies. Our notice of proposed rulemaking sets forth the reasons for our proposed extension of

the rules' expiration date and the objectives and legal basis for that proposed rule.

In addition, we note that keeping the current rules in force will not modify the existing regulation of small businesses. Our final rule in our last major CRS rulemaking contained a regulatory flexibility analysis on the impact of the rules. As a result of that analysis, we determined that this regulation did not have a significant economic impact on a substantial number of small entities. Our analysis appears to be valid for our proposed extension of the rules' termination date. Accordingly, we adopt that analysis as our tentative regulatory flexibility statement and will consider any comments filed on that analysis in connection with this proposal.

The continuation of our existing CRS rules will primarily affect two types of small entities, smaller airlines and travel agencies. To the extent that airlines can operate more efficiently and reduce their costs, the rule will also affect all small entities that purchase airline tickets, since airline fares may be somewhat lower than they would otherwise be, although the amount may not be large.

Continuing the rules will protect smaller non-owner airlines from certain potential system practices that could injure their ability to operate profitably and compete successfully. No smaller airline has a CRS ownership interest. Market forces do not significantly influence the systems' treatment of airline participants. As a result, if there were no rules, the systems' airline owners could use them to prejudice the competitive position of other airlines. The rules provide important protection to smaller airlines. For example, by prohibiting systems from ranking and editing displays of airline services on the basis of carrier identity, they limit the ability of each system to bias its displays in favor of its owner airlines and against other airlines. The rules also prohibit charging participating airlines discriminatory fees. The rules, on the other hand, impose no significant costs on smaller airlines.

The CRS rules affect the operations of smaller travel agencies, primarily by prohibiting certain CRS practices that could unreasonably restrict the travel agencies' ability to use more than one system or to switch systems. The rules prohibit CRS contracts that have a term longer than five years, give travel agencies the right to use third-party hardware and software, and prohibit certain types of contract clauses, such as minimum use and parity clauses, that restrict an agency's ability to use

multiple systems. By prohibiting display bias based on carrier identity, the rules also enable travel agencies to obtain more useful displays of airline services.

Our proposed rule contains no direct reporting, recordkeeping, or other compliance requirements that would affect small entities. There are no other federal rules that duplicate, overlap, or conflict with our proposed rules.

Interested persons may address our tentative conclusions under the Regulatory Flexibility Act in their comments submitted in response to this notice of proposed rulemaking.

The Department certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. et seq.) that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

This proposal contains no collection-of-information requirements subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35.

#### Federalism Implications

The rule proposed by this notice will have no substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### List of Subjects for 14 CFR part 255

Air carriers, Antitrust, Consumer protection, Reporting and recordkeeping requirements, Travel agents.

Accordingly, the Department of Transportation proposes to amend 14 CFR part 255, Carrier-owned Computer Reservations Systems, as follows:

#### PART 255—[AMENDED]

1. The authority citation for part 255 continues to read as follows:

**Authority:** 49 U.S.C. 1301, 1302, 1324, 1381, 1502.

2. Section 255.12 is revised to read as follows:

##### § 255.12 Termination.

Unless extended, these rules shall terminate on March 31, 2000.

Issued in Washington, DC on February 22, 1999, under authority delegated by 49 CFR 1.56a (h) 2.

**Charles A. Hunnicutt,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 99-4780 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-62-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MO 064-1064; FRL-6236-6]

#### Approval and Promulgation of Implementation Plans; State of Missouri; St. Louis Inspection and Maintenance (I/M) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve revisions to the air pollution control State Implementation Plan (SIP) submitted by the state of Missouri. The revised SIP pertains to the St. Louis vehicle I/M program. These revisions require the implementation of an enhanced motor vehicle I/M program in the St. Louis metropolitan area, i.e., Jefferson, St. Louis, and St. Charles counties and St. Louis City. This proposal is being published to meet the EPA's statutory obligation under the Clean Air Act (CAA or the Act).

**DATES:** Comments must be received on or before March 29, 1999.

**ADDRESSES:** All comments should be addressed to Wayne Leidwanger at the Region VII address. Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region VII, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Stan Walker, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7494.

#### SUPPLEMENTARY INFORMATION:

##### I. What Is the Statutory Requirement?

The CAA, as amended in 1990, requires that certain ozone nonattainment areas adopt either "basic" or "enhanced" I/M programs, depending on the severity of the

problem and the population of the area. An I/M program is a way to check whether the emission control system on a vehicle is working correctly and to repair those that are not. All new passenger cars and trucks sold in the United States must meet stringent pollution standards, but they can only retain this low pollution profile if the emission controls and the engine are functioning properly. I/M is designed to ensure that vehicles stay clean in actual customer use. Through periodic vehicle checks and required repairs for vehicles which fail the test, I/M encourages proper vehicle maintenance and discourages tampering with emission control devices.

Since the CAA's inception in 1970, Congress has directed the EPA to set national ambient air quality standards for the six most common air pollutants, one of which includes ozone. The CAA requires these standards to be set at levels that protect public health and welfare with an adequate margin of safety and without consideration of cost. These standards provide information to the American people about whether the air in their community is healthful. Also, the standards present state and local governments with the targets they must meet to achieve clean air. St. Louis is currently designated as a nonattainment area with respect to ozone, i.e., an area which has not achieved the air quality standard for ozone.

Moderate ozone nonattainment areas, e.g., St. Louis, fall under the "basic" I/M requirements. However, moderate areas such as St. Louis have the option of implementing an enhanced I/M program. The state of Missouri chose to implement an "enhanced" I/M program in St. Louis as part of its overall plan for achieving emission reductions to attain the one-hour ozone standard.

##### II. What Are the I/M requirements?

Missouri has developed its I/M program not only to meet the requirements of section 182(b)(4) of the CAA but also to meet the reasonable further progress requirements of section 182. Section 182(b)(1) of the CAA requires states, with nonattainment areas classified as moderate and above for ozone, to develop a plan to reduce area-wide volatile organic compound (VOC) emissions from a 1990 baseline by 15 percent. However, the Act prohibits credit toward the 15 percent reduction for correcting deficiencies in previously established basic I/M programs. Missouri decided to pursue an enhanced I/M program to help the state meet the 15 percent plan requirements.

Section 182(a)(2)(B) of the Act directed the EPA to publish updated guidance for state I/M programs, taking into consideration findings of the EPA's audits and investigations of these programs. Based on these requirements, the EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950), codified in 40 Code of Federal Regulations (CFR) 51.350-51.373.

The Federal I/M rule establishes minimum performance standards for basic and enhanced I/M programs. The I/M regulations include the following: network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations, and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; and on-road testing.

The performance standard for basic I/M programs remains the same as it has been since the initial I/M policy was established in 1978, pursuant to the 1977 CAA Amendments.

Although Missouri has submitted an enhanced I/M program, the EPA is proposing at this time to act on the submittal with regard to compliance with the basic I/M requirements in section 182(b)(4) and 40 CFR part 51, subpart S, because those are the I/M requirements applicable to St. Louis. However, in order to assure the state develops an enhanced program for the other purposes mentioned above, the EPA's review also includes an analysis of the submission as it relates to requirements for enhanced I/M, because this will impact the credits which Missouri is projecting in its 15 percent rate-of-progress plan (ROPP).

### III. What Is the Background on Missouri's Program?

On January 1, 1984, the state of Missouri implemented a basic motor vehicle I/M program in the St. Louis metropolitan area. The St. Louis program is currently decentralized and is jointly administered by the Missouri State Highway Patrol and the Missouri Department of Natural Resources (MDNR).

The EPA audited the St. Louis, Missouri, I/M program in 1985, 1987, and 1992. The audits found that the St.

Louis I/M program experienced a significant shortfall in achieving the minimum required VOC emission reductions necessary for an acceptable basic I/M program. The I/M program is an important strategy toward achieving healthful air quality in St. Louis. To maximize progress toward that goal, the state of Missouri and the EPA believed the most effective approach would be to implement a centralized, test-only program that includes high-tech testing.

As discussed in the EPA's I/M rule, states such as Missouri were required to submit a SIP including a schedule, analysis, description, legal authority, and adequate evidence of funding and resources for program implementation discussed in § 51.372 (a)(1)-(a)(8). The SIP must correct any deficiencies in the current programs.

Missouri could not adopt corrections to program deficiencies without additional legal authority. Therefore, on May 13, 1994, the MDNR received legislative authority to correct the deficiencies in the current basic I/M program and to implement a more cost-effective, enhanced I/M program (Senate Bill 590). The Missouri Air Conservation Commission (MACC) adopted the plan to implement enhanced I/M program requirements in the St. Louis nonattainment area, and the state submitted this SIP on September 1, 1994.

Supplemental information was submitted by Missouri on May 25, 1995, with the 15 percent ROPP. On June 29, 1995, Missouri submitted additional documentation for the I/M SIP, and a permanent I/M rule was adopted by the MACC on July 27, 1995. However, during the 1995 legislative session, the Missouri legislature voted to delete I/M funding for operation of the centralized I/M program. Lack of I/M funding severely hindered Missouri's ability to develop several key aspects of the program. Consequently, on March 18, 1996, the EPA proposed to disapprove Missouri's I/M SIP submission, because the state's SIP did not meet the minimum requirement outlined in the EPA's I/M rule and no funding was available to implement the program. (See 61 FR 10962.)

During the 1997 legislative session, the Missouri legislators restored the funding for the I/M program. Therefore, on August 5, 1997, the MDNR submitted to EPA Region VII a SIP revision for St. Louis, Missouri's enhanced I/M program. The submittal included a letter from David Shorr, former Director of the MDNR, to Dennis Grams, Regional Administrator, requesting to amend the previous SIP to include the revisions. This revision provides a demonstration

of adequate tools and resources, the primary reason for the proposed disapproval, and addresses other deficiencies outlined in the aforementioned disapproval notice. Additionally, on October 26, 1998, the state released a Request for Proposal (RFP) with the goal of attracting potential bidders to develop a contract to help Missouri meet the necessary I/M program requirements to supplement the SIP revision. On January 29, 1999, the state submitted the RFP as a supplement to the 1997 SIP.

Because the 1997 SIP and subsequent submittal address the most critical deficiencies in the original 1994 submittal, the EPA is proposing to conditionally approve this SIP revision as set forth below.

### IV. What Are the Regulatory Requirements and How Does the State's Plan Meet Those Requirements?

As discussed above, sections 182(b)(4), 182(c)(3), 184(b)(1)(A), 187(a)(6), and 187(b)(1) of the Act require that states adopt and implement regulations for a basic or an enhanced I/M program in certain areas. The following sections of this document summarize the requirements of the Federal I/M regulations and address whether the elements of the state's submittal comply with the Federal rule. The specific requirements for I/M plan submissions are in 40 CFR part 51, subpart S, and a list of required elements are in 40 CFR 51.372. The EPA's decision for approval is solely based on the state's ability to meet the basic I/M requirements applicable to St. Louis, although the EPA has also reviewed the submittal for compliance with the requirements for an enhanced program, because the state ultimately wants to implement an enhanced program for emission reduction credit.

#### *Applicability—40 CFR 51.350*

The EPA requires that the state demonstrate that (1) the program covers all portions of the nonattainment area required to have an I/M program and (2) the state submittal contains adequate legal authority. Senate Bill 590 effective August 28, 1994, and Missouri rule 10 CSR 10-5.380 establish the program boundaries for Missouri's enhanced I/M program. Three counties in Missouri (Jefferson, St. Charles, and St. Louis) and St. Louis City are required to implement basic I/M programs in the St. Louis nonattainment area. Thus, this portion of the SIP is approvable.

*I/M Performance Standard—40 CFR 51.351 and 51.352*

Section 51.351 contains the performance standard for enhanced I/M programs, and § 51.352 contains the performance standard for basic I/M programs. In accord with the Federal I/M rule, Missouri's I/M program is designed and will be implemented to meet the minimum basic performance standard which is expressed as emission levels in area-wide average grams per mile for certain pollutants. The emission levels adopted by the state were properly modeled using MOBILE5a.

However, the state has made several recent changes to the design of the program. For example, based on the RFP, Missouri is expected to exempt up to 40 percent of the fleet using a combination of clean-screening techniques, such as remote sensing, vehicle emission profiling, and model year exemptions. Missouri must submit a mobile source calculation which includes the latest design parameters and revise its regulation to reflect the clean-screening component and other exemptions before the EPA can conclude that the state program meets the performance standard. Therefore, the EPA is proposing to approve this portion of the SIP with final approval contingent on the state revising the MOBILE model to reflect the remote sensing devices (RSD) component, verifying that the program still meets applicable performance standards, and submitting a revised regulation reflecting the clean-screening component. The aforementioned provisions must be submitted as a SIP revision before the EPA takes final action on this proposal.

*Network Type and Program Evaluation—40 CFR 51.353*

As required by Federal regulation, enhanced I/M programs must be operated in a centralized, test-only format, unless the state can demonstrate that a decentralized program is equally as effective in achieving the enhanced performance standards. In addition, enhanced programs shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirement of the CAA.

Basic programs can be centralized, decentralized, or hybrid at the state's discretion but must demonstrate that the program meets or exceeds the emission reductions as described in § 51.352.

Missouri has the legal authority (Senate Bill 590) to implement a

centralized, test-only network to meet the Federal requirements. In addition, the program exceeds emission reduction requirements for basic programs. Therefore, this portion of the SIP is approvable with regard to the basic program.

Missouri provides a discussion in the SIP and the RFP pertaining to program evaluation. The SIP shows the random evaluation program will monitor 0.1 percent of 1971 and later model year vehicles. Vehicles selected for the program evaluation will be chosen to reflect the mixed fleet in the area. The SIP includes a discussion regarding program evaluation and includes a schedule for submittal of biennial evaluation reports from state-monitored or administered mass emission tests of at least 0.1 percent of the vehicles subject to inspection each year. Therefore, this portion of the SIP is approvable.

*Adequate Tools and Resources—40 CFR 51.354*

As required by Federal regulation, Missouri's SIP includes a detailed budget plan that describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP also details the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance, and other necessary functions. The description of funding and resources is adequate for purposes of § 51.354. Section 51.372 requires the state to demonstrate that adequate funding is available to meet the requirements described in this section. The SIP does meet the Federal requirements for evidence of adequate tools and resources under §§ 51.372 and 51.354.

*Test Frequency and Convenience—40 CFR 51.355*

The basic and enhanced I/M performance standards assume an annual test frequency; however, other schedules may be approved if the performance standard is achieved. Missouri's enhanced I/M regulation provides for a biennial test frequency which still meets Federal requirements. The Missouri legislation provides the legal authority to implement the biennial program, and the state I/M regulation provides for enforcement of the biennial test frequency.

The Missouri submittal meets the test frequency requirements for the basic program.

*Vehicle Coverage—40 CFR 51.356*

The performance standards for enhanced I/M programs assume coverage of all 1968 and later model year light-duty vehicles (LDV) and light-duty trucks (LDT) up to 8500 pounds gross vehicle weight rating (GVWR) and includes vehicles operating on all fuel types. The performance standard for basic programs covers the same vehicles with the exception of LDTs. Other levels of coverage may be approved if the necessary emission reductions are achieved. Missouri's submittal includes:

1. Legal authority necessary to implement and enforce the vehicle coverage requirement.
2. A detailed description of the number and types of vehicles to be covered by the program.
3. A plan for how those vehicles are identified, including vehicles that are routinely operated in the area but may not be registered in the area.
4. A description of any special exemptions, including the percentage and number of vehicles to be affected by the exemption.

Missouri's enhanced I/M legislation requires coverage of all 1971 and newer LDVs and LDTs up to 8500 pounds GVWR registered or required to be registered in the I/M program area. As of the date of the submittal, approximately 1,361,000 vehicles will be subject to enhanced I/M testing. The Missouri I/M regulation provides the regulatory authority to implement and enforce the vehicle coverage. Missouri will implement a clean-screen component as a means to cover up to approximately 40 percent of the vehicle fleet as described in the RFP. As discussed previously in this section, Missouri is allowed to use a level of coverage different from the prescribed I/M rule provided the program continues to achieve the necessary emission reductions.

Missouri is authorized in its enabling legislation to impose fleet-testing requirements and requirements for special exemptions by Federal I/M requirements. Fleet testing will be conducted at official, test-only stations. Some fleets may opt to have I/M testing equipment installed at the fleet-testing facility that will be operated and maintained by the contractor at the fleet owner's expense (and connected to the on-line data system). Fleet programs are required to undergo the same testing requirements and quality assurance procedures as other subject vehicles. The state's plan for testing fleet vehicles is acceptable and meets the requirements of the Federal I/M regulation.

We note that the state may ultimately need to revise its program in light of the EPA's developing policy document with regard to Federal fleets. However, the EPA believes that this issue does not affect the current approvability of the program. The EPA is not requiring states to implement 40 CFR 51.356(a)(4) dealing with Federal installations within I/M areas at this time. The Department of Justice has recommended to the EPA that this regulation be revised since it appears to grant states authority to regulate Federal installations in circumstances where the Federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. The EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this new rule is final.

The state regulation includes some special exemptions for a portion of the vehicle fleet which are detailed in the technical support document.

This level of coverage appears to be approvable because the overall program design meets the performance standards. However, the clean-screening program is not reflected in the previous SIP and could change the number of exemptions plus the level of coverage. Thus, the SIP will only meet the requirements of this section when Missouri accounts for the clean-screening exemptions. Missouri will be required to submit a revised vehicle coverage element before the EPA takes final action on this proposal.

#### *Test Procedures and Standards—40 CFR 51.357*

The Federal rule requires Missouri to have written test procedures and pass/fail standards to be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications," EPA-400-F-92-001, dated July 20, 1998.

The state's I/M regulation, Missouri rule 10 CSR 10-5.380, includes a description of the test procedures for a transient, idle, evaporative-system purge; evaporative-system pressure testing; and for a visual emission control device inspection. These test procedures conform to the EPA-approved test procedures and are approvable.

The state regulation provides for start-up standards during the first two years of program implementation. However,

details of how the program start-up will be accomplished are not included, and the SIP submittal indicates they will be provided by the contractor. The RFP provides the structure for the contractor to provide the necessary details when their bids are submitted. The EPA expects the details to be provided in the signed contract. Therefore, the EPA proposes to approve this portion of the SIP if the state submits satisfactory details of the program start-up, consistent with the parameters in the RFP, prior to final action on this proposal.

#### *Test Equipment—40 CFR 51.358*

As required by Federal law, the state submittal contains the written technical specifications for all test equipment to be used in the program. The specifications require the use of computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems that meet the applicable Federal I/M regulations and are approvable. The SIP meets the requirements of this section.

#### *Quality Control—40 CFR 51.359*

In accord with the Federal requirements, the state submittal addresses the quality control provisions outlined in the I/M rule. The state will require the contractor to develop procedures, a specifications manual, and state-approved regulations that describe and establish quality control measures for the emission measurement equipment. Also, the contractor will be required to comply with the recordkeeping requirements and quality control measures. The state will be required to maintain the security of all documents used to establish compliance with the inspection requirements.

The contractor will also develop a procedures manual to help the station operator, lane operator, waiver inspector, and computer operator by outlining their responsibilities.

This portion of the submittal complies with the quality control requirements set forth in the Federal I/M regulation and is approvable.

#### *Waivers and Compliance via Diagnostic Inspection—40 CFR 51.360*

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements, that allow a motorist to comply without meeting the applicable test standards. Basic I/M programs must require a minimum expenditure of \$75 for pre-1981 vehicles; \$200 for 1981 and later vehicles shall be spent in order to qualify for a waiver. For enhanced I/M

programs, an expenditure of at least \$450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared with the CPI for 1989, is required to qualify for a waiver.

As required, Senate Bill 590 provides legislative authority to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. The Missouri legislation sets a \$75 waiver cost limit for 1980 and older model year vehicles, a \$200 waiver cost limit for 1981 through 1996 model year vehicles, and \$450 waiver cost limits for 1997 and newer model year vehicles. The state statute allows these amounts to be adjusted after December 2000 to be consistent with applicable EPA requirements for an enhanced I/M program. Thus, the state regulations do not currently include an annual adjustment of the cost limit to reflect the change in the CPI as compared with the CPI in 1989. However, because Missouri elected to opt up to an enhanced program, they are only required to meet or exceed the basic I/M requirements. The program, as outlined, meets the Federal requirement for the basic program; therefore, this portion is approvable.

The state submitted a revision to the SIP submittal regarding the waiver requirements on November 13, 1997. Missouri regulations include provisions that address waiver criteria and procedures, including cost limits, tampering and warranty-related repairs, quality control, and administration. These provisions meet the Federal requirements for a basic program. The state regulation requires repairs for 1981 and newer model year vehicles to be performed by a recognized repair technician. The state regulation does allow for compliance via diagnostic inspection and the policies and procedures outlined in the submittal to meet Federal I/M regulations (for enhanced I/M areas only). The SIP sets a maximum waiver rate and describes corrective action that would be taken if the waiver rate exceeds that committed to in the SIP. The SIP meets this portion of the regulation and is acceptable.

#### *Motorist Compliance Enforcement—40 CFR 51.361*

The Federal regulation requires that compliance will be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. Senate Bill 590 provides the legal authority to operate a registration denial system. The Missouri SIP commits to a compliance rate of 96 percent which was used in the

performance standard modeling demonstration and is approvable. The submittal includes detailed information concerning the registration denial enforcement process, the identification of agencies responsible for performing each applicable activity, and a plan for testing fleet vehicles. In addition, the SIP commits to an enforcement level to be used for modeling purposes. Therefore, this portion of the SIP is approvable.

*Motorist Compliance Enforcement Program Oversight—40 CFR 51.362*

In accord with Federal regulation, Missouri's SIP includes regulations, procedure manuals, supporting documents describing how the enforcement program oversight will be quality-controlled and quality-assured, and the establishment of an information management system. Senate Bill 590 provides authority to enforce against persons who misrepresent themselves as an official emission inspection station; anyone who knowingly manufactures, conveys, or possesses any counterfeit documents; and anyone who knowingly operates a motor vehicle without displaying a valid emission inspection sticker. However, the state submittal lacks details of how the information management system will be implemented. As indicated in the SIP, requirements of this section depend on participation from the Missouri Department of Revenue (MDOR) and the assigned contractor. The state has a Memorandum of Understanding with MDOR and an RFP outlining the duties of the contractor to meet the requirements of this section. Several aspects of the section will be negotiated between the MDOR and the contractor.

The SIP, however, lacks written procedures for personnel engaged in I/M document handling and processing, such as registration clerks or personnel involved in sticker dispensing and waiver processing, as well as written procedures for the auditing of their performance. Additionally, the SIP needs to include procedures for follow-up validity checks on out-of-area or exemption-triggering registration changes. Also, the SIP must include procedures for:

1. Disciplining, retraining, or removing enforcement personnel who deviate from established requirements.
2. Defranchising, revoking, or otherwise discontinuing the activity of the entity issuing registrations (in the case of non-government entities that process registrations).

The RFP provides sufficient details necessary for the EPA to propose approval of the section. Full approval is

contingent on the state submitting additional detail as described above prior to final action on this proposal.

*Quality Assurance—40 CFR 51.363*

According to the Federal I/M rule, an ongoing quality assurance program must be implemented to discover, correct, and prevent fraud, waste, and abuse in the program. The Missouri submittal includes a quality assurance program that includes regulations and procedures describing methods for reviewing inspector records, performing equipment audits, and providing formal training to all state enforcement officials. Performance audits of inspectors will consist of both covert and overt audits. Senate Bill 590 provides authority to conduct audits of the inspection stations and requires the stations to furnish reports and forms that MDNR deems necessary to evaluate the program adequately.

The SIP states the contractor will be responsible for portions of the oversight and enforcement provisions. For example, the contractor is to be responsible for developing the interactive software that would allow real-time access to all test station information. In addition, the state needs to ensure that there are a sufficient number of covert vehicles to allow frequent rotation to prevent detection by station personnel.

The SIP and the RFP detail the quality assurance program and procedures. Many of the specific details regarding how the state will meet the aforementioned requirement are expected to be provided by the contractor. Therefore, the EPA is proposing to approve this portion of the SIP. Full approval is contingent on the state revising its SIP to address the previously discussed items for this program element prior to final action on this proposal.

*Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364*

As required by Federal regulation, the Missouri submittal includes the legal authority to establish and to impose penalties against stations, contractors, and inspectors. The state I/M regulation, legislation, and RFP include penalty provisions for stations, contractors, and inspectors. Enforcement against registered stations or contractors and inspectors will include swift, sure, effective, and consistent penalties for violation of program requirements. The state submittal establishes minimum penalties for violations of program rules and procedures that can be imposed against stations, contractors, and inspectors. These penalties will be

administered through the contract. The state I/M regulation gives the state auditor the authority to temporarily suspend station and inspector registrations immediately upon finding a violation. Therefore, the EPA is proposing to approve this portion of the SIP provided the state submits a signed contract containing the penalty provisions described in the SIP submitted prior to final action on this proposal.

*Data Collection—40 CFR 51.365*

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment, as required under 40 CFR 51.359. The SIP outlines many functions to be carried out by the contractor. The EPA is proposing to approve this portion of the SIP provided the state submits the signed contract as a SIP revision prior to final action on this proposal.

*Data Analysis and Reporting—40 CFR 51.366*

Data analysis and reporting are required to allow for monitoring and evaluating the program by the state and the EPA. The Federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control, and enforcement. These reports are to be submitted by July and will provide statistics during January to December of the previous year. A biennial report must be submitted to the EPA that addresses changes in program design, regulations, legal authority, program procedures, and any weaknesses in the program found during the two-year period and how these problems will be or were corrected. Missouri outlines the requirement for the contractors that appear to meet all of these Federal requirements. The SIP also commits to address all the items listed in § 51.366.

The RFP details the functions the contractor is expected to fulfill. Thus, the EPA expects the state will meet the requirements of this section when the contract is signed. As noted earlier, procedures for data collection, analysis, and reporting are critical and must be in place prior to start-up. Therefore, the EPA believes that in order to fully approve this element, the state must submit a contract detailing these

provisions consistent with the RFP prior to final action on this proposal.

*Inspector Training and Licensing or Certification—40 CFR 51.366*

The Federal I/M regulation requires all inspectors to be formally trained and registered to perform inspections. The narrative in the submittal states that all inspectors are to receive formal training, be registered by MDNR or the operating contractor, and renew the registration every two years. As required in the I/M rule, Missouri provides a description of the training program and commits to require the contractor to develop a program that meets the requirements outlined in this section of the rule.

The RFP, however, details the functions the contractor is expected to fulfill, such as developing and maintaining a procedural training manual. In addition, the contractor is responsible for administering a certification test requiring inspectors to receive a minimum score of 80 percent. The RFP states that the contractor will prepare and submit the training manuals and other training program details after the contract is awarded. Thus, the EPA expects the state will meet the requirements of this section. The EPA cannot fully approve this portion of the SIP until the state and the contractor fulfill the aforementioned requirements. The state must address this provision prior to the EPA taking final action on the SIP.

*Public Information and Consumer Protection—40 CFR 51.368*

The Federal I/M regulation requires the SIP to include public information and consumer protection programs. State legislation requires Missouri to provide a public information program which educates the public on I/M, state, and Federal regulations; air quality and the role of motor vehicles in the air pollution problem; and other items as described in the Federal rule.

The RFP requires the contractor, in conjunction with the state, to develop a public information program. Besides educating the public about I/M, the state provides assistance to the motorist in obtaining warranty-covered repairs. However, the state needs to provide a consumer protection program to include provisions for a challenge mechanism, protection of whistle-blowers, and assistance to the motorist in obtaining warranty-covered repairs. With the exception of the aforementioned consumer protection requirements, the public information requirement is adequate and does meet Federal requirements. Since the consumer protection program contained in the SIP

is not complete, the EPA is proposing to approve this portion of the SIP contingent on the state fully meeting the aforementioned requirements prior to final action on this proposal.

*Improving Repair Effectiveness—40 CFR 51.369*

Effective repair work is the key to achieving program goals. The Federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP lacks a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation, and a description of the repair technician training resources available in the community.

The RFP provides a discussion of the repair effectiveness program. Many of the functions will be fulfilled by the contractor. As described in the RFP, the selected contractor will establish a hotline to assist repair technicians and track the performance of repair facilities. In addition, the contractor will establish a toll-free hotline that will supply information on wait times, station locations, and general inspection and waiver information. The EPA expects the state will meet the requirements of this section once the contract is issued. However, the EPA cannot fully approve this portion of the SIP until the state and the selected contractor fulfill the aforementioned requirements. Therefore, the EPA is proposing to approve this portion of the SIP contingent on the state submitting a signed contract prior to final action on this rulemaking.

*Compliance with Recall Notices—40 CFR 51.370*

The CAA and Federal regulations require states to establish methods to ensure that vehicles subject to I/M programs are included in an emission-related recall program. Vehicle owners must receive the required repairs before completing the emission test or renewing the vehicle registration.

The Missouri regulation provides the legal authority to require owners to comply with emission-related recalls before completing the emission test or renewing the vehicle registration. The submittal includes a commitment to submit an annual report to the EPA that includes the information as required in 40 CFR 51.370(c). Missouri state inspection or registration database and quality control methods will help ensure recall repairs are properly

documented and tracked. Therefore, this portion of the SIP is approvable.

*On-Road Testing—40 CFR 51.371*

On-road testing is required in enhanced I/M areas only. The use of either RSD or roadside pullovers, including tailpipe emission testing, can be used to meet the Federal regulations. Enabling authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements are contained in Missouri's legislation.

The on-road testing requirements are optional for basic programs. Therefore, this item is not relevant to the EPA's proposed action with respect to the basic I/M requirement.

*State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372–373*

The Federal regulation requires enhanced I/M programs to be implemented in accord with 40 CFR 51.372–51.373. The Missouri submittal included the final state I/M regulation, an RFP detailing program elements, and legislative authority to implement the program. The SIP lacks the contractor's proposal, the signed contract between the state and the contractor, and procedural documents. These latter documents must be submitted prior to final approval.

Section 51.372 requires states to demonstrate that adequate funding of the program is available. Section 51.372(a)(8) requires that the SIP contain evidence of adequate funding and resources to implement and continue operation of all aspects of the program. Funding needs to be available to accommodate personnel and equipment resources necessary to operate the program.

The SIP indicates capital improvements of land, buildings, and inspection equipment are expected to be funded through a combination of revenue bonds and Federal funds. Currently, Missouri has proved that these funding sources are or will be available.

The test fee or separately assessed per vehicle fee is to be collected, placed in a dedicated fund, and used to finance the program. Adequate funding will be available to begin and operate the program.

Overall, Missouri's SIP has a detailed plan demonstrating that there are adequate funding sources available to carry out program requirements. The SIP has a detailed description of the equipment to be used to facilitate program implementation.

Finally, although the SIP lacks a definitive start date, the RFP indicates that the program should begin by April 2000. The EPA expects that commitment to an actual start date, consistent with the schedule in the RFP, will be established when the contract is signed and that the state will submit the actual start date with the other submissions identified in this document. Based on the description in the SIP submittal of the activities which must be accomplished prior to program start-up, the EPA believes that the projected start date of April 2000 would be as expeditious as practicable and that the program is not deficient because of the projected start date. (It is EPA policy that once the start date in the regulations has passed, SIPs are approvable if programs start as expeditiously as practicable.) Nevertheless, given that corrections to the basic program should have been implemented by January 1, 1994, the EPA is proposing to conditionally approve this SIP pursuant to section 110(k)(3) of the Act to ensure expeditious implementation. The EPA's conditional approval of the SIP would last until April 30, 2000. If the state does not begin implementation of the program by this date, the conditional approval would convert to a disapproval after a findings letter is sent to the state. This is an implied condition under the EPA's general approval authority of 110(k)(3), not an explicit condition due to regulatory deficiency under 110(k)(4). Therefore, it will not automatically convert to a disapproval but will only convert after the EPA transmits a findings letter to the state indicating that the program has not started.

The EPA is also considering an alternative, in which the EPA would grant full approval of this SIP (provided the state corrects all of the previously identified deficiencies prior to final rulemaking). Under this approach, the state would still be obligated to start up the program by the date specified in the contract which the EPA believes should be no later than April 30, 2000. If the state then fails to begin the program by that date, the EPA would issue a finding under section 179(a)(4) of the Act that the state had failed to implement this SIP element and possibly also a SIP call to correct the SIP under 110(k)(5). The EPA solicits comments on this approach as an alternative to conditional approval.

In the case of either a finding that the condition had not been met or that the state had failed to implement the SIP, under section 179(a)(2) the EPA must apply one of the sanctions set forth in section 179(b) within 18 months of such

finding. Section 179(b) provides two sanctions available to the Administrator: imposition of emission offset requirements and limitations on highway funding. In the EPA's August 4, 1994, final sanctions rule (see 59 FR 39832), the sequence of mandatory sanctions for findings and disapprovals made pursuant to section 179 of the CAA was finalized. This rulemaking states that the emission offset sanction applies in an area 18 months from the date when the EPA makes a finding under section 179(a) with regard to that area. Furthermore, the highway funding restrictions apply in an area six months following application of the offset sanction. This nondiscretionary process for imposing and lifting sanctions is set forth at 40 CFR 52.31.

#### **V. What Is the EPA's Conclusion and Proposed Action?**

The EPA's review of the material indicates that the state has adopted the substance of an adequate I/M program in accordance with the requirements of the Act. The EPA is proposing to conditionally approve the Missouri SIP revision for the St. Louis I/M program which was submitted on August 5, 1997, with the single condition that the program must begin operation by April 30, 2000, and provided the state submits no later than November 1999 a revised SIP, including a signed contract, which addresses the following items:

1. Start date for testing vehicles.
2. Details of the start-up for the first two years (§ 51.357).
3. Enforcement provisions against contractors, stations, and inspectors (§ 51.364).
4. Provisions for data collection (§ 51.365), analysis, and reporting (§ 51.366).
5. Inspector training, certification, and licensing requirements (§ 51.366).
6. Revised emission reduction estimates and vehicle coverage taking into account the clean-screening provisions (§§ 51.351, 51.352, and 51.356).
7. Revised regulations reflecting the clean-screening provisions (§§ 51.351 and 51.352).
8. Procedures for program oversight including document handling and processing, audits, registration changes, disciplinary actions, and enforcement action involving non-government entities (§ 51.362).
9. Corrections to the quality assurance program to address real-time access to test station information and sufficient covert vehicles (§ 51.363).
10. Consumer protection program (§ 51.368).

11. Technical assistance program including performance monitoring requirements and repair technician training resources (§ 51.369).

The EPA believes that allowing the state until November 1999 to address these remaining deficiencies provides adequate time for the state to adopt and submit a revised SIP. If the revisions address the issues outlined in this document without significant deviation from the descriptions of the program in the RFP and as described in this document and the technical support document, the EPA is proposing to proceed with final conditional approval of the I/M program. The EPA may repropose action on a portion of the I/M program if the state makes a submission which deviates significantly from these parameters or provides significant new data not previously made publicly available, to the extent necessary to ensure adequate public notice and opportunity for comment. Finally, if the state fails to make a complete submission by November, the EPA will not take final action on this proposal but rather will proceed with a proposed disapproval of the I/M SIP. The EPA solicits comments on this proposed action.

#### **VI. Administrative Requirements**

##### *A. Executive Order (E.O.) 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 entitled "Regulatory Planning and Review."

##### *B. E.O. 12875*

Under E.O. 12875, *Enhancing the Intergovernmental Partnership*, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or the EPA consults with those governments. If the EPA complies by consulting, E.O. 12875 requires the EPA to provide to the OMB a description of the extent of the EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals

containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of Section 1(a) of E.O. 12875 do not apply to this rule.

#### C. E.O. 13045

*Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866 and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

#### D. E.O. 13084

Under E.O. 13084, *Consultation and Coordination with Indian Tribal Governments*, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, E.O. 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of

the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of Section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities, because SIP approvals under Section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427

U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 17, 1999.

**Dennis Grams,**

*Regional Administrator, Region VII.*

[FR Doc. 99-4825 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 99-005-1]

#### Notice of Request for Extension of Approval of an Information Collection

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the Veterinary Accreditation Program.

**DATES:** We invite you to comment. We will consider all comments that we receive by April 27, 1999.

**ADDRESSES:** Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 99-005-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please send an original and three copies, and state that your comments refer to Docket 99-005-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Veterinary Accreditation Program, contact Dr.

Quita Bowman, Program Manager, National Veterinary Accreditation Program, Operational Support, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737-1231, (301) 734-8093. For copies of more detailed information on the information collection, contact Ms. Cheryl Jenkins, APHIS' Information Collection Coordinator, at (301) 734-5360.

#### SUPPLEMENTARY INFORMATION:

*Title:* Veterinary Accreditation Program.

*OMB Number:* 0579-0032.

*Expiration Date of Approval:* October 31, 1999.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* The United States Department of Agriculture is responsible for preventing the spread of serious communicable animal diseases from one State to another, and for eradicating such diseases from the United States when feasible.

However, because APHIS does not have sufficient personnel to perform all necessary animal disease prevention work, we rely heavily on assistance from veterinarians in the private sector.

Our Veterinary Accreditation Program authorizes private veterinary practitioners to work cooperatively with us, as well as with State animal health officials, to carry out regulatory programs that ensure the health of the nation's livestock and poultry.

Operating this important program requires us to engage in a number of information gathering activities including:

- Conducting veterinary accreditation orientation and training.
- Completing animal health certificates.
- Applying and removing official seals.
- Completing test reports.
- Reviewing applications for veterinary accreditation and re-accreditation.
- Recordkeeping.
- Updating information on accredited veterinarians.

We are asking the Office of Management and Budget (OMB) to approve the continued use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as

affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.23149 hours per response.

*Respondents:* Accredited veterinarians, candidates for the Veterinary Accreditation Program, and State animal health officials who review applications for veterinary accreditation and re-accreditation.

*Estimated annual number of respondents:* 56,000.

*Estimated annual number of responses per respondent:* 3.054.

*Estimated annual number of responses:* 171,024.

*Estimated total annual burden on respondents:* 39,590 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 22nd day of February 1999.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99-4821 Filed 2-25-99; 8:45 am]

BILLING CODE 3410-34-P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletions from the Procurement List.

**SUMMARY:** This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

**EFFECTIVE DATE:** March 29, 1999.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** On September 18 and December 11, 1998 and January 11 and 15, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 49896 and 68428 and 64 FR 1591 and 2623) of proposed additions to and deletions from the Procurement List:

#### Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the

commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

#### Commodities

##### Meal Kits

8970-01-E59-0239A  
8970-01-E59-0240A  
8970-01-E59-0241A  
8970-01-E59-0242A  
8970-01-E59-0243A  
8970-01-E59-0244A  
8970-01-E59-0245A  
8970-01-E59-0239B  
8970-01-E59-0240B  
8970-01-E59-0241B  
8970-01-E59-0242B  
8970-01-E59-0243B  
8970-01-E59-0244B  
8970-01-E59-0239C  
8970-01-E59-0240C  
8970-01-E59-0241C  
8970-01-E59-0242C

(100% of the requirement of the Oklahoma Army National Guard)

#### Services

Grounds Maintenance, U.S. Geological Survey, Wildlife Research Center, Patuxent Maryland  
Janitorial/Custodial, Forest Service Building, Mare Island, California  
Janitorial/Custodial, Fort Wadsworth USARC, Building 356, Staten Island, New York  
Laundry Service, Naval Hospital, Camp Pendleton, California  
Operation of Postal Service Center, Vandenberg Air Force Base, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

#### Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities.
3. The action may result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46-48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Pillowcase, Cotton/Cotton Polyester  
7210-00-054-7910  
Filler, Executive Day  
7530P902476F  
Planner, Executive Day  
7530P902477F

#### Beverly L. Milkman,

*Executive Director.*

[FR Doc. 99-4849 Filed 2-25-99; 8:45 am]

BILLING CODE 6353-01-P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from Procurement List.

**SUMMARY:** The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities and services previously furnished by such agencies.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 29, 1999.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

#### Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services

listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Commodities

Soup Spoon Ladle  
M.R. 806

NPA: The Lighthouse for the Blind, Inc.,  
Seattle, Washington

Aqua Plunger Mop  
M.R. 1026

NPA:

Signature Works, Inc., Hazlehurst,  
Mississippi

Southern Nevada Sightless, Las Vegas,  
Nevada

#### Services

Base Supply Center, Minot Air Force Base,  
North Dakota

NPA: Envision, Inc., Wichita, Kansas

Base Supply Center, Naval Air Station,  
Kingsville, Texas

NPA: South Texas Lighthouse for the Blind,  
Corpus Christi, Texas

Central Facility Management, U.S. Secret  
Service Headquarters, 930 H Street, NW,  
Washington, DC

NPA: Melwood Horticultural Training  
Center, Upper Marlboro, Maryland

Janitorial/Custodial, Federal Building #4,  
4401 Suitland Road, Suitland, Maryland

NPA: Davis Memorial Goodwill Industries,  
Washington, DC

Janitorial/Custodial, Veterans Affairs  
Outpatient Clinic, 25 N. 32nd Street,  
Camp Hill, Pennsylvania

NPA: Goodwill Services, Inc., Harrisburg,  
Pennsylvania

Janitorial/Custodial, U.S. Army Reserve  
Center, Fort Jackson, South Carolina

NPA: Camden Vocational Rehabilitation  
Training Center, Camden, South Carolina  
Operation of Individual Equipment Element  
Store, Davis-Monthan Air Force Base,  
Arizona

NPA: Arizona Industries for the Blind,  
Phoenix, Arizona

Operation of Individual Equipment Element  
Store, Minot Air Force Base, North  
Dakota

NPA: Envision, Inc., Wichita, Kansas

#### Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following commodities and services have been proposed for deletion from the Procurement List:

#### Commodities

Kit, Shaving, Surgical Preparation

6530-00-676-7372

Surgical Dressing Set

6530-00-105-5826

Box, Filing

7520-00-139-3734

#### Services

Administrative Services, Cecil Field Naval  
Air Station, Cecil Field, Florida

Assembly, Living Kit, Basic and  
Supplemental

Commissary Warehousing, Homestead Air  
Reserve Station, Florida

Corrosion Control of Fuel Pipelines,

Manchester Naval Fuel Department,  
Manchester, Washington

Disposal Support Services, Defense

Reutilization and Marketing Office,  
Agana, Guam

Fast Pack/ Carton Recycling and Pallet Repair,  
Sacramento Army Depot, Sacramento,  
California

Food Service Attendant, Cecil Field Naval  
Air Station, Cecil Field, Florida

Food Service Attendant, Homestead Air  
Reserve Station, Florida

Food Service Attendant, Naval Security  
Group Activity, Homestead Air Force  
Base, Florida

Grounds Maintenance, Andersonville  
National Historic Site, Route 1, Box 85,  
Andersonville, Georgia

Grounds Maintenance, U. S. Postal Service,  
1088 Nandino Boulevard, Lexington,  
Kentucky

Grounds Maintenance, Camp Bonneville,  
Washington

Grounds Maintenance, National Oceanic and  
Atmospheric Administration, National  
Marine Fisheries Service, 2725 Montlake  
Boulevard East, Seattle, Washington

Janitorial/Custodial, Naval Station, Mobile,  
Alabama

Janitorial/Custodial, Riverside National  
Cemetery, 22495 Van Buren Blvd.,  
Riverside, California

Janitorial/Custodial, Federal Building, 100  
North Warren, Saginaw, Michigan

Janitorial/Custodial, Lewistown Flight  
Service Station, Lewistown, Montana

Janitorial/Custodial, BEQ Naval Station,  
Staten Island, New York

Janitorial/Custodial, Newark Air Force Base,  
Ohio

Janitorial/Custodial, Bonneville Power  
Administration, 11743 NE Sumner  
Street, Portland, Oregon

Janitorial/Custodial, Tennessee Air National  
Guard, Nashville Metro Airport,  
Nashville, Tennessee

Janitorial/Grounds Maintenance, Naval  
Industrial Reserve Ordnance Plant,  
Rochester, New York

Laundry Service, Military Entrance  
Processing Station, 1222 Spruce Street,  
St. Louis, Missouri

Microfiche/Microfilm Reproduction, Newark  
Air Force Station, Ohio

Operation of Tool Crib, Kelly Air Force Base,  
Texas

Planting Horticultural Materials, U.S. Forest  
Service, Bend Pine Nursery Market,  
63095 Deschutes Market Road, Bend,  
Oregon

Reproduction Service, Headquarters, U.S.  
Marine Corps, Clarendon Square Office  
Building, 3033 Wilson Boulevard,  
Arlington, Virginia

Tray Delivery Service, Department of  
Veterans Affairs Medical Center, 3601  
South 6th Avenue, Tucson, Arizona

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 99-4850 Filed 2-25-99; 8:45 am]

BILLING CODE 6353-01-P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

[Docket No. 97-BXA-20]

#### Aluminum Company of America Respondent; Decision and Order

This is an export control administrative enforcement action here for final decision by the Under Secretary pursuant to § 766.22 of the Export Administration Regulations (15 CFR 730, *et seq.*) In a recommended decision and order dated December 21, 1998, the Honorable Parlen L. McKenna, Administrative Law Judge (ALJ), found that the Aluminum Company of America (ALOCA) committed 100 violations of the Export Administration Regulations and proposed a civil

penalty of \$10,000 per violation for a total penalty of \$1,000,000. After reviewing the record of this case, including the briefs of the parties filed before me, I approve the ALJ's recommended findings and decision subject to my comments below.

I approve the ALJ's findings of fact and his conclusions of law. The ALJ correctly found that the former EAR § 787.5(a) (15 CFR 787.5(a)) does not require a showing of knowledge on intent on the part of the respondent. The ALJ correctly determined that ALCOA committed 100 violations of the EAR.

With respect to the penalty, I generally agree with the ALJ's assessment of the factors that bear on the penalty. The ALJ is correct, for example, that the results in prior settlement cases are not precedent for a penalty in this contested case. A willingness to settle on the government's terms is a concrete sign that a violator has admitted his wrongdoing and is making amends. That factor, which is not present in this case, can significantly mitigate the penalty. I also disagree with respondent's counsel that the result in this case will have a chilling effect on voluntary disclosures. ALCOA did not make a voluntary disclosure under the meaning of EAR 764.5 in this case. This penalty should send the message that there are significant advantages to having an internal compliance program that catches and reports problems quickly.

I have made my own assessment of the penalty in light of the findings and conclusions of the ALJ. I approve the ALJ's recommended penalty of \$10,000 for each of the 50 § 787.6 violations for exporting without the required validated export license. With respect to the penalty for the false statement violations under § 787.5(a), however, I am reducing the penalty to \$5,000 per violation. Accordingly, I approve a total penalty of \$750,000.

*It is therefore ordered* that the Aluminum Company of America, having been found by a preponderance of the evidence to have committed 100 violations of the Export Administration Regulations, pay a civil penalty in the amount of \$10,000 for each of the 50 charges of violation of former § 787.6 of the EAR and a civil penalty of \$5,000 for each of 50 charges of violation of former 787.5(a) of the EAR, for a total penalty of \$750,000.

*It is further ordered* that ALCOA shall pay the penalty assessed herein within 30 days from the date of this order and in accordance with the "instructions for Payment of Civil Penalty" attached to

the ALJ's recommended decision and order. Pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701-3720E (1983 and Supp. 1998)), the civil penalty owed under this order accrues interest as more fully described in the attached notice, and, if payment is not made by the due date specified herein, respondent will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached notice.

*It is further ordered* that this decision and order and the recommended decision and order of the ALJ shall be served on the parties and published in the **Federal Register**.

Entered this 19th day of February, 1999.

**William A. Reinsch,**

*Under Secretary for Export Administration.*

#### Notice

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, the respondent may have to seek review, both within the U.S. Department of Commerce and the courts. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), and the Federal Claims Collection Standards (4 CFR parts 101-105 (1997)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 4 CFR 102.13.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. § 3717 and 4 CFR 102.13

The foregoing constitutes the initial written notice and demand to respondent in accordance with section

102.2(b) of the Federal Claims Collection Standards (4 CFR 102.2(b)).

[FR Doc. 99-4758 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### Materials Technical Advisory Committee; Notice of Open Meeting

The Materials Technical Advisory Committee (MTAC) will meet on March 11, 1999, 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to advanced materials and related technology.

#### Agenda

1. Opening remarks.
2. Discussion of the Biological Weapons Convention (BWC) implementation protocol.
3. Discussion of 01/19/99 BWC Ad Hoc Group Working Paper.
4. Presentation of papers or comments by the public.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not required. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials to the following address: Ms. Lee Ann Carpenter, Advisory Committees MS: 3886C, 15th St. & Pennsylvania Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

For more information contact Lee Ann Carpenter on (202) 482-2583.

Dated: February 19, 1999.

**Lee Ann Carpenter,**

*Committee Liaison Officer.*

[FR Doc. 99-4756 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-33-M

## DEPARTMENT OF COMMERCE

## Bureau of Export Administration

President's Export Council  
Subcommittee on Encryption; Notice  
of Partially Closed Meeting

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on March 12, 1999, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The meeting will begin in closed session at 8:30 a.m. The open session will begin at 12:30 p.m. and is scheduled to adjourn at 5:00 p.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

**Closed Session: 8:30 a.m.–12:00 p.m.**

1. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

**Open Session: 12:30 p.m.–5:00 p.m.**

2. Opening remarks by the Acting Chairman.
3. Presentation of papers or comments by the public.
4. Update on Bureau of Export Administration initiatives.
5. Issue briefings.
6. Open discussion.

The meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the PECSENC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSENC members, the PECSENC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees MS: 3886C, U.S. Department of Commerce, 14th St. & Pennsylvania Ave., N.W., Washington, D.C. 20230.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved May 7, 1998, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington,

D.C. For more information, contact Ms. Lee Ann Carpenter on (202) 482-2583.

Dated: February 19, 1999.

**Iain S. Baird,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 99-4757 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-33-M

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

[Order No. 1026]

Grant of Authority for Subzone Status;  
Rauch Industries, Inc., (Consumer  
Products Distribution), Mira Loma,  
California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Foreign-Trade Zones Act provides for “\* \* \* the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

*Whereas*, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

*Whereas*, the Board of Harbor Commissioners of the City of Long Beach, California, grantee of Foreign-Trade Zone 50, has made application to the Board for authority to establish special-purpose subzone status at the warehousing/distribution (non-manufacturing) facility of Rauch Industries, Inc., located in Mira Loma, California, (FTZ Docket 41-98, filed 8/20/98);

*Whereas*, notice inviting public comment has been given in the **Federal Register** (63 FR 45997, 8/28/98); and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

*Now, Therefore*, the Board hereby grants authority for subzone status at the consumer products warehousing/distribution facility of Rauch Industries, Inc., located in Mira Loma, California (Subzone 50F), at the location described in the application, and subject to the

FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 18th day of February 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 99-4857 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

[Order No. 1024]

Expansion of Foreign-Trade Zone 78;  
Nashville, Tennessee, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Metropolitan Nashville Port Authority, grantee of Foreign-Trade Zone 78, submitted an application to the Board for authority to expand FTZ 78 to include two sites at the Space Park North Industrial Park (Site 4) and the Old Stone Bridge Industrial Park (Site 5) in Goodlettsville, Tennessee, within the Nashville Customs port of entry (FTZ Docket 14-98; filed 3/27/98);

*Whereas*, notice inviting public comment was given in **Federal Register** (63 FR 16962, 4/7/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, Therefore*, the Board hereby orders:

The application to expand FTZ 78 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 18th day of February 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 99-4856 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[Docket 9-99]

**Proposed Foreign-Trade Zone—  
Berkeley County, West Virginia;  
Application and Public Hearing**

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the West Virginia Economic Development Authority (a West Virginia public corporation and grantee of FTZ 229 in Charleston, West Virginia), to establish a general-purpose foreign-trade zone in the Martinsburg (Berkeley County), West Virginia, area, adjacent to the Front Royal, Virginia, Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 19, 1999. The applicant is authorized to make the proposal under West Virginia Code § 31-15-6.

The proposed zone would be the second general-purpose zone in the Front Royal Customs port of entry area. The existing zone is FTZ 185 at sites in Culpeper County, Virginia (Grantee: Culpeper County Chamber of Commerce, Inc., Board Order 578, 57 FR 23385, 6/3/92).

The proposed new zone would be located at the Eastern West Virginia Regional Airport complex (317 acres) near Martinsburg, Berkeley County, West Virginia. The site includes the "John D. Rockefeller, IV" Science and Technology Center business/industrial park. It is owned by the Eastern West Virginia Regional Airport Authority and will be operated by the grantee.

The application indicates a need for foreign-trade zone services in the Martinsburg area to serve the auto parts, aeronautics, medical products, inorganic chemicals, machinery and wood products industries. Several firms have indicated an interest in using zone procedures for warehousing/distribution activities. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on March 24, 1999, 11:00 a.m., City Council Chamber, 2nd Floor, Martinsburg City Hall, 243 North Queen

Street, Martinsburg, West Virginia 25401.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 27, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 12, 1999).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Office of the Executive Director, Region IX Planning and Development Council, 121 West King Street, Martinsburg, WV 25401

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce 14th and Pennsylvania Avenue, NW, Washington, DC 20230

Dated: February 22, 1999.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 99-4855 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE****International Trade Administration****October 1998 Sunset Reviews:  
Corrected Final Results and  
Revocations**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Correction to Final Results and Revocations of October 1998 Sunset Reviews: Color Television Receivers from Korea (A-580-008) and Color Television Receivers from Taiwan (A-583-009).

**SUMMARY:** On November 23, 1998, the Department of Commerce ("the Department") published in the **Federal Register** (63 FR 64677) the final results and revocations of October 1998 sunset reviews. Subsequent to the publication of the final results, we identified an inadvertent error in the case numbering for two of the orders listed. Therefore, we are correcting the case numbers. The correct case number for color television receivers from Korea should be A-580-008, not A-580-088. The correct case number for color television receivers from Taiwan should be A-583-009, not A-580-099.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit or Melissa G.

Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482-3207 or (202) 482-1560, respectively.

This amendment is issued and published in accordance with sections 751(h) and 777(i) of the Act.

Dated: February 22, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4749 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE****International Trade Administration****December 1998 Sunset Reviews: Final  
Results and Revocations**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Results of Sunset Reviews, Revocation of Antidumping and Countervailing Duty Orders, and Termination of Suspended Countervailing Duty Investigations: Calcium Hypochlorite from Japan (A-588-401), Raspberries from Canada (A-122-401), Castor Oil from Brazil (C-351-029), Frozen Concentrated Orange Juice from Brazil (C-351-005), Textiles and Textile Products from Colombia (C-301-401), and Certain Textile Mill Products from Thailand (C-549-401).

**SUMMARY:** On December 2, 1998, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on calcium hypochlorite from Japan and raspberries from Canada, of the countervailing duty order on castor oil from Brazil, and of the suspended countervailing duty investigations on frozen concentrated orange juice from Brazil, textiles and textile products from Colombia, and certain textile mill products from Thailand. Because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline, the Department is revoking these orders.

**EFFECTIVE DATE:** January 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthit, Scott E. Smith, or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230; telephone: (202) 482-3207, (202) 482-6397, or (202) 482-1560 respectively.

## SUPPLEMENTARY INFORMATION:

**Background**

The Department issued an antidumping duty order on calcium hypochlorite from Japan (50 FR 15470, April 18, 1985) and on raspberries from Canada (50 FR 26019, June 24, 1985). The Treasury Department issued a countervailing duty order on castor oil from Brazil (41 FR 8634, March 16, 1976). In addition, the Department suspended the countervailing duty investigations on frozen concentrated orange juice from Brazil (48 FR 8839, March 2, 1983), textiles and textile products from Colombia (50 FR 9863, March 12, 1985), and certain textile mill products from Thailand (50 FR 9832, March 12, 1985). Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department initiated sunset reviews of these orders and suspended investigations by publishing notice of the initiation in the **Federal Register** (63 FR 66527, December 2, 1998). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for these proceedings to inform them of the automatic initiation of a sunset review on these orders and suspended investigations.

No domestic interested parties responded to the notice of initiation by the December 17, 1998, deadline in the sunset reviews of the antidumping duty orders on calcium hypochlorite from Japan and raspberries from Canada, and the sunset review of the countervailing duty order on castor oil from Brazil (see § 351.218(d)(1)(i) of *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13520 (March 20, 1998) ("*Sunset Regulations*"). In the sunset reviews of the suspended countervailing duty investigations on frozen concentrated orange juice from Brazil, textiles and textile products from Colombia, and certain textile mill products from Thailand, we received notices of intent to participate by the December 17, 1998, deadline; however, these parties did not file a substantive response to the notice of initiation by the January 4, 1999, deadline (see section 351.218(d)(3)(i) of the *Sunset Regulations*).

**Determination to Revoke**

Pursuant to section 751(c)(3)(A) of the Act and §§ 351.218(d)(1)(iii)(B)(3) and 351.218(e)(1)(i)(C)(3) of the *Sunset Regulations*, if no interested party responds to the notice of initiation, the Department shall issue a final

determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because no domestic interested party responded to the notice of initiation by the applicable deadlines, December 17, 1998, and January 4, 1999, either by filing a Notice of Intent to Participate or by filing a substantive response after filing a Notice of Intent to Participate (see §§ 351.218(d)(1)(i) and 351.218(d)(3)(i) of the *Sunset Regulations*), we are revoking these antidumping and countervailing duty orders and terminating the suspended countervailing duty investigations.

**Effective Date of Revocation and Termination**

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and duty deposit requirements. The suspension agreements on frozen concentrated orange juice from Brazil, textiles and textile products from Colombia, and certain textile mill products from Thailand will remain in effect until January 1, 2000. The Department will complete any pending administrative reviews of these orders and suspension agreements and will conduct administrative reviews of all subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: February 22, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4750 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE****International Trade Administration**

[(A-351-828); (C-351-829)]

**Postponement of final Determination of Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel From Brazil**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit of the final determinations of the antidumping and countervailing duty investigations of hot-rolled flat-rolled carbon-quality steel from Brazil.

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Linda Ludwig, Office of AD/CVD Enforcement, Group III, or Chris Cassell, Office of AD/CVD Enforcement Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3833 or (202) 482-4847, respectively.

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1998).

**Postponement of Final Determinations and Extension of Provisional Measures**

Pursuant to Section 735(a)(2) of the Act, on February 2, 1999, Companhia Siderurgica Nacional (CSN), Usinas Siderurgicas de Minas Gerais, S.A., (USIMINAS), and Companhia Siderurgica Paulista (COSIPA) requested that, in the event of affirmative preliminary determination, the Department postpone the final determination in this case the full sixty days permitted by statute (19 U.S.C. 1673d(a)(2)). On February 4, 1999, CSN, USIMINAS, and COSIPA also requested an extension of the provisional measures (i.e., suspension of liquidation) period from four to six months in accordance with the Department's regulations (19 CFR 351.201(e)(2)). On February 12, 1999, the affirmative preliminary determination was signed. Therefore, in accordance with 19 CFR 351.210(e)(2)(ii), because our preliminary determination is affirmative, and respondents requesting a postponement represent a significant proportion of exports of the subject merchandise from Brazil, we are postponing this final determination. However, because we have determined that an additional 30 days should be sufficient to resolve the issues in this case, we are extending the deadline for the final determination until no later

than June 4, 1999, which is 105 days after the publication of the preliminary determination in the **Federal Register**. Suspension of liquidation will be extended accordingly.

In addition, because the countervailing duty investigation of hot-rolled flat-rolled carbon-quality steel products from Brazil has been aligned with the concurrent antidumping duty investigation under section 705(a)(1) of the Act, the time limit for completion of the final determination in the countervailing duty investigation will be the same date as the final determination of the concurrent antidumping duty investigation.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: February 19, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4858 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-822, A-122-823]

#### Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limits for preliminary results of antidumping duty administrative review.

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0197 and (202) 482-3020, respectively.

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

#### Extension of Time Limits for Preliminary Results

The Department of Commerce received a request to conduct an administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On September 29, 1998 (63 FR 51893), the Department initiated this antidumping administrative review covering the period August 1, 1997 through July 31, 1998.

Because of the complexity of certain issues, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results from May 3, 1999, to July 30, 1999. The final results continue to be due 120 days after the date of publication of the preliminary results. This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: February 18, 1999.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 99-4752 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-820]

#### Ferrosilicon From Brazil; Antidumping Duty Administrative Review; Time Limit

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Extension of Time Limit for Final Results of Review.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit for the final results of the administrative review of the antidumping duty order on ferrosilicon from Brazil. The review covers two manufacturer/exporters of the subject merchandise to the United States for the period March 1, 1997, through February 28, 1998.

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Howard Smith or Wendy Frankel, Office 4, Office of AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone:

(202) 482-5193, or (202) 482-5849, respectively.

**SUPPLEMENTARY INFORMATION:** Because it is not practicable to complete this review within the initial time limit established by the Uruguay Round Agreements Act (245 days after the last day of the anniversary month for the preliminary results, 120 days after the date on which the preliminary results are published for the final results), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department is extending the time limit for completion of the final results until October 4, 1999. See Memorandum from Holly A. Kuga to Robert S. LaRussa, dated January 8, 1999, on file in the Central Records Unit located in room B-099 of the main Department of Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: February 3, 1999.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 99-4853 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-357-004 and A-357-007]

#### Carbon Steel Wire Rod From Argentina: Extension of Time Limit for Preliminary Results of Five-Year Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Extension of Time Limit for Preliminary Results of Five-Year ("Sunset") Reviews.

**SUMMARY:** The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the sunset reviews on the suspended countervailing duty investigation and the antidumping duty order on carbon steel wire rod from Argentina. Based on adequate responses from domestic and respondent interested parties, the Department is conducting full sunset reviews to determine whether revocation of the suspended countervailing duty investigation would be likely to lead to continuation or recurrence of a countervailable subsidy and whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. As a result of these

extensions, the Department intends to issue its preliminary results not later than May 23, 1999.

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Scott E. Smith or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230; telephone: (202) 482-6397, or (202) 482-1560 respectively.

#### Extension of Preliminary Results

The Department has determined that the sunset reviews of the suspended countervailing duty investigation and the antidumping duty order on carbon steel wire rod from Argentina are extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). See section 751(c)(6)(C) of the Act. The Department is extending the time limit for completion of the preliminary results of these reviews until not later than May 23, 1999, in accordance with section 751(c)(5)(B) of the Act. The final results of these reviews will, therefore, be due not later than September 28, 1999.

Dated: February 22, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4751 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-427-815, C-475-825, and C-580-835]

#### Countervailing Duty Investigations of Stainless Steel Sheet and Strip in Coils From France, Italy, and the Republic of Korea; Notice of Extension of Time Limit for Final Determinations

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Extension of Time Limit.

**SUMMARY:** The Department of Commerce is extending the time limit for the final determinations of the investigations of stainless steel sheet and strip in coils from France, Italy, and the Republic of Korea. This extension is made pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

**EFFECTIVE DATE:** February 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Marian Wells (France), Craig Matney (Italy), or Eva Temkin (Republic of Korea), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-1167, (202) 482-1778, or (202) 482-4847, respectively.

**SUPPLEMENTARY INFORMATION:** Because, at the petitioners' request, these investigations have been aligned with the concurrent antidumping duty investigations of stainless steel sheet and strip in coils from France, Italy, and the Republic of Korea, and the final determinations in those investigations were extended (January 4, 1999, 64 FR 130 (France), 64 FR 116 (Italy), 64 FR 137 (Republic of Korea)), the Department of Commerce is extending the time limit for completion of the final determinations in the above-mentioned countervailing duty cases to not later than May 19, 1999.

This notice is in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.210(b)(4).

Dated: February 18, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4854 Filed 2-26-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 022299A]

#### Western Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) will hold its 99th meeting in Guam and the Commonwealth of the Northern Mariana Islands (CNMI).

**DATES:** The Council will meet in Guam on March 15-16, 1999, from 8:30 a.m. to 5:00 p.m., each day. The Council will meet in Saipan, CNMI, on March 17, 1999, from 1:30 p.m. to 5:00 p.m., and on March 18, 1999, from 8:30 a.m. to 5:00 p.m..

**ADDRESSES:** The 99th Council meeting will be held at the Guam Hilton Hotel,

P.O. Box 11199, Tamuning, Guam, 96931, telephone: (671-646-1835); and at the Saipan Diamond Hotel, P.O. Box 66, Susupe, Saipan, CNMI, 96950; telephone: (670-234-5900).

**Council address:** Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: 808-522-8220.

**SUPPLEMENTARY INFORMATION:** The Council will vote on whether to begin rule-making to address interactions between seabirds and the Hawaii-based longline fishery. In addition, the Council will discuss alternatives for implementing a comprehensive federal permit and mandatory logbook program for all currently undocumented fishing activities in the EEZs of Wake Island, Johnston Atoll, Howland and Baker Island, Palmyra Island & Kingman Reef, and Jarvis Island. In addition, measures to require logbook submission where ever a vessel permitted under an FMP fishes in the Pacific will be discussed.

Other items that the Council will discuss, and may take action on, include a cooperative NMFS enforcement agreement for Guam; U.S. Coast Guard fishing vessel safety for territorial registered vessels; illegal immigration related to the foreign fishing fleet; vessel monitoring system (VMS) activities in Guam and CNMI; South Pacific Commission tuna fisheries assessments for Guam and CNMI; Guam's fresh tuna transshipment industry; surveys of bottomfish stocks in Guam and CNMI; status of marine conservation plans; turtle research in Guam and CNMI; coral reef fisheries and management needs in Guam and CNMI; and review of a letter to NMFS from the Marine Mammal Commission regarding lobster fishing and monk seals at French Frigate Shoals.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to meeting date.

Dated: February 23, 1999.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 99-4851 Filed 2-25-99; 8:45 am]

BILLING CODE 3510-22-F

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Establishment of an Export Visa Arrangement for Certain Wool Textile Products Produced or Manufactured in Ukraine

February 22, 1999.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs establishing export visa requirements.

**EFFECTIVE DATE:** April 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Pursuant to the Visa Arrangement signed on July 22, 1998, the Governments of the United States and Ukraine agreed to establish visa requirements for certain wool textile products in Categories 435, 442, 444 and 448, produced or manufactured in Ukraine and exported from Ukraine on or after April 1, 1999. Products exported during the period April 1, 1999 through April 30, 1999 shall not be denied entry for lack of a visa. All products exported on or after May 1, 1999 must be accompanied by an appropriate export visa.

A description of the textile and apparel categories in terms of HTS numbers is available in the

**CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998).

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

A facsimile of the new visa stamp is on file at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., room 3104, Washington, DC.

**Troy H. Cribb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

### Committee for the Implementation of Textile Agreements

February 22, 1999.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Visa Arrangement dated July 22, 1998, between the Governments of the United States and Ukraine, you are directed to prohibit, effective on April 1, 1999, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 435, 442, 444 and 448, produced or manufactured in Ukraine and exported from Ukraine on or after April 1, 1999 for which the Government of Ukraine has not issued an appropriate export visa fully described below. Should additional categories, merged categories or part categories be added to the bilateral agreement or become subject to import quotas, the entire category or categories shall be automatically included in the coverage of the visa arrangement. Merchandise in the category(s) exported on or after the date the category(s) is added to the agreement or becomes subject to import quotas shall require a visa. Products exported during the period April 1, 1999 through April 30, 1999 shall not be denied entry for lack of an export visa. All products exported on or after May 1, 1999 must be accompanied by an appropriate export visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice or successor document. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp will include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (the code for the Ukraine is "UA"), and a six digit numerical serial number identifying the shipments; e.g., 9UA123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature and the printed name of the issuing official authorized by the Government of Ukraine.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule (HTS) of the United States, shall be reported in the spaces provided within the visa stamp (e.g., "Cat. 434-210 doz.").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment. For example, quota Category 347/348 may be visaed as "cat. 347/348" or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as "cat. 347" but not as "cat. 348." If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be a "cat. 340" visa for the shipment if it includes Category 340.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, printed name of signer, category, quantity or units of quantity are missing, incorrect, illegible or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged.

The complete name and address of a company(s) actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new correct visa or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of Ukraine. The waiver, if used, only waives the requirement to present a visa at entry. It does not waive the quota requirements. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If a shipment from Ukraine has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or visa waiver is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. \$800 or less do not require a visa for entry and shall not be charged to agreement levels.

A facsimile of the visa stamp is enclosed. The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,  
Troy H. Cribb,  
*Chairman, Committee for the Implementation of Textile Agreements.*  
[FR Doc. 99-4859 Filed 2-25-99; 8:45 am]  
BILLING CODE 3510-DR-F

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Extension of Two Class Tuition Waivers

**AGENCY:** DoD, DoD Dependent Schools.  
**ACTION:** Notice.

On December 15, 1998, the Acting Assistant Secretary of Defense for Force Management Policy (ASD(FMP)), signed a memorandum that extends through school year (SY) 2001-02, two class tuition waivers in certain DoD dependents' schools that would otherwise expire at the end of the SY 1998-99. The December 15, 1998, memorandum extends the tuition waiver signed on August 13, 1998, by the Acting ASD(FMP). The August 13, 1998, memorandum waived tuition for space-available enrollment: (1) for the class of children of military and diplomatic personnel participating in the Partnership for Peace (PfP) in Brussels, and Mons, Belgium; Naples, Italy; London, United Kingdom; and Brunssum, the Netherlands; and, (2) for the class of dependents of active diplomatic, defense attaché, and military liaison personnel for the Newly Independent States of the former Soviet Union.

**SUPPLEMENTARY INFORMATION:** DoD Directive 1342.13, "Eligibility Requirements for Education of Minor Dependents in Overseas Areas," dated July 2, 1982, is published at 32 CFR part 71. Copies are available, at <http://web7.whs.osd.mil/corres>. Questions can be addressed to the Department of Defense Education Activity, Attention: Dr. Jerald E. Bloom, 4040 North Fairfax Drive, Arlington, VA 22203-1635.

Dated: February 18, 1999.

**L.M. Bynum,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*  
[FR Doc. 99-4807 Filed 2-25-99; 8:45 am]  
BILLING CODE 5000-04-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Notice to amend system of records.

**SUMMARY:** The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on March 29, 1999, unless comments are received which result in a contrary determination.

**ADDRESSES:** Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060-5576.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806-4390 or DSN 656-4390.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 18, 1999.

**L.M. Bynum,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

#### A0195-4 USACIDC

##### SYSTEM NAME:

U.S. Army Criminal Investigation Fund Vouchers (*July 7, 1997, 62 FR 36268*).

##### CHANGES:

\* \* \* \* \*

##### RETRIEVABILITY:

Delete entry and replace with 'By individual's name at USACIDC subordinate elements; by voucher number at the four USACIDC Group/Region headquarters.'

\* \* \* \* \*

##### RETENTION AND DISPOSAL:

Delete entry and replace with 'Individual voucher, voucher register, subvoucher and supporting documents maintained at the USACIDC Group/Region headquarters are destroyed one year after inspection and clearance by Secretary of the Army; at other USACIDC subordinate elements, 1 year after inspection and clearance by the appropriate USACIDC Group/Region Comptroller. Automated data are erased after a hard copy of the register is produced. Disposal of paper records is by shredding or burning.'

\* \* \* \* \*

#### A0195-4 USACIDC

##### SYSTEM NAME:

U.S. Army Criminal Investigation Fund Vouchers.

##### SYSTEM LOCATION:

Headquarters, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

Segments of the system are located at U.S. Army Criminal Investigation Command subordinate elements; addresses for these may be obtained from the Headquarters, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special agents of U.S. Army Criminal Investigation Command (USACIDC) or military police investigator of U.S. Army who have made expenditures or have requested reimbursement from USACIDC limitation .0015 contingency funds.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, grade, reason for such expenditure, receipts (or certificates when receipts are unavailable), relevant documents.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 195-4, Use of Contingency Limitation .0015 Funds for Criminal Investigative Activities.

##### PURPOSE(S):

To maintain proper accounting of the USACIDC .0015 contingency funds.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may

specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders, computer magnetic tapes, and hard copy printouts.

**RETRIEVABILITY:**

By individual's name at USACIDC subordinate elements; by voucher number at the four USACIDC Group/Region headquarters.

**SAFEGUARDS:**

Access is limited to designated authorized individuals having official need for the information in the performance of their duties. Buildings housing records are protected by security guards.

**RETENTION AND DISPOSAL:**

Individual voucher, voucher register, subvoucher and supporting documents maintained at the USACIDC Group/Region headquarters are destroyed one year after inspection and clearance by Secretary of the Army; at other USACIDC subordinate elements, 1 year after inspection and clearance by the appropriate USACIDC Group/Region Comptroller. Automated data are erased after a hard copy of the register is produced. Disposal of paper records is by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, Headquarters, U.S. Army Criminal Investigation Command, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5506.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5585.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

**RECORD ACCESS PROCEDURES:**

Individual seeking access to information about themselves contained in this system should address written

inquiries to the Director, U.S. Army Crime Records Center, U.S. Army Criminal Investigation Command, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060-5585.

For verification purposes, individual should provide the full name, date and place of birth, current address, telephone numbers, and signature.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the individual, source, or the statement of third parties pertaining to the expenditure.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99-4808 Filed 2-25-99; 8:45 am]

BILLING CODE 5000-04-F

**DEPARTMENT OF DEFENSE**

**Department of the Army**

**Privacy Act of 1974; System of Records**

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Notice to Add a System of Records.

**SUMMARY:** The Department of the Army is adding a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on March 29, 1999 unless comments are received which result in a contrary determination.

**ADDRESSES:** Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060 5576.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Thornton at (703) 806-4390 or DSN 656-4390.

**SUPPLEMENTARY INFORMATION:** The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 16, 1999, to the

House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 24, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**A0600-8-22j TAPC**

**SYSTEM NAME:**

Cold War Recognition System.

**SYSTEM LOCATION:**

U.S. Army Information Systems Software Development Center-Washington, ATTN: CWRS, 6000 6th Street, Suite S122A, Fort Belvoir, VA 22060-5576.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Members of the Armed Forces and government civilian personnel who faithfully served the United States after World War II through the collapse of the former Soviet Union, known as the Cold War era, September 2, 1945 to December 26, 1991.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name, Social Security Number, and address.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3013, Secretary of the Army; FY98 National Defense Authorization Act, Section 1084; Army Regulation 600-8-22, Military Awards and E.O. 9397 (SSN).

**PURPOSE(S):**

To consider individual's request for the Cold War Recognition Certificate, and to issue/mail certificates.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

*In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:*

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETIRING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS.****STORAGE:**

Automated, maintained on magnetic tapes or disks.

**RETRIEVABILITY:**

By Social Security Number or certificate recipient's name.

**SAFEGUARDS:**

Records are accessible only to designated individuals having official need therefor in the performance of assigned duties.

**RETENTION AND DISPOSAL:**

Requests are held for 5 years.

**SYSTEM MANAGER AND ADDRESS:**

Chief, Personnel Service Support Division, The Adjutant General, Directorate, U.S. Total Army Personnel Command, 200 Stovall Street, Suite 3S53, Alexandria, VA 22332-0474.

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Information Systems Software Development Center-Washington, ATTN: Cold War Recognition System, ATTN: CWRS, 6000 6th Street, Suite S122A, Fort Belvoir, VA 22060-5576.

Individual should provide the full name and Social Security Number of the certificate recipient.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Information Systems Software Development Center-Washington, ATTN: Cold War Recognition System, ATTN: CWRS, 6000 6th Street, Suite S122A, Fort Belvoir, VA 22060-5576.

Individual should provide the full name and Social Security Number of the certificate recipient.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340 21; 32 CFR part 505; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the individual.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 99-4934 Filed 2-25-99; 8:45 am]

BILLING CODE 5000-04-F

**DEPARTMENT OF DEFENSE****Department of the Army; Corps of Engineers****Notice of Availability of Draft Environmental Impact Statement (EIS) for Proposed Open-Water Placement of Dredged Material at Site 104, Queen Anne's County, Maryland**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers, Baltimore District, is initiating a 45-day public review and comment period of the draft EIS for the Proposed Open-Water Placement of Dredged Material at Site 104, located in Queen Anne's County, Maryland. The EIS was prepared to (1) identify and evaluate the potential environmental impacts associated with the proposed project and (2) to develop a document for the public to use to participate in the District's decision making process. Specifically, the EIS identifies existing conditions, identifies any anticipated changed environmental conditions, re-examines previously collected data in light of new or updated methodologies, collects new environmental data, and evaluates alternatives to address the purpose and need of the project.

**FOR FURTHER INFORMATION CONTACT:**

Questions about the proposed action and the draft EIS can be addressed to Mr. Wesley E. Coleman Jr., Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-PL-P, P.O. Box 1715, Baltimore, Maryland 21203-1715, telephone (410) 962-4713 or 1-800-295-1610. E-mail address: wesley.e.coleman@usace.army.mil

**SUPPLEMENTARY INFORMATION**

1. The Maryland Port Administration (MPA) and the U.S. Army Corps of Engineers (USACE) are responsible for maintaining, through periodic dredging, the 126 miles of Federal navigation channels that serve the Port of Baltimore. Continued maintenance dredging is required to ensure the efficiency and safety of the approach channels to the Port of Baltimore. Maintenance dredging of the Chesapeake Bay approach channels requires the removal of approximately 3.5 million cubic yards (mcy) of

material per year, excluding material from the Virginia channels, Baltimore Harbor channels, and additional channels north of the Sassafraz River that are dredged by Philadelphia District (CENAP). Several new-work dredging projects are currently proposed to improve navigation safety and efficiency for the Chesapeake Bay approach channels over the next several years. These new-work projects would require the removal of an additional 18 mcy of dredged material from the Chesapeake Bay approach channels over that time period. The Baltimore District is evaluating Site 104 as a potential open-water placement area for this maintenance and new work material. Therefore, the U.S. Army Corps of Engineers, Baltimore District, is now preparing an Environmental Impact Statement (EIS) for the Proposed Open-Water Placement of Dredged Material at Site 104, Queen Anne's County, Maryland.

2. In accordance with the National Environmental Policy Act (NEPA), the Corps of Engineers, Baltimore District, is initiating a 45-day public review and comment period for the draft EIS for the Proposed Open-Water Placement of Dredged Material at Site 104, located in Queen Anne's County, Maryland. Site 104 is a previously used 1,800-acre open-water placement site located approximately 2,000 feet north of the Chesapeake Bay Bridge, east of the navigational channel, and 1 mile west of Kent Island. Site 104 was established in 1924 by the U.S. Army Corps of Engineers, and was used for the placement of dredged material through 1975. Currently, the site is approximately 6.8 km (4.2 miles) long and 1.1 km (0.65 miles) wide. The depth ranges from -12.8 to -23.3 meters (-42 to -76 feet) mean lower low water (MLLW). If a decision is made to use Site 104, placement would be restricted to areas deeper than the -14 meter (-45 foot) contour interval to achieve a final site elevation of approximately -14 meters (-45 feet) MLLW. Placement would occur only between October 15 through April 15, thus avoiding the most sensitive periods for most natural resources of concern in the area and minimizing nutrient and water quality impacts. Two potential types of placement are proposed for the site: bottom release scow of mechanically dredged materials or controlled bottom pipeline placement of hydraulically rehandled dredged materials.

3. Studies to date indicate that open-water placement of dredged material at Site 104 would have both negative and positive environmental impacts. The

majority of negative effects are short-term, temporary, and of minimal environmental significance. The positive effects and overall benefits of the project are expected to be long-term. The Proposed Action is not expected to adversely impact setting, geology, hydrology, groundwater, sediment quality, SAV, terrestrial or avian resources, cultural resources or archaeological resources in the region. Nor will the proposed project involve the use, storage or transport of hazardous, toxic or radioactive materials during or after placement. Although some short-term adverse impacts are anticipated for water quality, aquatic resources, air quality, noise, socioeconomics, aesthetics, and recreational resources, adverse cumulative impacts to these resources are not expected. The proposed action is in full compliance with NEPA regulation 40 CFR 1500-1508, Corps of Engineers Regulation 200-2-2, the Endangered Species Act, the Clean Water Act, and all other applicable laws and regulations.

4. Any person who has an interest in the project is asked to provide comments within 45 days of the date of publication of this notice to the address in the following paragraph. Written comments should be submitted by Monday, April 12, 1999. Comments must clearly set forth the interest that may be affected by this proposed action and the manner in which the interest may be affected.

5. Individuals who want to review the draft EIS may examine a copy at any of the following locations:

Queen Anne's County Free Library, 121 South Commerce Street, Centreville, Maryland 21617.

Queen Anne's County Free Library, 200 Library Circle, Stevensville, Maryland 21666.

Kent County Public Library, 408 High Street, Chestertown, Maryland 21620.

Anne Arundel County Public Library, North County Branch, 1010 Eastway Drive, Glen Burnie, Maryland 21060.

Frederick Douglas Library, University of Maryland, Eastern Shore, Princess Anne, Maryland 21853-1299.

Miller Library, Washington College, 300 Washington Avenue, Chestertown, Maryland 21620.

The document has also been distributed to Federal, state, and local regulatory agencies, known interested organizations, and those individuals who have requested it. Individuals may obtain a copy of the document by writing to the U.S. Army Corps of Engineers, Baltimore District, ATTN: CENAB-PL-P (Mr. Wesley E. Coleman

Jr.), P.O. Box 1715, Baltimore, MD 21203-1715, or by telephone at (410) 962-4713 or 1-800-295-1610. Written comments or inquiries may also be sent by fax to Mr. Coleman at (410) 962-4698 or by electronic mail to cenab-pl-p@usace.army.mil. The EIS is also available on the Baltimore District's Internet website as an Adobe Acrobat file at [www.nab.usace.army.mil](http://www.nab.usace.army.mil).

6. A Public Workshop to enable interested persons to learn about the proposed project and to ask questions of technical experts is scheduled for Thursday, March 11, 1999, from 12:00 noon to 8:00 p.m. at Queen Anne's County Free Library, Kent Island Branch, 200 Library Circle, Stevensville, Maryland. Formal Public Hearings to receive comments from the public on the draft EIS are scheduled in three locations:

March 22, 1999 at 7:00 p.m., Kent Island High School, 900 Love Point Road, Stevensville, Maryland.

March 25, 1999 at 7:00 p.m., Kent County High School, 25301 Lambs Meadow Road, Worton, Maryland.

March 30, 1999 at 7:00 p.m., Annapolis Senior High School, 2700 Riva Road, Annapolis, Maryland.

The purpose of these hearings will be to record public comments only; those who have questions about the project should plan to attend the Public Workshop described above or contact Mr. Wesley Coleman, at (410) 962-4713 or 1-800-295-1610.

**Robert F. Gore,**

*Acting Chief, Planning Division.*

[FR Doc. 99-4731 Filed 2-25-99; 8:45 am]

BILLING CODE 3710-41-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Chief of Naval Operations (CNO) Executive Panel

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of Meeting.

**SUMMARY:** The CNO Executive Panel is to conduct the mid-term briefing of the Space and Information Warfare Task Force to the Chief of Naval Operations. This meeting will consist of discussions relating to proposed Navy involvement in Space and Information Warfare.

**DATES:** The meeting will be held on March 23, 1999, from 1:30 p.m. to 2:30 p.m.

**ADDRESSES:** The meeting will be held at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350-2000.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Christopher Agan, CNO Executive Panel, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302-0268, telephone number (703) 681-6205.

**SUPPLEMENTARY INFORMATION:** This notice of meeting is provided pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of this meeting is to conduct the mid-term briefing of the Space and Information Warfare Task Force to the Chief of Naval Operations. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1).

Dated: February 18, 1999.

**Pamela A. Holden,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 99-4775 Filed 2-25-99; 8:45 am]

BILLING CODE 3810-FF-P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Information Collection Requests.

**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 4, 1999. The regular collection will be submitted through the discretionary streamlined process (1890-0001). Interested persons are invited to submit comments on or before April 27, 1999.

**ADDRESSES:** Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs,

Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Comments regarding the regular clearance and requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202-4651, or should be electronically mailed to the internet address [Pat.Sherrill@ed.gov](mailto:Pat.Sherrill@ed.gov), or should be faxed to 202-708-9346.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will

this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: February 22, 1999.

**William E. Burrow,**

*Acting Leader, Information Management Group, Office of the Chief Information Officer.*

**Office of Elementary and Secondary Education**

*Type of Review:* New.

*Title:* Applications for Grants Under the Reading Excellence Act.

*Abstract:* This application will be used to award grants to State educational agencies for the purpose of providing reading improvement and family literacy programs.

*Additional Information:* The Department of Education cannot comply with the normal clearance procedures because such compliance is likely to result in funds not being awarded in a timely manner. Failure to make awards will cause approximately \$241 million of the Reading Excellence Act appropriations to lapse.

*Frequency:* Annually.

*Affected Public:* State, local or Tribal Gov't; SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 22.

Burden Hours: 880.

[FR Doc. 99-4795 Filed 2-25-99; 8:45 am]

BILLING CODE 4000-01-P

**DEPARTMENT OF EDUCATION**

**Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before April 27, 1999.

**ADDRESSES:** Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C.

20202-4651, or should be electronically mailed to the internet address [Pat.Sherrill@ed.gov](mailto:Pat.Sherrill@ed.gov), or should be faxed to 202-708-9346.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 22, 1999.

**William E. Burrow,**

*Acting Leader, Information Management Group, Office of the Chief Information Officer.*

*Office of Student Financial Assistance Programs*

*Type of Review:* New.

*Title:* Enterprise Gateway System.

*Frequency:* On occasion.

*Reporting and Recordkeeping Hour Burden:*

Responses: 8,870

Burden Hours: 2,916

**Abstract:** The Title IV Enterprise Gateway System Enrollment Form will be used by postsecondary institutions, third-party, software providers, lenders, guaranty agencies, and state scholarship programs. This will allow participants to have electronic access, to receive and transmit, view and update student financial aid data. The Department will use this information on the enrollment form to assign customers a Title IV WAN ID and associate Title IV services selected by the customer.

Customers will still be able to use the same ED connect software and hardware that is facilitating the present Title IV WAN after the conversion is made to the Enterprise Gateway System.

[FR Doc. 99-4796 Filed 2-25-99; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 29, 1999.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202-4651, or

should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202-708-9346.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 22, 1999.

**William E. Burrow,**

*Acting Leader, Information Management Group, Office of the Chief Information Officer.*

*Office of Special Education and Rehabilitative Services*

*Type of Review:* Reinstatement.

*Title:* A Longitudinal Study of the Vocational Rehabilitation (VR) Service Program.

*Frequency:* Annually for three years.

*Affected Public:* Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 8,000

Burden Hours: 2,752

**Abstract:** P.L. 102-569 requires that the Rehabilitation Services

Administration continue to conduct a longitudinal study of the short and long-term effects of the VR service program. This evaluation will evaluate the effects of VR program services on the economic and noneconomic outcomes of VR clients, through surveys of a sample of VR office personnel, and through longitudinal data collection from and about a sample of VR applicants and consumers during and after VR services.

[FR Doc. 99-4797 Filed 2-25-99; 8:45 am]

BILLING CODE 4000-01-U

## DEPARTMENT OF ENERGY

### Availability of the Draft Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico

**AGENCY:** Department of Energy.

**ACTION:** Notice of availability and public hearings.

**SUMMARY:** The Department of Energy (DOE) announces the availability of the Draft Environmental Impact Statement (EIS) for the Conveyance and Transfer (CT) of Certain Land Tracts Administered by the Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico (CT EIS), DOE/EIS-0293, for public review and comment. The CT EIS provides DOE and its stakeholders an analysis of the environmental impacts that could result from DOE's conveyance or transfer of up to approximately 4,800 acres of land located in north-central New Mexico to either the Incorporated County of Los Alamos or to the Secretary of the Interior, in trust for the San Ildefonso Pueblo.

**DATES:** Written comments on the Draft CT EIS are invited from the public and may be submitted through the end of the comment period, which is April 12, 1999 (see **ADDRESSES** section for more details). Comments must be postmarked by April 12, 1999, to ensure consideration; late comments will be considered to the extent practicable. The DOE will use the comments received to help prepare the Final CT EIS. Public hearings on the Draft CT EIS will be held as follows:

March 24, 1999 (Wednesday), 2 pm-5 pm and 6 pm-9 pm, Cities of Gold Hotel, Pojoaque, New Mexico.

March 25, 1999 (Thursday), 2 pm-5 pm and 6 pm-9 pm, Fuller Lodge, Los Alamos, New Mexico.

The hearings will provide opportunities for information exchange and discussion among DOE and the public, as well as opportunities for the public to present oral or written comments. For more information on the public hearing call (800) 791-2280.

**ADDRESSES:** Comments may be submitted in writing or orally to DOE by contacting: Ms. Elizabeth Withers, CT EIS Document Manager, U.S. DOE, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544; by leaving a message at (800) 791-2280; by faxing (505) 665-4872; or by electronic mail at [cteis@doeal.gov](mailto:cteis@doeal.gov). Oral and written comments may also be submitted at the public hearings described above in the DATES section. Requests for copies of the Draft CT EIS or other matters regarding this environmental review should be addressed to Ms. Withers at the address above. The Draft CT EIS will be available under the NEPA Analysis Module of the DOE NEPA Web Site at <http://tis.eh.doe.gov/nepa/>.

**FOR FURTHER INFORMATION CONTACT:** For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH-42, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. Ms. Borgstrom may be contacted by calling (202) 586-4600 or by leaving a message at (800) 472-2756.

**SUPPLEMENTARY INFORMATION:** The Draft CT EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality NEPA regulations (40 CFR part 1500) and the DOE NEPA regulations (10 CFR part 1021).

DOE proposes to dispose of land that is not needed to support DOE's national security mission and that can be environmentally remediated or restored before November 26, 2007, by either conveyance to the Incorporated County of Los Alamos, or by transfer to the Secretary of the Interior, in trust for the San Ildefonso Pueblo, in accordance with section 632 of Public Law 105-119, enacted on November 26, 1997. Criteria established by Public Law 105-119 for determining if land is suitable for conveyance or transfer includes the requirement that the land be suitable for use by the named recipients for the purposes of environmental, historic or cultural preservation, economic diversification purposes, or community self-sufficiency purposes.

The DOE has analyzed two alternatives: (1) The No Action Alternative and (2) the Conveyance and Transfer of Each Tract Alternative (the

Proposed Action). Under the No Action Alternative, DOE would continue its historical use of each of the land tracts identified as potentially being suitable for conveyance and transfer. Under the Conveyance and Transfer of Each Tract Alternative, the conveyance or transfer of each tract identified as suitable is considered, either in whole or in part, to either Los Alamos County or their designee, or the Secretary of the Interior in trust for the San Ildefonso Pueblo. DOE's Preferred Alternative is a subset of the Proposed Action Alternative, namely to convey or transfer several of the tracts of land entirely and several tracts in part (portions without potential contamination issues or mission support concerns). Environmental restoration activities would continue under current or future plans for the tracts that require such action and will include coordination with the State of New Mexico and public involvement.

The Draft CT EIS compares the environmental impacts that could be expected to occur from continuing to use the subject tracts of land as currently planned for the next 10 years with the direct consequences expected from conveying or transferring suitable tracts, in whole or in part, to the recipients named in Public Law 105-119, together with the indirect consequences expected from the subsequent development and use of the tracts by the receiving parties. A wetland/floodplains assessment is included as an appendix to the EIS. A range of cost estimates for clean up of each tract is provided in a separate Environmental Restoration Report prepared to support the CT EIS and can be obtained by contacting Ms. Elizabeth Withers as indicated in the **ADDRESSES** section above.

DOE has distributed copies of the Draft CT EIS to appropriate Congressional members and committees, the State of New Mexico, American Indian tribal and pueblo governments, local county governments, other Federal agencies, and other interested parties. After the public comment period, which ends April 12, 1999, DOE will consider the comments received, revise the Draft CT EIS, and issue a Final CT EIS. DOE will consider the Final CT EIS, along with other considerations such as economic and technical considerations, in deciding the action it will take regarding the conveyance and transfer of the subject tracts.

Issued in Washington, DC, on February 22, 1999.

**John C. Ordaz,**

*Program Manager, CT EIS, Defense Programs.*

[FR Doc. 99-4844 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Notice of Floodplain/Wetland Involvement; Construction and Operation of The 8 GeV Fixed Target Facility at The Fermilab Booster and The Booster Neutrino Detectors at Fermi National Accelerator Laboratory (Fermilab), Batavia, Illinois

**AGENCY:** Chicago Operations Office, DOE.

**ACTION:** Notice.

**SUMMARY:** DOE proposes to construct an 8 GeV Fixed Target Facility at the Fermilab Booster and the Booster Neutrino Detectors at Fermi National Accelerator Laboratory (Fermilab). The 8 GeV Fixed Target Facility would be located within a small area of existing wetland/floodplain at the point where Indian Creek crosses over the proposed beamline enclosure within the western portion of the Fermilab site which is located in Kane County, Illinois. The detectors would be constructed outside of, and have no impact on, floodplain or wetland.

In accordance with DOE Regulations for *Compliance with Floodplains/Wetlands Environmental Review Requirements* (10 CFR part 1022), DOE will prepare a floodplain/wetland assessment and will perform this proposed action in a manner which avoids or minimizes potential harm to the affected floodplain/wetland.

A summary of the floodplain/wetland assessment will be included in the Environmental Assessment (EA-1267) prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. Should the evaluation of environmental impacts in the EA support a finding of no significant impact (FONSI), the floodplain/wetland statement of findings shall be included. In the event an environmental impact statement (EIS) is needed, the floodplain/wetland statement of findings will be contained in the record of decision (ROD).

**DATES:** Comments are due to the address below on or before March 12, 1999.

**ADDRESSES:** Comments should be addressed to Robert C. Wunderlich, Acting Manager, Fermi Group, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510.

**FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT:** Robert C. Wunderlich, Acting Manager, Fermi Group, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510, Phone: (630) 840-3281, Fax: (630) 840-3285.

**FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT:** Dr. W. Sedgfield White, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, Phone: (630) 252-2101, Fax: (630) 252-2835.

**SUPPLEMENTARY INFORMATION:** The major part of the proposed action would be outside of the 100-year floodplain or jurisdictional wetland; however, the beamline enclosure would cross under Indian Creek at the edge of a floodplain/wetland. Construction of the beamline enclosure underground would require temporary diversion of the creek. The design of the creek diversion will keep the floodplain area well removed from the 8 GeV Fixed Target Facility.

The impacted wetland was delineated and described by qualified experts for an earlier project proposed for this general area (DOE/EA 1198, Neutrino Beams at the Main Injector Project). Since construction of that project involved tunneling far beneath the wetland, the wetland assessment identified no potential for construction impacts on the wetland. However, construction of the underground beamline for the 8 GeV Fixed Target Facility would be performed with excavation, not tunneling, techniques, and would require temporary diversion of Indian Creek. Therefore, the effects of this proposed action on the jurisdictional wetlands must be assessed, and measures must be analyzed which can avoid or mitigate impacts to wetland habitats, in accordance with Federal and State regulations. Consultation with the Illinois Environmental Protection Agency, the Illinois Office of Water Resources, and the U.S. Army Corps of Engineers also will be initiated to determine requirements for the permits prior to starting the project.

Issued in Argonne, Illinois on 18th day of February 1999.

**John P. Kennedy,**

*Acting Manager, Chicago Operations Office.*  
[FR Doc. 99-4847 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL). The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, March 16, 1999, 8 a.m.—6 p.m.; Wednesday, March 17, 1999, 8 a.m.—5 p.m.

There will be public comment sessions following presentations on Tuesday, March 16, 1999 from 4:30 p.m. to 5 p.m., and on Wednesday, March 17, 1999, from 4 p.m. to 4:15 p.m. Additional time may be made available for public comment during the presentations. These times are subject to change as the meeting progresses, depending on the extent of comment offered. Please check with the meeting facilitator to confirm these times.

**ADDRESSES:** The Miles & Virginia Willard Fine Arts Center, 498 A Street, Idaho Falls, Idaho 83401.

**FOR FURTHER INFORMATION CONTACT:** Ms. Wendy Green Lowe, INEEL Board Facilitator, Jason Associates Corp. (208-522-1662) or visit the Board's Internet homepage at <http://www.ida.net/users/cab>. You may also contact Mr. Charles Rice, INEEL Board Chair, c/o Jason Associates Corporation.

#### SUPPLEMENTARY INFORMATION:

#### Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:* The EM SSAB, INEEL will receive presentations on contamination at the Power Burst Facility/Auxiliary Reactor Area (Waste Area Group 5), the results of the Remedial Investigation/Feasibility Study, and a review of the Proposed Plan; the implications to INEEL resulting from the Nevada Test Site Plutonium Migration Report; cost estimating for remediation at INEEL and how costs are presented in proposed plans; and laboratory directed research and development and the University Research Consortium. Discussions will

be held on the DOE-Idaho management transition including the introduction of Acting Manager, Warren Bergholz; the Millennium Grant and DOE-Idaho's options for using it for the Experimental Breeder Reactor-I, and the strategy for pursuing development of a space port in Idaho. Status reports will be given on the High-Level Waste and Facilities Disposition Environmental Impact Statement; the Advanced Mixed-Waste Treatment Project; Pit 9 and Waste Area Group 7 (Radioactive Waste Management Complex); the recently discovered inadvertent destruction of records; and the recent Waste Management Programmatic Environmental Impact Statement. The INEEL Board will finalize its recommendation on DOE-Idaho's planned Fiscal Year 2001 Budget Request. For a most current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526-0561, or Wendy Green Lowe, Jason Associates Corp., (208) 522-1662. Agenda topics may change up to the day of the meeting. Please contact Jason Associates for the most current agenda or visit the board's Internet site. The final agenda will be available at the meeting.

#### Public Participation

The two-day meeting is open to the public, with public comment sessions scheduled for Tuesday and Wednesday, March 16 and 17, 1999. The Board will be available during these time periods to hear verbal public comments or to review any written public comments. If there are members of the public wishing to comment or no written comments to review, the board will continue with its current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the INEEL Information line or Wendy Green Lowe, Jason Associates Corp., at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. Gerald Bowman, the Designated Federal Officer and Assistant Manager for Laboratory Development, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

**Minutes:** The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9

a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL Citizens' Advisory Board Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling Wendy Green Lowe, the Board Facilitator, at (208) 522-1662.

Issued at Washington, DC on February 22, 1999.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99-4843 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board Notice of Open Meeting

**AGENCY:** Department of Energy.

**SUMMARY:** Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board—Laboratory Operations Board Date and Time: Thursday, March 11, 1999, 12:30 p.m.–4:30 p.m. Place: The Sphinx Club at Almas Temple, Oasis Room, 1315 K Street, NW, Washington DC.

**FOR FURTHER INFORMATION CONTACT:**

Richard C. Burrow, Secretary of Energy Advisory Board (AB-1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-1709.

**SUPPLEMENTARY INFORMATION:** The purpose of the Laboratory Operations Board is to provide advice to the Secretary of Energy Advisory Board regarding the strategic direction of the Department's laboratories, the coordination of budget and policy issues affecting laboratory operations, and the reduction of unnecessary and counterproductive management burdens on the laboratories. The Laboratory Operations Board's goal is to facilitate the productive and cost-effective utilization of the Department's laboratory system and the application of best business practices.

#### Tentative Agenda

*Thursday, March 11, 1999*

12:30–12:45 P.M. Opening Remarks—  
Co-Chairs: E. Moniz & J. McTague  
12:45–1:45 P.M. Review of Laboratory  
Profile Report  
1:45–2:15 P.M. Presentation of 1998  
Metrics Data  
2:15–3:15 P.M. Roadmap and Portfolio  
Analysis Presentation

3:15–4:15 P.M. Presentation of Case  
Studies and Discussion of External  
Members Report on Laboratory  
Management Structure and  
Governance

4:15–4:30 P.M. Public Comment  
Period 4:30 P.M. Adjourn

This tentative agenda is subject to change. A final agenda will be available at the meeting.

**Public Participation:** The Chairman of the Laboratory Operations Board is empowered to conduct the meeting in a way which will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, DC, the Laboratory Operations Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Laboratory Operations Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB-1, US Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

**Minutes:** Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Information on the Laboratory Operations Board may also be found at the Secretary of Energy Advisory Board's web site, located at <http://www.hr.doe.gov/seab>.

Issued at Washington, DC, on February 22, 1999.

**Jim Solit,**

*Advisory Committee Management Officer.*

[FR Doc. 99-4846 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Notice of Competitive Financial Assistance for the Office of Energy Efficiency and Renewable Energy

**AGENCY:** Department of Energy.

**ACTION:** Notice of Amendment to Competitive Financial Assistance Solicitation.

**SUMMARY:** On December 3, 1998, the Department of Energy issued a notice which announced a competitive solicitation for applications for grants and cooperative agreements for information dissemination, public outreach, training, and related technical

analysis activities involving renewable energy and energy efficiency. The solicitation had two closing dates—January 8, 1999 and March 31, 1999.

The purpose of this announcement is to: (1) Extend the second closing date until April 16, 1999; (2) announce new Program Areas of Interest for competition, which were not contained in the December 3 solicitation; (3) identify Program Areas of Interest contained in the December 3 solicitation (Attachment A) which are being cancelled for the second closing date because funds are expected to be exhausted under the first round of awards; (4) modify certain Program Areas of Interest; and (5) indicate that certain technical amendments will be made to the solicitation. It is estimated that funding of up to \$1 million will be available under renewable energy programs and up to \$1 million will be available under energy conservation programs for awards for project funding in FY 1999 and FY 2000. The anticipated project periods are from six months to three years, and awards are expected by July 1999. Proposals received in response to this solicitation will be subjected to the objective merit review procedures for the Office of Energy Efficiency and Renewable Energy.

**ADDRESSES:** The formal amendment to the solicitation is expected to be issued by early March 1999. It will be available as solicitation number DE-PS01-99EE10649 through the Department of Energy's Business Opportunities at Headquarters Procurement Services Homepage located at [www.pr.doe.gov/solicit.html](http://www.pr.doe.gov/solicit.html). Interested applicants that do not have Internet access may request a copy of the solicitation by sending a request with a virus-free diskette and self-addressed, stamped, a diskette mailer to U.S. Department of Energy, Office of Headquarters Procurement Services, Attn.: Document Control Specialist, MA-543, 1000 Independence Ave., SW., Washington, DC 20585-0121.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Jacqueline Kniskern, MA-542, Office of Headquarters Procurement Services, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0121, facsimile number (202) 426-0168, e-mail at [jacqueline.kniskern@hq.doe.gov](mailto:jacqueline.kniskern@hq.doe.gov). E-mail is the preferred method for submission of comments and/or questions.

**SUPPLEMENTARY INFORMATION:** The Office of Energy Efficiency and Renewable Energy supports the Department of Energy's strategic objectives of increasing the efficiency and

productivity of energy use, while limiting environmental impacts; reducing the vulnerability of the U.S. economy to disruptions in energy supplies; ensuring that a competitive electric utility industry is in place that can deliver adequate and affordable supplies with reduced environmental impacts; supporting U.S. energy, environmental, and economic interests in global markets; and delivering leading-edge technologies. A key component of this program is the support of information dissemination, public outreach, training and related technical analysis and assistance activities to: (1) Stimulate increased energy efficiency in transportation, buildings, and industry and increased use of renewable and alternative energy; and (2) accelerate the adoption of new technologies to increase energy and the use of renewable and alternative energy. The purpose of this solicitation (as amended) is to further these objectives through financial assistance in the following areas:

**Office of Power Technologies**—The primary mission of this Office is to lead the national effort to develop solar and other renewable energy technologies and to accelerate their acceptance and use on a national and international level. The Office also develops advanced high temperature superconducting power equipment and energy storage systems, addresses advanced technology needs for transmission and distribution systems, and provides information and technical assistance on electric utility restructuring. Program Areas of Interest 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, 1J, and 1K are cancelled for the second closing date. Financial assistance applications will be accepted for Program Area of Interest 1L, "Utility Sector: Co-Sponsorship of Conferences." Applications also will be accepted for an amended Program Area of Interest 1A, which will be focused on public outreach involving distributed power.

**Office of Industrial Technologies**—Due to the large volume of applications received during the first round, applications will not be accepted in Program Areas of Interest 2A, 2B, 2C, 2D, 2E, 2F, and 2G.

**Office of Transportation Technologies**—During this round of applications, proposals will not be accepted for Program Areas of Interest 3A, 3B, and 3C. A limited amount of funding will be competed to support projects in Program Area of Interest 3D, "Training Programs for Local Clean Cities Coalitions and Alternative Fuels Curriculum Development."

**Office of Building Technology, State and Community Programs**—Due to the large volume of applications received during the first round, applications will not be accepted in Program Area of Interest 4.

**Federal Energy Management Program**—The mission of this Program is to assist agencies in achieving the Federal energy management goals and to disseminate information to States, local governments, and the public on innovative approaches to the use of energy. During this round of applications, proposals will not be accepted for Program Areas of Interest 5A and 5C. However, financial assistance applications will be requested for a revised Program Area of Interest 5B, the "Product Energy Efficiency Information." In addition, proposals will be requested for two new areas: (1) "Information Dissemination and Technical Analysis on Federal Mobile Equipment Energy Efficiency Potential; and (2) "Information Dissemination and Outreach to the Federal Sector."

The Office of the Assistant Secretary for Energy Efficiency and Renewable Energy has overall management responsibility for the entire Office of Energy Efficiency and Renewable Energy. Due to the large number of applications in the first round, proposals will not be accepted for Program Area of Interest 6A. Financial assistance applications will be requested to support information dissemination, outreach, and training involving international energy efficiency and renewable energy efforts (Program Area of Interest 6B). However, funds available will be reduced substantially, and this Area of Interest will be modified to focus on region-wide activities in Africa, South Asia, and Latin America.

In addition, a new Program Area of Interest will be added for technical assistance under the Million Solar Roofs Initiative for national efforts to remove barriers to the use of solar energy systems. Applications will be requested for activities that address the barriers and opportunities in the following areas: (1) Residential and commercial codes and covenants that restrict the use of solar energy on buildings; (2) financing solar energy systems on residential and commercial buildings; (3) interconnection of photovoltaic systems to the utility grid; and (4) solar energy information materials.

Additional information about the programs of the Office of Energy Efficiency and Renewable Energy can be obtained at the Office's Internet site at [www.eren.gov/ee.html](http://www.eren.gov/ee.html).

Issued in Washington, DC, on February 22, 1999.

**Carol M. Rueter,**

*Acting Director, Program Services Division,  
Office of Headquarters Procurement Services.*  
[FR Doc. 99-4848 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Golden Field Office; Submission of Financial Applications; Small Wind Turbines

**AGENCY:** The Department of Energy (DOE).

**ACTION:** Field Verification Program for Small Wind Turbines: Supplemental Announcement (10) to the Broad Based Solicitation for Submission of Financial Assistance Applications Involving Research, Development, and Demonstration for Renewable Energy and Energy Efficiency Technologies, DE-PS36-99GO10383.

**SUMMARY:** The Wind Energy Systems Program of the Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE) is issuing this Supplemental Announcement to the EERE Broad Based Solicitation for Submission of Financial Assistance Applications Involving Research, Development and Demonstration, DE-PS36-99GO10383, dated November 9, 1998.

Under this Supplemental Announcement, the Wind Energy Systems Program is soliciting applications seeking DOE cost sharing and technical support for projects to install from one to ten wind turbines, each turbine from 300 watts to 100 kilowatts in size, in a variety of distributed power applications. Applications include, but are not limited to, the use of wind power for grid-connected or off-grid electric generation, water pumping, ice-making, water purification, or desalination. The scope of work includes turbine installation and operation/performance verification, including an initial turbine test program at the National Renewable Energy Laboratory (NREL). Any type of for-profit, non-profit, or a non-Federal governmental organization (other than a DOE national laboratory) that is capable of fulfilling the scope of work specified in this Supplemental Announcement is eligible for an award.

Awards under this Supplemental Announcement will be Cooperative Agreements with a term of up to 36 months. Subject to availability, it is

anticipated that the total DOE funding available under this Supplemental Announcement will be \$1,300,000, and that 5 to 10 applications will be selected for award. If available funding is insufficient for making awards to all competitive applications, Applicants may be notified of the intent to make an award if funding becomes available in the future.

Cost sharing from non-Federal funding of a minimum of 20%, with a target of 50% (based on total project cost), is required for any awards under this Supplemental Announcement.

All information regarding the Supplemental Announcement will be posted on the DOE Golden Field Office Home page at the address identified below.

**DATES:** DOE expects to issue the Supplemental Announcement on February 18, 1999. The closing date of the Supplemental Announcement is March 30, 1999.

**ADDRESSES:** The Supplemental Announcement will be posted on the DOE Golden Field Office Home Page at <http://www.eren.doe.gov/golden/solicit.htm>. It is DOE's intention not to issue hard copies of the Supplemental Announcement.

**FOR FURTHER INFORMATION CONTACT:** John Motz, Contract Specialist, at 303-275-4737, e-mail [john\\_motz@nrel.gov](mailto:john_motz@nrel.gov), or Doug Hooker, Project Officer, at 303-275-4780, e-mail [doug\\_hooker@nrel.gov](mailto:doug_hooker@nrel.gov).

Issued in Golden, Colorado, on February 17, 1999.

**Matthew A. Barron,**

*Acting Chief of Procurement, Golden Field Office.*

[FR Doc. 99-4845 Filed 2-25-99; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP99-212-000]

#### Columbia Gas Transmission Corporation; Notice of Request under Blanket Authorization

February 22, 1999.

Take notice that on February 12, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030 filed in Docket No. CP99-212-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205, 157.212) is seeking NGA Section 7 certification for an existing point of

delivery in Gilmer County, West Virginia under Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with Commission and open to public inspection. This application may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Columbia requests certification for the existing Natural Gas Policy Act Section 311 point of delivery so it can provide both part 284, Subpart B, and Subpart G transportation. The existing point of delivery for which Columbia requests NGA certification under Sections 157.205 and 157.212 is for Eastern Marketing. The maximum daily quantity is 1,500 Dth, the annual quantity is 547,500 Dth and the end use of gas is industrial. The transportation service to be provided through the existing point of delivery would be firm service provided under Columbia's Rate Schedule, Firm Transportation Service.

Columbia constructed the existing point of delivery to Eastern Marketing in Gilmer County, West Virginia, which was placed in service on August 20, 1997. The cost of constructing the existing point of delivery was \$39,000. Facilities installed by Columbia included a tap, meter, structure, and a filter separator.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-4785 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP99-215-000]

#### Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

February 22, 1999.

Take notice that on February 16, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030, filed in Docket No. CP99-215-000 a request pursuant to Sections 157.205, and 157.222, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization for NGA Section 7 certification for an existing point of delivery to Ohio Cumberland Gas Company in Knox County, Ohio, under Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This application may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Columbia requests certification to provide this service at an existing point of delivery which was originally authorized under Section 311 of the Natural Gas Policy Act. Columbia states that the facilities included a tap and electronic measurement and that the cost to construct the point of delivery was \$7,300. Columbia states that the quantities of gas to be provided through the point of delivery is 1,500 Dth maximum daily quantity and is estimated at 547,500 Dth annually.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4786 Filed 2-25-99; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP98-404-002]

#### Mississippi River Transmission Corporation; Notice of Motion for Reconsideration

February 22, 1999.

Take notice that on January 22, 1999, the Missouri Public Service Commission (MoPSC), tendered for filing a motion for reconsideration of the Director's December 22, 1998, letter order in this proceeding. Although MoPSC styled its filing as a request for rehearing, the filing was not made within the required 30 days of the date of order issuance. Accordingly, the filing will be treated as a motion for reconsideration rather than a request for rehearing.

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4806 Filed 2-25-99; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP99-211-000]

#### USG Pipeline Company; Notice of Application

February 22, 1999.

Take notice that on February 12, 1999, USG Pipeline Company (USGPC), P.O. Box 806278, 125 South Franklin Street, Chicago, Illinois 60680, filed an application for a Part 284, Subpart G, blanket certificate of public convenience and necessity to authorize USGPC to transport natural gas on behalf of others on its pipeline and request for various waivers of Commission regulations and policies. The filing was submitted pursuant to a requirement contained in the Commission's October 17, 1997 certificate order (81 FERC ¶ 61,039), all as more fully set forth in the application on file with the Commission and open to public inspection. This application may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

USGPC states that it seeks Commission authorization to provide

open access transportation service on its newly constructed interstate pipeline in Marion County, Tennessee, and Jackson County, Alabama.

USGPC requests waiver from portions of the Commission's Regulations Part 284 (specifically, Sections 284.7(c)(6), 284.8(b)(3), 284.9(b)(3), 284.10, 284.12 and 284.106), Part 161, and Section 250.16 requiring, respectively, that an interstate pipeline (a) maintain an Electronic Bulletin Board, (b) comply with the Standards for Business Practices promulgated by the Gas Industry Standards Board, and (c) comply with various restrictions applicable to marketing affiliates. In addition, USGPC requests any other waivers that may be needed to implement the proposed tariff accompanying this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for USGPC to appear or be represented at the hearing.

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4784 Filed 2-25-99; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EC99-35-000, et al.]

#### Cinergy Capital & Trading, Inc., et al.; Electric Rate and Corporate Regulation Filings

February 18, 1999.

Take notice that the following filings have been made with the Commission:

##### 1. Cinergy Capital & Trading, Inc.

[Docket No. EC99-35-000]

Take notice that on February 10, 1999, Cinergy Capital & Trading, Inc. (Cinergy Trading) tendered for filing an application pursuant to Section 203 of the Federal Power Act for authorization of a transaction whereby 1999 CinPower Trust (CinPower) will acquire 90 percent of the ownership interest in CinCap V, LLC (CinCap V) from Cinergy Trading.

*Comment date:* March 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

##### 2. The Montana Power Company

[Docket Nos. EC99-36-000 and ER99-1799-000]

Take notice that, on February 11, 1999, The Montana Power Company (the Company) tendered for filing an application, under Part 33 of the Commission's regulations, to sell to PP&L Global, Inc. certain of its generation facilities, together with certain of its associated transmission facilities. PP&L Global, Inc. has stated an intention to assign its rights to a subsidiary, PP&L Montana, L.L.C. The Company also filed a Generation Interconnection Agreement and two Transition Service agreements. The purchaser joined in the filing as a joint applicant.

The Company states that it seeks to divest itself of substantially all of its generation facilities and certain related transmission facilities, which it believes are subject to the jurisdiction of this Commission, consistent with a comprehensive state restructuring plan adopted by the Montana legislature. The Company further states that Montana law explicitly permits the transaction for which approval is sought. Upon

completion and closing of the transaction, the purchaser acknowledges that it will become a public utility subject to the jurisdiction of this Commission in connection with any transmission and wholesale power activities.

The Company states that it has provided copies of this notice and its application to the Governor of Montana, the Montana Public Service Commission, the Montana Consumer Counsel, and all current firm wholesale power customers, as well as certain other potentially interested parties.

*Comment date:* March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 3. PacifiCorp Power Marketing, Inc. and PacifiCorp

[Docket Nos. ER95-1096-017 and ER97-2801-002]

Take notice that on February 12, 1999, PacifiCorp Power Marketing, Inc., and PacifiCorp, tendered for filing an updated generation market power study in support of sales of electric energy at market based prices.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 4. ERI Services, Inc.

[Docket No. ER97-2638-001]

Take notice that on February 11, 1999, the above-mentioned power marketer filed its quarterly reports for the third and fourth quarter with the Commission in the above-mentioned proceedings for information only. In the same filing ERI Services, Inc. also filed a Notice of Cancellation of their Rate Schedule No. 1.

### 5. Nevada Power Company

[Docket Nos. ER97-3688-001 and ER97-3689-001]

Take notice that on February 11, 1999, Nevada Power Company tendered for filing spread sheets showing revenues received and the calculation of the time value of those revenues, in accordance with the letter order issued on November 3, 1997.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 6. Consolidated Edison Company of New York, Inc.

[Docket No. ER98-4510-000]

Take notice that on February 11, 1999, Consolidated Edison Company of New

York, Inc. (Con Edison), tendered for filing a compliance filing in accordance with the Commission's January 27, 1999, order issued in the above-referenced docket.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 7. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Company

[Docket Nos. ER98-4611-002 and OA97-24-004]

Take notice that on February 11, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies) tendered for filing, in compliance with the Commission's November 13, 1998 order in Docket Nos. OA97-24-000, *et al.*, revised pages to the CSW Operating Companies open access transmission service tariff (CSW OATT).

The CSW Operating Companies state that a copy of the compliance filing was served on all customers under the CSW OATT and on the Public Utility Commission of Texas, the Oklahoma Corporation Commission, Louisiana Public Service Commission and the Arkansas Public Service Commission.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 8. PJM Interconnection, L.L.C.

[Docket Nos. ER99-196-001]

Take notice that on February 12, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing a compliance filing containing amendments to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C.

Copies of this filing were served upon all PJM Members and the state electric regulatory commissions in the PJM control area.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 9. El Segundo Power, LLC Long Beach Generation LLC

[Docket No. ER99-629-000 and ER99-630-000]

Take notice that on February 17, 1999, the above-referenced public utilities filed their quarterly transaction reports for the quarter ending September 30, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 10. PJM Interconnection, L.L.C.

[Docket No. ER99-647-002]

Take notice that on February 12, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing a compliance filing containing amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C.

Copies of this filing were served upon all PJM Members and the state electric regulatory commissions in the PJM control area.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 11. Puget Sound Energy, Inc.

[Docket No. ER99-845-001]

Take notice that on February 12, 1999, Puget Sound Energy, Inc. (Puget Sound), tendered for filing its Revised Sheet No. 10 to its FERC Electric Tariff, Original Volume No. 8, in compliance with and pursuant to the Commission's order in ER99-845-000.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 12. CH Resources, Inc.

[Docket No. ER99-1001-001]

Take notice that on February 12, 1999, CH Resources, Inc. (Resources), tendered for filing in the above-captioned proceeding a revised code of conduct to comply with the Commission's order dated February 11, 1999.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 13. Reliant Energy Services, Inc.

[Docket No. ER99-1801-000]

Take notice that on February 12, 1999, Reliant Energy Services, Inc., filed a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations under the Federal Power Act. As a result of a name change, Reliant Energy Services, Inc., is succeeding to the FERC Electric Rate Schedule No. 1, as revised, of NorAm Energy Services, Inc., effective February 2, 1999.

A copy of the Notice is on filed with the Secretary and open for public inspection.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 14. PECO Energy Company

[Docket No. ER99-1803-000]

Take notice that on February 12, 1999, PECO Energy Company (PECO),

tendered for filing a Service Agreement dated January 7, 1999 with Merrill Lynch Capital Services, Inc. (MERRILL LYNCH) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds MERRILL LYNCH as a customer under the Tariff.

PECO requests an effective date of January 7, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to MERRILL LYNCH and to the Pennsylvania Public Utility Commission.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 15. PECO Energy Company

[Docket No. ER99-1804-000]

Take notice that on February 12, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated January 22, 1999 with PEPCO SERVICES, INC. (PEPCO SERVICES), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PEPCO SERVICES as a customer under the Tariff.

PECO requests an effective date of February 1, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to PEPCO SERVICES and to the Pennsylvania Public Utility Commission.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 16. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER99-1805-000]

Take notice that on February 12, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Detroit Edison Company (Customer).

NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on January 25, 1999.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 17. Duke Power, a division of Duke Energy Corporation

[Docket No. ER99-1806-000]

Take notice that on February 12, 1999, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a

Non-Firm Transmission Service Agreement between Duke and Entergy Power Marketing, Inc., dated as of January 5, 1999.

Duke requests that the Transmission Service Agreements be made effective date of January 18, 1999, Duke requests a limited waiver of the Commission's sixty-day notice requirement.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 18. Jersey Central Power & Light Co., Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER99-1807-000]

Take notice that on February 12, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company (doing business and collectively referred to as GPU Energy), tendered for filing a Service Agreement between GPU Energy and its power marketing affiliate, GPU Advanced Resources.

GPU Energy requests an effective date of January 13, 1999, for the Service Agreement.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 19. Dayton Power and Light Company

[Docket No. ER99-1808-000]

Take notice that on February 12, 1999, Dayton Power and Light Company (Dayton), tendered service agreements establishing with Avista Energy, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with Avista Energy, Inc., and the Public Utilities Commission of Ohio.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 20. Dayton Power and Light Company

[Docket No. ER99-1809-000]

Take notice that on February 12, 1999, Dayton Power and Light Company (Dayton), tendered service agreements establishing Avista Energy, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Avista Energy, Inc., and the Public Utilities Commission of Ohio.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Allegheny Power Service Corp.

[Docket No. ER99-1810-000]

Take notice that on February 12, 1999, Allegheny Power Service Corporation (Allegheny), tendered for filing notification that effective 12:01 A.M., April 3, 1999, the General Agreement on Parallel Paths (GAPP) Experiment Participation Agreement, allowed to become effective on April 2, 1996 and filed with the Federal Energy Regulatory Commission by Allegheny Power Service Corporation (on behalf of its associated public utility operating companies), Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Pennsylvania Power Company, Southern Company Services, Inc. (on behalf of its associated public utility operating companies) and Virginia Electric and Power Company will terminate by its own terms.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 22. Ameren Services Company

[Docket No. ER99-1811-000]

Take notice that on February 12, 1999, Ameren Services Company (Ameren Services), acting on behalf of Union Electric Company, tendered for filing Notice of Cancellation of a November 17, 1987 letter agreement with Missouri Public Service Company (MPS) (now a division of UtiliCorp United Inc.). Ameren Services states that such letter agreement (Supplement No. 17 to Union Electric's FERC Rate Schedule No. 167) will be canceled on June 12, 1999.

Ameren Services also states that MPS has been served with a copy of the filing and that no other customer is affected.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

#### 23. New Energy Partners, L.L.C.

[Docket No. ER99-1812-000]

Take notice that on February 12, 1999, New Energy Partners, L.L.C., tendered for filing an Application Requesting Acceptance of Proposed Market-Based Rate Schedules, Waiver of Certain Regulations and Blanket Approvals. The proposed rate schedule will allow New Energy Partners, L.L.C., to sell capacity and energy to eligible customers at market-based rates.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

**24. Montaup Electric Company**

[Docket No. ER99-1813-000]

Take notice that on February 12, 1999, Montaup Electric Company (Montaup), tendered for filing a proposed modification to the Contract Termination Charges (CTC) formula and requests permission to implement the Residual Value Credit (RVC) under the comprehensive settlement (Settlement) among Montaup, regulatory authorities in Massachusetts and Rhode Island and Montaup's affiliated and non-affiliated customers in Docket Nos. ER97-2800, ER97-3127 and ER97-2338 which the Commission approved in orders it issued on December 19, 1997 and on June 26, 1998.

Montaup requests that its filing be accepted and made effective as of April 1, 1999.

Copies of the filing were served upon Montaup's affected customers and state agencies.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

**25. Central Vermont Public Service Corporation**

[Docket No. ER99-1830-000]

Take notice that on February 12, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Unifit Resources, Inc., under its FERC Electric Tariff No. 8.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on February 12, 1999.

*Comment date:* March 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

**26. Illinois Power Company**

[Docket No. ER99-1844-000]

Take notice that on February 17, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending December 31, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

**27. El Segundo Power, LLC, Long Beach Generation LLC, Origen Power Corp., The Toledo Edison Company, and The Cleveland Electric Illuminating Company**

[Docket Nos. ER99-1845-000, ER99-1846-000, ER99-1847-000, ER99-1848-000, and ER99-1849-000]

Take notice that on February 16, 1999 the above-referenced public utilities filed their quarterly transaction reports for the quarter ending December 31, 1998.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

**28. AES Huntington Beach, L.L.C.**

[Docket No. ER99-1850-000]

Take notice that on February 17, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending June 30, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

**29. AES Huntington Beach, L.L.C.**

[Docket No. ER99-1851-000]

Take notice that on February 17, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending September 30, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

**30. AES Alamitos, L.L.C.**

[Docket No. ER99-1852-000]

Take notice that on February 17, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending June 30, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

**31. AES Redondo Beach, L.L.C.**

[Docket No. ER99-1853-000]

Take notice that on February 17, 1999, the above-referenced public utility filed their quarterly transaction report for the quarter ending June 30, 1998.

*Comment date:* March 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-222 for assistance).

[www.ferc.fed.us/online/rims.htm](http://www.ferc.fed.us/online/rims.htm) (call 202-208-222 for assistance).

**David P. Boergers,***Secretary.*

[FR Doc. 99-4783 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. EC99-37-000, et al.]

**PacifiCorp, et al.; Electric Rate and Corporate Regulation Filings**

February 19, 1999.

Take notice that the following filings have been made with the Commission:

**1. PacifiCorp**

[Docket No. EC99-37-000]

Take notice that on February 16, 1999, PacifiCorp tendered for filing in accordance with 18 CFR Part 33 of the Commission's Rules and Regulations, an application seeking an order authorizing PacifiCorp to sell to the Springfield Utility Board (Springfield) approximately 2.7 miles of 69 kilovolt transmission line located in Lane County, Oregon.

Copies of this filing were supplied to Springfield and the Public Utility Commission of Oregon.

*Comment date:* March 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

**2. Public Service Company of New Mexico**

[Docket No. ER99-1643-000]

Take notice that on February 16, 1999, Public Service Company of New Mexico (PNM), tendered for filing an amendment to its February 1, 1999, filing of agreements with Texas New Mexico Power Company (TNMP) in the above captioned docket. The amendment is comprised of a completely executed service agreement with TNMP, for firm point-to-point transmission service under the terms of PNM's Open Access Transmission Tariff (OATT), which updates the unilaterally executed copy of the same service agreement submitted in PNM's original filing.

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 3. Wisconsin Public Service Corporation

[Docket No. ER96-1702-001]

Take notice that on February 16, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing a request for authorization to collect the costs of interconnection facilities from the Oconto Electric Cooperative (OEC) pursuant to an April 26, 1996, Coordination Sales/Service Agreement, which was accepted by the Commission October 7, 1996, Order in Docket No. ER96-1702-000.

Copies of the filing were sent to OEC and the Wisconsin and Michigan state commissions.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 4. Central Illinois Light Company

[Docket No. ER99-1814-000]

Take notice that on February 16, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and two service agreements with two new customers, Cleco Corporation and UtiliCorp United, Inc.

CILCO requested an effective date of January 29, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 5. Central Illinois Light Company

[Docket No. ER99-1815-000]

Take notice that on February 16, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and one service agreement with one new customer, Cleco Corporation, and a name change for a customer now known as Conoco Power Marketing, Inc.

CILCO requested an effective date of January 29, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 6. FirstEnergy System

[Docket No. ER99-1816-000]

Take notice that on February 16, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for

Merrill Lynch Capital Services, Inc., (Transmission Customer). Services are being provided under the FirstEnergy System Open Access Transmission Tariff tendered for filing by the Federal Energy Regulatory Commission in Docket No. ER97-412-000.

The proposed effective date under this Service Agreement February 9, 1999.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 7. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99-1817-000]

Take notice that on February 16, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 16, to add four (4) new Customers to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of February 12, 1999, to Duke Power, FPL Energy Power Marketing, Inc., Merrill Lynch Capital Services, Inc., and PP&L EnergyPlus Company.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 8. Cinergy Services, Inc.

[Docket No. ER99-1818-000]

Take notice that on February 15, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing notice requesting a partial cancellation of Cinergy's Interchange Agreement Rate Schedule No. 37, and Eastex Power Marketing, Inc's Interchange Agreement Rate Schedule No. 12. Cinergy has submitted a Notice of Cancellation requesting only to cancel the sales by the Cinergy Operating Companies' portion of these agreements.

Cinergy is requesting a cancellation date of January 1, 1999.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 9. Entergy Services, Inc.

[Docket No. ER99-1819-000]

Take notice that on February 16, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Ameren Services Company.

Entergy Services requests that the TSA's be made effective as rate schedules no later than January 15, 1999.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 10. Rochester Gas and Electric Corporation

[Docket No. ER99-1820-000]

Take notice that on February 16, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Select Energy, Inc., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Tariff, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER97-3553 (80 FERC ¶ 61,284)(1997).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of February 4, 1999, for Select Energy, Inc.'s Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 11. Entergy Services, Inc.

[Docket No. ER99-1821-000]

Take notice that on February 16, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and PP&L Inc.

Entergy Services Inc., requests that the TSAs be made effective as rate schedules no later than January 28, 1999.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 12. PECO Energy Company

[Docket No. ER99-1822-000]

Take notice that on February 16, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, an Agreement dated February 3, 1999 with PEPCO Services, Inc. (PEPCO SERVICES), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of February 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to PEPCO SERVICES and to the Pennsylvania Public Utility Commission.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 13. FirstEnergy System

[Docket No. ER99-1824-000]

Take notice that on February 16, 1999, FirstEnergy System tendered for filing service Agreements to provide Firm Point-to-Point Transmission Service for Merrill Lynch Capital Services, Inc., and Delmarva Power & Light Company, (the Transmission Customers). Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97-412-000].

The proposed effective dates under the Service Agreements are February 9, 1999, for the above mentioned Service Agreements in this filing.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 14. Virginia Electric and Power Company

[Docket No. ER99-1825-000]

Take notice that on February 16, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between PP&L EnergyPlus Company (Customer), under the FERC Electric Tariff Second Revised Volume No. 4, which was accepted by order of the Commission dated August 13, 1998 in Docket No. ER98-3771-000]. Under the tendered Service Agreement, Virginia Power will provide services to the Customer under the rates, terms and conditions of the Tariff.

Virginia Power requests an effective date of February 12, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Transmission Customer, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 15. Allegheny Power Service Corp., on behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER99-1826-000]

Take notice that on February 16, 1999, Allegheny Power on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 48 to add Duquesne Light Company and H.Q. Energy Services (U.S.) Inc., to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96-58-000.

The proposed effective date under the Service Agreements is February 12, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 16. Public Service Company of New Mexico

[Docket No. ER99-1827-000]

Take notice that on February 15, 1999, Public Service Company of New Mexico (PNM), tendered for filing executed service agreements, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff, with Duke Energy Trading and Marketing, L.L.C., (dated January 22, 1999) and El Paso Power Services Company (dated February 1, 1999).

Copies of the filing have been sent to Duke Energy Trading and Marketing, L.L.C., El Paso Power Services Company, and to the New Mexico Public Regulation Commission. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 17. Virginia Electric and Power Company

[Docket No. ER99-1828-000]

Take notice that on February 16, 1999, Virginia Electric and Power Company tendered for filing an executed agreement with The Town of Sharpsburg, North Carolina. This executed agreement replaces the unexecuted agreement filed on January 29, 1999 in Docket No. ER99-1573-000].

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 18. Northeast Utilities Service Company

[Docket No. ER99-1829-000]

Take notice that on February 16, 1999, Northeast Utilities Service Company (NUSCO) on behalf of the NU Operating Companies (The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire), tendered for filing with the Federal Energy Regulatory Commission an updated market analysis and a request to extend its authority to charge market-based rates to transactions inside New England.

NUSCO requested waiver of notice to permit its proposed rate schedule to become effective on February 17, 1999, one day after the date of filing.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

## 19. California Independent System Operator

[Docket No. ER99-1831-000]

Take notice that on February 16, 1999, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Appendix A to the Responsible Participating Transmission Owner Agreement between the ISO and the Pacific Gas and Electric Company (PG&E). The ISO states that the amendment revises the Appendix to add the DOE Settlement Agreement to the list of existing contracts for the Western Area Power Administration.

The ISO states that this filing has been served on all parties listed on the Restricted Service List in the above-referenced dockets.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

**20. Origen Power Corp. OGE Energy Resources, Inc.**

[Docket No. ER99-1832-000]

Take notice that on February 16, 1999, Origen Power Corp., tendered for filing a Notice of Cancellation of its FERC Rate Schedule No. 1, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (1994), and Section 35.15 of the Commission's Regulations, 18 CFR 35.15.

Origen Power Corp., requests that its Notice of Cancellation be made effective as of February 16, 1999.

A copy of the filing was served upon the Oklahoma Corporation Commission, the Arkansas Public Service Commission and all parties in Docket No. ER97-4345-004.

*Comment date:* March 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

**21. San Gorgonio Westwinds, LLC (San Jacinto Project); San Gorgonio Westwinds, LLC (Altech III Project); San Gorgonio Westwinds, LLC (Phoenix Project); San Gorgonio Westwinds, LLC (Windustries Project); and BR Associates & Ogden Haverville Associates**

[Docket Nos. QF85-8-001, QF85-610-001, QF85-188-001, QF89-344-001 and QF82-190-001]

Take notice that on February 11, 1999, San Gorgonio Westwinds, LLC (Applicant), tendered for filing supplements to the above filings of January 5, 1999, in those dockets. No determination has been made that the submittal constitutes a complete filing.

The supplements provide additional information pertaining to the ownership of the small power production facilities.

*Comment date:* March 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public

inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-222 for assistance).

**David P. Boergers,**  
*Secretary.*

[FR Doc. 99-4781 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. EG99-76-000, et al.]

**Penobscot Hydro, L.L.C., et al.; Electric Rate and Corporate Regulation Filings**

February 17, 1999.

Take notice that the following filings have been made with the Commission:

**1. Penobscot Hydro, L.L.C.**

[Docket No. EG99-76-000]

Take notice that on February 11, 1999, Penobscot Hydro, L.L.C. (Penobscot), with its principal place of business c/o PP&L Global, Inc., 11350 Random Hills Road, Suite 400, Fairfax, VA 22030, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. Penobscot, a Delaware limited liability company, is a wholly-owned indirect subsidiary of PP&L Resources, Inc. Penobscot proposes to own and operate certain generating facilities located in the State of Maine and related assets to be acquired from Bangor Hydro-Electric Company. The Maine Public Utilities Commission in MPUC Docket No. 98-820 approved the transaction and made the determinations required by Section 32(c) of PUHCA.

*Comment date:* March 10, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**2. Citizen Power, Inc. v. Duquesne Light Company**

[Docket No. EL99-39-000]

Take notice that on February 11, 1999, Citizen Power, Inc. filed a Complaint against the Duquesne Light Company (Duquesne), alleging that Duquesne is planning to dispose of facilities over which the Commission has jurisdiction without first obtaining all necessary approvals under Section 203 of the Federal Power Act.

*Comment date:* March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

**3. American Public Power Association**

[Docket No. EL99-40-000]

Take notice that on February 11, 1999, the American Public Power Association and Citizen Power, Inc. jointly filed a "Petition for Declaratory Order."

Petitioners ask the Commission to declare that it has jurisdiction to review, under Section 203 of the Federal Power Act, proposed dispositions of generating facilities valued in excess of \$50,000 that are used to generate power for wholesale sales in interstate commerce.

*Comment date:* March 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

**4. AES Power, Inc.**

[Docket No. ER94-890-020]

Take notice that on February 12, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the Internet at [www.ferc.fed.us/online/rims.htm](http://www.ferc.fed.us/online/rims.htm) for viewing and downloading (call 202-208-2222 for assistance).

**5. California Independent System Operator Corporation**

[Docket No. ER99-1770-000]

Take notice that on February 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing revisions to Appendix B of the Transmission Control Agreement among the ISO and Transmission Owners. The revisions are the result of negotiations involving Pacific Gas and Electric Company and the holders of transmission rights over Path 15 and are submitted as a resolution to disputes involving transmission priority over that Path.

The ISO states that this filing has been served upon all parties on the official service list compiled by the Secretary in the above-captioned docket.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**6. Portland General Electric Company**

[Docket No. ER99-1786-000]

Take notice that on February 11, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term and Non-Firm Point-to-Point Transmission Service with Transalta Energy Marketing (U.S.), Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective February 10, 1999.

A copy of this filing was caused to be served upon Transalta Energy Marketing (U.S.), Inc., as noted in the filing letter.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 7. Central Illinois Light Company

[Docket No. ER99-1787-000]

Take notice that on February 10, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and one service agreement with one new customer, OGE Energy Resources, Inc.

CILCO requested an effective date of January 21, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 8. Duquesne Light Company

[Docket No. ER99-1788-000]

Take notice that on February 11, 1999, Duquesne Light Company (Duquesne), tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98-4159-000) executed Service Agreement at Market-Based Rates with Sonat Power Marketing L.P., (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of February 1, 1999.

Copies of this filing were served upon Customer.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 9. Portland General Electric Company

[Docket No. ER99-1789-000]

Take notice that on February 11, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Engage Energy US, L.P.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No.

PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreement to become effective February 10, 1999.

A copy of this filing was caused to be served upon Engage Energy US, L.P., as noted in the filing letter.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 10. Portland General Electric Company

[Docket No. ER99-1790-000]

Take notice that on February 11, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term and Non-Firm Point-to-Point Transmission Service with Statoil Energy Trading, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective February 10, 1999.

A copy of this filing was caused to be served upon Statoil Energy Trading, Inc., as noted in the filing letter.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 11. Mid-Continent Area Power Pool

[Docket No. ER99-1791-000]

Take notice that on February 11, 1999, the Mid-Continent Area Power Pool (MAPP), on behalf of its Members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act (FPA), filed amendments to the Power and Energy Market (PEM) Schedules contained in the MAPP Restated Agreement. These amendments, among other things, allow a Market Participant to charge market-based rates for transactions under PEM schedules when the Market Participant (i) is a public utility under the FPA that has been granted market authority by the Commission or (ii) is not a public utility.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 12. PECO Energy Company

[Docket No. ER99-1792-000]

Take notice that on February 11, 1999, PECO Energy Company (PECO), tendered for filing a Consent to Assignment dated January 4, 1999,

pursuant to which PECO consented to the assignment of an agreement with Sunoco, Inc. (R&M) (hereinafter Sun), titled "Authorization for Parallel Operation of Customer Owned Generation Equipment" from Sun to FPL Energy MH50, L.P. (FPL Energy). The agreement was previously filed with the Commission and designated Supplement No. 2, to PECO Energy Company Rate Schedule FERC No. 117.

Copies of this filing were served on Sun, FPL Energy and PJM Interconnection, L.L.C.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 13. PECO Energy Company

[Docket No. ER99-1793-000]

Take notice that on February 11, 1999, PECO Energy Company tendered for filing a Supplemental Agreement with FPL Energy MH50, L.P., including a proposed Schedule of Charges. The Supplemental Agreement further amends an "Authorization for Parallel Operation of Customer Owned Generation Equipment" agreement previously filed with the Commission and designated Supplement No. 2, to PECO Energy Company Rate Schedule FERC No. 117.

Copies of this filing were served on Sunoco, Inc. (R&M), FPL Energy MH50, L.P., and PJM Interconnection, L.L.C.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

### 14. Portland General Electric Company

[Docket No. ER99-1794-000]

Take notice that on February 11, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term and Non-Firm Point-to-Point Transmission Service with Electric Clearinghouse, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002, issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective February 10, 1999.

A copy of this filing was caused to be served upon Electric Clearinghouse, Inc., as noted in the filing letter.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**15. PP&L, Inc.**

[Docket No. ER99-1795-000]

Take notice that on February 11, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated January 28, 1999 with DukeSolutions, Inc. (Duke), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Duke as an eligible customer under the Tariff.

PP&L respectfully requests waiver of the Commission's notice requirements and requests that the Service Agreement be made effective as of February 11, 1999.

PP&L states that copies of this filing have been supplied to Duke and to the Pennsylvania Public Utility Commission.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**16. Portland General Electric Company**

[Docket No. ER99-1796-000]

Take notice that on February 11, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term and Non-Firm Point-to-Point Transmission Service with Public Service Company of New Mexico.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002, issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreements to become effective January 15, 1999.

A copy of this filing was caused to be served upon Public Service Company of New Mexico, as noted in the filing letter.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**17. Commonwealth Edison Company**

[Docket No. ER99-1797-000]

Take notice that on February 11, 1999, Commonwealth Edison Company (ComEd), tendered for filing service agreements establishing Merrill Lynch Capital Services, Inc. (MLCS), UtiliCorp United Inc. (UTIL), Oklahoma Gas and Electric Company (OG&E), and The Energy Authority, Inc. (TEA), as customers under ComEd's FERC Electric

Market Based-Rate Schedule for power sales.

ComEd also tenders for filing a service agreement with Statoil Energy Trading, Inc. (SETI), and asks that the Commission substitute this service agreement for the previously filed unexecuted service agreement with the same company.

ComEd requests an effective date of February 11, 1999, for the four new Service Agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served on MLCS, UTIL, OG&E, TEA and SETI.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**18. Green Mountain Power Corporation**

[Docket No. ER99-1798-000]

Take notice that on February 11, 1999, Green Mountain Power Corporation (Green Mountain), tendered for filing a Power Purchase and Sale Agreement Between Morgan Stanley Capital Group Inc., and Green Mountain Power Corporation.

Green Mountain requests an effective date of February 12, 1999.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**19. ERI Services, Inc.**

[Docket No. ER99-1800-000]

Take notice that on February 11, 1999, ERI Services, Inc., tendered for filing notification that effective February 11, 1999, Rate Schedule FERC No. 1, effective May 28, 1997, and filed with the Federal Energy Regulatory Commission by ERI Services, Inc., is to be canceled.

The reason for the cancellation is that ERI Services has not engaged in any power transactions, and does not expect to do so in the future. Because there are no such entities, ERI Services is not mailing this Notice to "affected purchasers" as contemplated by Section 35.15 of the Commission's Regulations (18 CFR 35.15).

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**20. Central Maine Power Company**

[Docket No. ER99-1802-000]

Take notice that on February 11, 1999, the above-referenced public utility filed its quarterly transaction report for the quarter ending December 31, 1998.

*Comment date:* March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

**21. California Power Exchange Corporation**

[Docket No. ES99-28-000]

Take notice that on February 8, 1999, California Power Exchange Corporation (PX) submitted an application, under Section 204 of the Federal Power Act, for authorization to issue long-term debt and/or obtain loans, lines of credit or other evidences of indebtedness, as necessary, regardless of the source of such loans, lines of credit or other evidences of indebtedness, from time through December 31, 2001, with no more than \$500 million outstanding at any one time.

PX also requests that the Commission waive its competitive bidding or negotiated placement requirements of 18 CFR 34.2, and grant any other waivers necessary to allow it to approve the requests made. The PX further requests that the Commission's orders of December 22, 1997 and June 18, 1998 issued in Docket Nos. ES98-10-000, et al. remain in full force and effect in all other respects.

*Comment date:* March 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-222 for assistance).

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4782 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

[Project Nos. 1980, 1759, 2072, 2073, 2074,  
and 2131]

**Wisconsin Electric Power Company;  
Notice of Applicant-Prepared  
Environmental Assessment Team  
Meetings Associated with the Upper  
Menominee River Basin Projects**

February 22, 1999.

Pursuant to the Energy Policy Act of 1992, and as part of the license applications, Wisconsin Electric Power Company (Wisconsin Electric) intends to prepare an Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects and file it with the Federal Energy Regulatory Commission (Commission). On February 22, 1996, Wisconsin Electric filed a license application for the Big Quinnesec Project (P-1980) and has included the project in the APEA process. Wisconsin Electric also proposes to file with the Commission a surrender application and APEA for the Sturgeon Project (P-2471).

The following is a list of the 1999 schedule of meetings for the APEA Team to discuss comments received on the draft license applications and the preliminary draft APEA, and finalize the license applications, surrender application, and APEA. The meetings will be conducted at Wisconsin Electric's office, starting at 8:30 a.m., located in Iron Mountain, Michigan. The Commission staff anticipates attending the April meeting.

The APEA Team will meet: April 13-15, 1999, May 18-20, 1999, July 20-22, 1999, and September 21-23, 1999.

If you would like more information about the Upper Menominee River Basin Projects, please contact one of the following individuals: Patti Leppert-Slack, Federal Energy Regulatory Commission, 888 First Street, NE, Room 72-33, Washington, DC 20426, (202) 219-2767, E-mail: patricia.leppertslack@ferc.fed.us

Rita Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, Milwaukee, WI 53203, (414) 221-2413, E-mail:

rita.hayen@wemail.wisenergy.com

**David P. Boergers,**

*Secretary.*

[FR Doc. 99-4790 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

**Notice of Scoping Meeting and  
Soliciting Scoping Comments for an  
Applicant Prepared Environmental  
Assessment Using the Alternative  
Licensing Process**

February 22, 1999.

a. *Type of Application:* Alternative Licensing Process.

b. *Project No.:* 346.

c. *Applicant:* Minnesota Power, Inc.  
d. *Name of Project:* Blanchard Hydroelectric Project.

e. *Location:* On the Mississippi River, downstream of the City of Little Falls, in Morrison County, Minnesota.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)-825(r).

g. *Applicant Contact:* Bob Bohm, Minnesota Power, Inc., P.O. Box 60, Little Falls, MN 56345, (320) 632-2318 (ext. 5042).

h. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address thomas.dean@ferc.fed.us, or telephone (202) 219-2778.

i. *Deadline for filing scoping comments:* April 23, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary Federal Energy Regulatory Commission 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of the Project:* This Blanchard Project consists of the following existing facilities: (1) a 750-foot-long, 62-foot-high concrete gravity dam comprising: (a) a 190-foot-long non-overflow section; (b) a 437-foot-long gated spillway section; (c) eight 44-foot-wide by 10.5 feet-high Taintor gates; and (d) a 124-foot-wide integral powerhouse; (2) approximately 3,540-foot-long earth dikes extending from both sides of the concrete dam; (3) a 1,152-acre reservoir at normal water surface elevation of 1,081.7 feet msl; (4) a powerhouse containing three generating units with a total installed capacity of 18,000 kW; and (5) other appurtenances.

k. *Scoping Process:*

Minnesota Power, Inc. (Minnesota Power) intends to utilize the Federal Energy Regulatory Commission's (Commission) alternative licensing process (ALP). Under the ALP, Minnesota Power will prepare an Applicant Prepared Environmental Assessment (APEA) and license application for the Blanchard Hydroelectric Project.

On September 21, 1998, Minnesota Power requested, and on November 16, 1998, obtained the Commission's approval to use the ALP.

Minnesota Power expects to file with the Commission, the APEA and the license application for the Blanchard Hydroelectric Project by August 2001.

The purpose of this notice is to inform you of the opportunity to participate in the upcoming scoping meetings identified below, and to solicit your scoping comments.

**Scoping Meetings**

Minnesota Power and the Commission staff will hold two scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the APEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the environmental issues that should be analyzed in the APEA. The times and locations of these meetings are as follows:

*Daytime Meeting*

Wednesday, March 24, 1999, 1:00 p.m., Country Inn and Suites, 209 16th Street NE, Little Falls, Minnesota 56345.

*Evening Meeting*

Wednesday, March 24, 1999, 7:00 p.m., Country Inn and Suites, 209 16th Street NE, Little Falls, Minnesota 56345.

To help focus discussions, Minnesota Power will mail SDI outlining the subject areas to be addressed in the APEA to the parties on the Minnesota Power's mailing list. Copies of the SDI also will be available at the scoping meetings.

Based on all written comments received, a Scoping Document II (SDII) may be issued. SDII will include a revised list of issues, based on the scoping sessions.

**Objectives**

At the scoping meetings, the staff will: (1) summarize the environmental issues

tentatively identified for analysis in the APEA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the APEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the APEA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

#### Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the APEA.

#### David P. Boergers,

Secretary.

[FR Doc. 99-4787 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Scoping Meeting and Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process.

February 22, 1999.

a. *Type of Application:* Alternative Licensing Process.

b. *Project No.:* 469.

c. *Applicant:* Minnesota Power, Inc.

d. *Name of Project:* Winton Hydroelectric Project.

e. *Location:* On the Kawishiwi River, in Lake and St. Louis Counties, Minnesota. The project is located within the Superior National Forest administered by the U.S. Forest Service.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).

g. *Applicant Contact:* John Paulson, Minnesota Power, Inc., Land and Water Section, 30 West Superior Street, Duluth, MN 55802, (218) 722-5642 (ext. 3569).

h. *FERC Contact:* Any questions on this notice should be addressed to Tom

Dean, E-mail address [thomas.dean@ferc.fed.us](mailto:thomas.dean@ferc.fed.us), or telephone (202) 219-2778.

i. *Deadline for filing scoping comments:* April 23, 1999.

All documents (original and eight copies) should be filed with:

David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of the Project:* The project consists of the following two developments:

The Winton Development consists of the following existing facilities: (1) a concrete dam comprising: (a) a 176-foot-long spillway section; (b) a 84-foot-long Taintor gate section; (c) a 80-foot-long stop-log gate section; (d) a 111-foot-long and 120-foot-long non-over-flow section; and (e) a 161-foot-long intake section; (2) approximately 1,500-foot-long earth dikes; (3) a 2,982-acre reservoir comprising the Garden, Farm, South Farm, and Friday Lakes at normal water surface elevation of 1,388.0 feet msl; (4) two 250-foot-long, 9-foot-diameter penstocks extending to; (5) a powerhouse containing two generating units with a total installed capacity of 4,000 kW; and (6) other appurtenances.

The Birch Lake Reservoir Development consists of: (1) a 227-foot-long rock-filled timber crib dam comprising: (a) a 72-foot-long Taintor gate section; and (b) a 85-foot-long sluice gate section; and (2) the 7,624-acre Birch Lake reservoir at normal water surface elevation of 1,418.0 feet msl. This development provides water storage for the Winton Development.

k. *Scoping Process:*

Minnesota Power, Inc. (Minnesota Power) intends to utilize the Federal Energy Regulatory Commission's (Commission) alternative licensing process (ALP). Under the ALP, Minnesota Power will prepare an Applicant Prepared Environmental Assessment (APEA) and license application for the Winton Hydroelectric Project.

On March 30, 1998, Minnesota Power requested, and on May 7, 1998, obtained

the Commission's approval to use the ALP.

Minnesota Power expects to file with the Commission, the APEA and the license application for the Winton Hydroelectric Project by October 2001.

The purpose of this notice is to inform you of the opportunity to participate in the upcoming scoping meetings identified below, and to solicit your scoping comments.

#### Scoping Meetings

Minnesota Power and the Commission staff will hold two scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the APEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the environmental issues that should be analyzed in the APEA. The times and locations of these meetings are as follows:

##### Daytime Meeting

Tuesday, March 23, 1999, 10:00 a.m., Holiday Inn SunSpree Resort, Sunset Room, 400 North Pioneer Road, Sunset Room, Ely, Minnesota 55731.

##### Evening Meeting

Tuesday, March 23, 1999, 7:00 p.m., Holiday Inn SunSpree Resort, Sunset Room, 400 North Pioneer Road, Sunset Room, Ely, Minnesota 55731.

To help focus discussions, Minnesota Power will mail SDI outlining the subject areas to be addressed in the APEA to the parties on the Minnesota Power's mailing list. Copies of the SDI also will be available at the scoping meetings.

Based on all written comments received, a Scoping Document II (SDII) may be issued. SDII will include a revised list of issues, based on the scoping sessions.

#### Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the APEA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the APEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in

the APEA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

#### Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the APEA.

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4788 Filed 2-25-99; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application Tendered for Filing with the Commission and Soliciting Additional Study Requests

February 22, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* New Major License.
  - b. *Project No.:* 2009-018.
  - c. *Date filed:* January 28, 1999.
  - d. *Applicant:* Virginia Electric and Power Company.
  - e. *Name of Project:* Roanoke Rapids and Gaston Hydropower Project.
  - f. *Location:* On the Roanoke River, near the town of Roanoke Rapids, North Carolina, Northampton and Warren Counties North Carolina.
  - g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)-825(r).
  - h. *Applicant Contact*  
Mr. Ken Baker, Virginia Power Company, 5000 Dominion Boulevard, Glenn Allen, VA 23060, (804) 273-3257.
  - i. *FERC Contact:* Any questions on this notice should be addressed to Monte TerHaar, E-mail address monte.terhaar@ferc.fed.us, or telephone 202-219-2768.
  - j. *Deadline for filing additional study requests:* 60 days from the date of this notice.
- All documents (original and eight copies) should be filed with:

David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time. Also, the Commission is *not* requesting motions to intervene at this time. The Commission will publish a separate notice requesting motions to intervene after it is determined all relevant studies are completed.

l. *Description of the Project:* The Project consists of the Gaston Development and Roanoke Rapids Development located on the Roanoke River, immediately downstream from the John H. Kerr Dam and Reservoir operated by the U.S. Army Corps of Engineers.

The Gaston Development is located 34 miles downstream of Kerr Dam at river mile 145.5, and consists of: (1) a 3,600-foot-long and 105-foot-high concrete and earth dam; (2) a 550-foot-long concrete ogee spillway with 11 steel radial gates 40 feet wide by 38 feet high; (3) a 20,300-acre reservoir, 34 miles long which maintains a water surface elevation between 200 and 203 feet msl, a total volume of 450,000 acre-feet, and flood storage capacity of 63,000 acre-feet; (4) a concrete and masonry powerhouse, service bay, and unloading bay, about 425 foot long; (5) 4 turbines (3 vertical shaft fixed blade and 1 vertical shaft Kaplan turbine) with a total installed capacity of 225 megawatts, and a maximum hydraulic capacity of 44,000 cfs, producing an average of 336,362 megawatt hours annually, and a maximum dependable capacity of 225 MWH; and (6) four 14.4-kV generators connected to two 230-kilovolt transformers; and other appurtenances.

The Roanoke Rapids Development is located 42 miles downstream of Kerr Dam at river mile 138, and consists of: (1) a 3,050-foot-long and 72-foot-high concrete gravity dam; (2) a 1,133-foot-long concrete ogee spillway with 24 spillway bays each 44 feet wide with steel gates 38 feet wide, and one skimmer bay 25 feet wide; (3) a 4,600-

acre reservoir, 8 miles long which has a maximum drawdown of 5 feet for generation storage, a total volume of 77,140 acre-feet, and storage capacity of 20,640 acre-feet; (4) a concrete and masonry powerhouse and service bay about 406 feet long; (5) 4 Kaplan turbines with a total installed capacity of 104 megawatts, and a maximum hydraulic capacity of 20,000 cfs, producing an average of 336,408 megawatt hours annually, and a maximum dependable capacity of 99 MWH; and (6) four 14.4-kV generators connected to two 110-kilovolt transformers; and other appurtenances.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. The application may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR at § 800.4.

**David P. Boergers,**  
Secretary.

[FR Doc. 99-4789 Filed 2-25-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6304-9]

### Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Approval of a Certification of Equipment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of certification of equipment.

**SUMMARY:** The Agency received an application with cover letter dated December 8, 1997 from the Detroit Diesel Corporation (DDC) with principal place of business at 13400 Outer Drive, West, Detroit, MI 48239-4001 for certification of urban bus retrofit/rebuild equipment pursuant to 40 CFR 85.1404-85.1415. The equipment is applicable to 1985 through 1993 model year federal and California certified 6V92TA DDEC engines originally

manufactured by Detroit Diesel Corporation (DDC). This includes all DDEC II engines, DDEC I engines (1985 through 1987), and methanol-fueled engines (manufactured from 1991 through 1993). On March 20, 1998 EPA published a notice in the **Federal Register** (63 FR 13662) that the notification had been received and made the notification available for public review and comment for a period of 45 days. EPA has completed its review and the Director of the Vehicle Programs and Compliance Division has determined that it meets the requirements for certification, conditioned on the terms discussed below in section IV. The effective date of certification is discussed below under **DATES**.

The equipment complies with the 0.10 gram per brake horsepower-hour (g/bhp-hr) particulate matter (PM) standard for the engines for which it is certified (see below). Certification of the DDC equipment, as it applies to engines of model years 1985 through 1993, is conditioned upon DDC complying with the terms discussed below in section IV.

**ADDRESSES:** The DDC application, as well as other materials specifically relevant to it, are contained in Public Docket A-93-42, Category XXIV-A, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment". Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by the Agency for copying docket materials.

**DATES:** Today's **Federal Register** notice announces the Agency's decision to certify the DDC equipment, as described below. The effective date of certification was established in a letter dated October 2, 1998, from the Director of the Vehicle Programs and Compliance Division to DDC Corporation. (A copy of the letter is in the public docket, which is located at the address noted above.) This certified equipment may be used immediately by urban bus operators, subject to the condition in Section IV.

**FOR FURTHER INFORMATION CONTACT:** Anthony Erb, Engine Programs and Compliance Division (6403J), U.S. Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. Telephone: (202) 564-9259.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background and Equipment Identification**

In a notification of intent to certify signed December 8, 1997, DDC applied for certification of equipment under the urban bus program. The notification is clarified and the equipment further

described in letters from DDC dated July 28, 1998, and August 20, 1998. The equipment is referred to as the DDC rebuild kit, and is applicable to 1985 through 1993 model year Detroit Diesel Corporation 6V92TA diesel engines equipped with Detroit Diesel Electronic Control (DDEC).

The notification states that the DDC rebuild kit is designed to update all electronically controlled DDC 6V92TA DDEC engines that are either 253 or 277 horsepower (hp). The DDC kit utilizes components from DDC's certified engine upgrade kit, modified fuel injectors, conversion to DDEC IV engine control system, and a converter/muffler (previously certified to reduce particulate matter by 25 percent and manufactured by either Engine Control System Ltd, Engelhard Corporation, or Nelson Industries).

The original test data provided with the certification was based on testing performed on an upgraded engine using a DDEC III system. In a letter dated July 28, 1998, DDC stated that since the kit was originally configured and tested, the DDEC IV system was released for all EPA certified on-highway Series 50 and 60 engines. DDC requested that the retrofit rebuild kits be modified to include the DDEC IV system. DDC stated that the DDEC IV system uses the same software as the DDEC III units so engine calibrations developed using the DDEC III system can be used in the DDEC IV system with no changes to the calibration. DDC stated that the DDEC IV system provides additional memory, increased processing speed and communication capability with the other vehicle/transmission computer systems and has no effect on engine performance or emissions. Based on the statements provided by DDC, EPA finds that the PM emission test results from testing performed using the DDEC III system presented in Table 1 below would not be affected by the use of the DDEC IV system in the retrofit kit. Additional discussion to the use of the DDEC IV system can be found in the response to comments section of this notice.

The equipment to be certified is included in three constituent kits. The three constituent kits included in this submission are as follows:

**Engine Rebuild Kit—Newly Manufactured Parts:** This kit is comprised of newly manufactured parts and consist of a gasket kit, air inlet hose, blower drive gear (2.05 to 1), blower bypass valve assembly, cylinder kits (piston assemblies and cylinder liners), new electronic unit fuel injectors and DDEC IV conversion kits.

**Engine Rebuild Kit—Reliabilt® Parts:** This kit includes Reliabilt® remanufactured parts, including camshafts, blower assembly, turbocharger and head assemblies.

**Converter/Muffler Kits:** In order to provide the greatest flexibility to transit operators by providing several catalytic converter/muffler options, DDC plans to include the converter/mufflers provided by three suppliers: Engelhard Corporation, Engine Control Systems Ltd, and Nelson Industries. Transit operators will be able to select a converter/muffler from any one of the suppliers which will be packaged as a direct replacement for the vehicle muffler and which will accommodate the installation requirements of the various engine/vehicle combinations. Certification of the Engelhard CMX™ converter/muffler is described in a **Federal Register** notice of May 31, 1995 (60 FR 28402). The Engine Control Systems' converter/muffler is described in a **Federal Register** notice of January 6, 1997 (62 FR 746). Nelson Industries' converter/muffler is described in a **Federal Register** notice of November 26, 1997 (62 FR 63159).

One of each type of constituent kit is required for the rebuild of an engine. The engine rebuild kit usage is based on the required engine power rating (253 and 277 horsepower are available), engine rotation direction and orientation (43 degree tilt, 15 degree tilt, and upright). The notification includes parts lists. The converter/muffler kit usage is based on the operator's choice of converter supplier and the engine/vehicle combination.

DDC states that standard procedures, as described in the service manual of 92 Series engines, are to be used when rebuilding the base engine using the candidate kit and will also provide specific conversion instructions with each kit. Additionally, there are no differences in service intervals or maintenance practices for the base engine associated with the installation of the kit. The converter/muffler requires no regularly scheduled maintenance, only an occasional cleaning if the maximum back pressure of the exhaust system is exceeded. The engines also receive an upgraded control program for the electronic control module.

Using engine dynamometer testing conducted in accordance with the Federal Test Procedure (FTP) for heavy-duty diesel engines, DDC documented in its December, 1997 notification, PM emissions below the 0.10 g/bhp-hr level.

DDC presents exhaust emission data that were developed for the engine configuration rated at 277 horsepower.

Testing of the candidate kit was conducted using each of the three converter/mufflers with the upgraded engine configuration. The test data indicate that the emissions of

hydrocarbon (HC), carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), and smoke measurements for the engine equipped with the candidate equipment are less than exhaust emissions

standards applicable to 1993 model year urban buses when tested over the Federal Test Procedure (FTP). The test data is summarized in Table 1.

TABLE 1.—EXHAUST EMISSIONS FROM 6V92TA DDEC II  
[277 hp]

Gaseous and particulate g/bhp-hr					Smoke percent opacity			Comment
HC	CO	NO <sub>x</sub>	PM	BSFC <sup>a</sup>	ACC	LUG	PEAK	
1.3	15.5	5.0	<sup>b</sup> 0.10	20	15	50	1993	Urban Bus Standards. Converter/Muffler A. Converter/Muffler B. Converter/Muffler C.
0.3	1.0	4.8	0.08	0.516	1.7	1.2	3.0	
0.1	0.2	4.7	0.08	0.506	2.2	1.9	2.9	
0.2	0.5	4.9	0.095	0.517	1.6	1.3	2.7	

<sup>a</sup> Brake specific fuel consumption in units of pounds of fuel per brake-horsepower-hour.

<sup>b</sup> Non-compliance penalties are available up to 0.25 g/bhp-hr.

No life cycle costs information has been submitted by DDC. DDC does not intend certification of this equipment to trigger program requirements for the applicable engines and no new requirements are triggered by this certification. The certification testing document a PM emissions level of 0.08 to 0.095 g/bhp-hr depending upon the catalyst installed, and also show that emissions of hydrocarbon (HC), carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), and smoke are within the applicable standards when tested over the FTP.

Based on the testing demonstration, EPA believes that all DDC-equipped engines will meet the 0.10 g/bhp-hr PM standard because installation of the kit upon engine rebuild results in the replacement of all emissions related parts with a specific set of parts, the combination of which results in a documented PM level of 0.08 to 0.095 g/bhp-hr.

The fuel consumption of the DDC kit ranged between 0.506 to 0.517 pounds of fuel per brake-horsepower hour in the testing results provided.

The DDC equipment is certified to a PM emission level of 0.10 g/bhp-hr for all 1985 through 1993 DDC 6V92TA DDEC urban bus engines using either diesel fuel #1 or #2 (including engines originally certified, or rebuilt, to meet California emissions standards. This includes all DDEC II engines, DDEC I engines (1985 through 1987), and methanol-fueled engines (manufactured from 1991 through 1993).

Table 2 lists the applicable engine models and certification levels associated with the certification announced in today's **Federal Register**.

TABLE 2.—CERTIFICATION PM LEVELS

Applicable models <sup>1</sup>	Engine code	PM level
1988–1993 Detroit Diesel 6V92TA DDEC II .....	ALL (including those certified or rebuilt to meet California or 50-state emissions standards).	0.10 g/bhp-hr.
1985–1987 Detroit Diesel 6V92TA DDEC I		
1990–1993 Detroit Diesel 6V92TA Methanol Fueled DDEC Engines		

<sup>1</sup> Conditional certification applies to all model year engines. See discussion in section IV.

DDC is required to provide a 100,000 mile defect warranty and 150,000 mile emissions performance warranty for the components of the kit.

**II. Summary and Analysis of Comments**

Comments were received from five parties in response to the **Federal Register** notice (63 FR 13660; March 20, 1998): Engelhard Corporation (Engelhard), Johnson Matthey, Incorporated (JMI), Chicago Transit Authority of Chicago, IL (CTA), Pierce Transit of Tacoma, Washington (Pierce), and the King County Metro of Seattle, Washington (Metro). Engelhard and JMI both have applied for certification of equipment to meet the 0.10 g/bhp-hr standard under the urban bus program for 6V92TA DDEC engines. The

Engelhard equipment was approved for certification for the 1988 to 1993 6V92TA DDEC engines on July 1, 1998. The CTA, Pierce and Metro are operators of urban bus fleets in areas to which the Urban Bus Rebuild Requirements apply.

Comments and issues generally fell into the following categories: (a) emissions testing; (b) equipment durability and in-service concerns; (c) installation instructions; (d) kit components; (e) life cycle cost; (f) kit supply options and labeling; and, (g) NO<sub>x</sub> increases. These are discussed in the sections below.

Copies of the complete comments and other documentation are available in the public docket, which is located at the address stated above.

*a. Emissions Testing*

JMI commented that the engine selected by DDC and used for certification testing was a brand new engine built specifically for urban bus rebuild development and certification testing. JMI commented that in order to demonstrate emissions reductions on an engine that is representative of the in-use engines in the transit industry, the EPA should require DDC to re-test their 0.1 DDEC kit on an existing, in-use engine procured from typical transit service. JMI commented that based on statements made in the notification the test engine information is not clear as to whether the test engine was manufactured per the build requirements for a previously certified 1996 model year 6V92TA engine or

whether it was a 1992-1993 engine or a 1996 engine. Engelhard asked what type of certification was the test engine certified to in 1996, is the parts list the same as a pre-1994 engine and are the block and all internal components the same. JMI commented that DDC presents emissions data from the certification testing of three converter mufflers. JMI notes that two of the converter mufflers in combination with the additional parts kits attain PM emission levels of 0.08 g/bhp-hr and that this would allow for some level of engine deterioration and catalyst deterioration over the 150,000 mile performance requirement. However, testing with converter/muffler C attains a PM emission level of 0.1 g/bhp-hr which is the standard and does not allow for any engine or catalyst deterioration over the 150,000 mile performance period. JMI commented that converter/muffler C should be eliminated from consideration in this certification package.

In response to the JMI comment that the EPA should require DDC to re-test their 0.1 DDEC kit on an existing in-use engine procured from typical transit service, Section 85.1406 (a)(2)(iv) specifically allows the use of a new engine to demonstrate compliance with the 0.1 g/bhp-hr PM requirement. In regard to JMI's and Engelhard's questions concerning the build specifications of the test engine, DDC states in section 05.02.01 of the Notification of Intent to Certify, that the test engine was built in June 1997. The test build configuration was not previously sold or certified so the engine cannot be identified with a model year designation. DDC states that the reference in section 05.02.04 to the 1996 model year was intended only to indicate the test engine used a DDEC III engine control system. The conversion kit as certified will convert all in-service engines to virtually the same configuration as the test engine.

With regard to JMI's comment that converter/muffler C should be eliminated from consideration because it does not allow for any deterioration over the 150,000 mile performance period, DDC has responded that it does not expect any catalyst or engine deterioration over the 150,000 performance period. DDC explained that the actual PM emissions results with catalyst C were 0.095 g/bhp-hr. This was reported as 0.10 g/bhp-hr using the specified rounding convention. DDC notes that the system utilizing catalyst C has a 10% margin for deterioration before the 0.10g/bhp-hr standard would be exceeded. EPA does not believe it would be appropriate to withhold this

certification for catalyst C based on the emission results presented.

#### *b. Equipment Durability and In-service Concerns*

The CTA asked whether DDC had performed thorough field service reliability testing to ensure that these upgraded kits will have equal operating performance and useful life in comparison to the original design. The CTA commented that the EPA certified catalytic converters used by CTA during the last two years have had very high failure rates that were both structural and functional in nature. Structural failures that CTA encountered on the converters were cracking or breakages of the wall material on the exhaust side of the converters. Functional failures were manifested by lack of engine power and high engine exhaust back pressure due to severe clogging and/or restriction of the catalytic converters. The CTA commented there is no documented information as to how the catalyst is working after being in service for an extended period of time. The CTA also commented that catalytic converter manufacturers should provide standard guidelines and/or procedures for evaluating or assessing the condition of a used catalytic converter.

Engelhard commented that DDC included new prototype aftermarket injectors in the upgrade kit with no durability or service information. Engelhard asked what the maintenance interval is for the new injector, and whether it will last 150,000 miles. Engelhard commented that DDC has not provided any data demonstrating that the injectors will last 150,000 miles and not cause an emissions shift, and will not require additional maintenance. Engelhard also noted that the injectors used in the DDC certification were "pre-production parts" and asked what assurance there is that the production parts produced with production tolerances will meet the standard. Engelhard noted that the kit contains an upgraded electronics package including new sensors. Engelhard asked if the new sensors require additional maintenance or replacement.

Pierce commented that it has experienced shortened engine life, in the order of 120,000 miles between engine overhauls since 1995, compared to the original engine life of 280,000 miles before the first engine overhaul. Pierce noted that two significant events occurred during this time period. First, Pierce notes that it began using 15W/40 engine oil in its DDC sub-fleets as a result of successes achieved in a two-year test. Second, between 1990 and 1995, DDC made significant changes to

the cylinder kits, including a part number change. Pierce noted that the 15W/40 engine oil performance came into question only after re-manufacture with new cylinder kits approved after 1995. Engine problems related to liner scuffing of the #1 and #2 cylinders on the right bank began in 1995. Pierce expressed its concern with the durability of the DDC engine components offered in the retrofit/rebuild kit.

Metro operates a fleet of 1,112 motor buses which includes 236 Breda dual-mode buses used primarily for commuter service and which operate as diesels on freeways and other roads and operate as trolley buses in the downtown tunnel. The Breda buses were delivered in 1989-1991 and are fitted with DDC 6V-92TA DDEC engines rated at 330 horsepower. Metro commented that the original engine life of these engines was 131,000 miles. Since mid-1995 the fleet has suffered shortened engine life on the order of 28,000 miles between overhaul. Metro noted two significant events occurred during this time period. First, catalytic converter mufflers were installed in all buses when engines were rebuilt after March 1995. Second, between 1990 and 1995, DDC made significant changes to the cylinder kit, including the part number (changed in May 1995). This product has not been durable in Metro's application. Converter plugging has been a problem from the beginning with no discernible difference between Engelhard and Johnson Matthey equipment. Metro notes that the average converter life has been less than 19,000 miles. Metro also commented that the engine problems have centered on liner scuffing of the #1 and #2 pistons on the right bank of cylinders. Metro commented that it is concerned with the durability of the engine components offered for retrofit/rebuild and that DDC has not been able to provide Metro with cylinder kits with a demonstrated life anywhere near that of the original engine. JMI commented that while it recognizes that demonstration of durability is not a requirement of the urban bus retrofit/rebuild program, based on the cost of a 0.10 retrofit/rebuild kit, it would be prudent to have some demonstration of durability on typical engines in revenue service fitted with a trial kit. JMI commented that EPA should require DDC to provide a demonstration of durability of the proposed equipment before any decision is made concerning certification.

In regard to the CTA comments, DDC has responded that it has not completed a field test with the proposed kit. With

regard to improvements to the design of the converter mufflers, DDC responded that it is aware that some converter/muffler failures have occurred as a result of excessive torsional stresses caused by a rigid mounting of the exhaust system. DDC stated its understanding that this problem was unique to a particular bus design and has been eliminated by modifying the converter/muffler mounting design. With regard to CTA's comment that catalytic converter manufacturers should provide standard guidelines and/or procedures for evaluating or assessing the condition of a used catalytic converter, DDC responded that a simple visual inspection for leaks, dents or structural damage to the catalyst core is usually sufficient to assess the condition of a used converter. EPA recommends that transits contact the catalyst manufacturers directly for updated information on procedures for evaluating catalyst condition if further information is desired or needed. EPA knows of no method for accurately testing PM performance of a catalyst in the field. However, to the extent a catalyst is mechanically clogging, use of the defect warranty may be an appropriate remedy.

In regard to the Engelhard comments on the use of new prototype injectors in this kit and concerns regarding maintenance and durability, DDC has responded that the fuel injector does not require any scheduled maintenance. The diagnostic and repair procedures for the new injector are the same as for other DDC electronic injectors. DDC states that the fuel injectors that will be provided with the proposed kits are the same fundamental design that DDC has used since DDC first introduced electronic injectors in 1985. Diesel Technology Corporation, DDC's regular injector supplier, will manufacture these injectors using the same production processes and quality standards used for all DDC injectors. DDC stated that the only functional difference between the candidate injectors and the standard 1993 model year urban bus engine injector is that the number of spray orifices has been reduced from ten to nine with a corresponding increase in injection pressure. Secondary design changes were made to ensure injector life is maintained. DDC and Diesel Technology Corporation are conducting laboratory tests to demonstrate the durability of the design.

In regard to Engelhard's comments on the upgraded electronics package (DDEC III as included in the original notice), DDC has requested that the DDEC IV system be included in the kit in place

of the DDEC III system that was tested. The retrofit kit was originally described as updating the DDEC I and II systems to DDEC III. DDC states that as DDEC IV ECM production increases, it will eventually be used on all new engine production. DDC states that the DDEC IV control system to be used in this retrofit kit is an evolutionary advancement over prior generations of the DDEC engine control systems including the DDEC III kit that was installed during the FTP. DDEC IV contains the same software as DDEC III and calibrations developed for DDEC III will be used in the DDEC IV with no effect on engine performance or emissions according to DDC. DDEC IV provides additional memory capability for additional storage of engine codes and will identify all codes with the engine hour and date when they occur. All diagnostic capabilities available with DDEC III will remain available, but the information stored will be expanded and be available for analysis by newer computer systems. DDC states that the DDEC IV system also includes a coolant level sensor and associated diagnostics which were not available with DDEC II. DDC states that although the DDEC IV has more capabilities than previous DDEC systems, it is not more complicated and is not more difficult to operate or maintain. The added sensors in the DDEC IV system do not require more maintenance or replacement than previous systems. DDEC IV was introduced in September 1997 and has been shown to be durable and reliable according to DDC. DDC does not anticipate any problems with the use of the DDEC IV system in the retrofit kit.

In response to the Pierce comments, DDC states that it has experienced increased cylinder kit failure rates at Pierce and other transits since 1995. DDC agrees that Pierce's use of 15W/40 oil may contribute to shortened engine life. For two stroke engines, DDC recommends straight 40 weight oil and does not recommend the use of multi-viscosity oils unless they have been CF2 approved. DDC states that the cylinder kits included in the original notification for this certification used the same components as the cylinder kits used in DDC's urban bus rebuild/retrofit kits certified to provide a 25% particulate reduction on 6V92 DDEC engines. DDC has recently made several changes to improve durability. This will result in a new cylinder kit which is virtually identical to the kits used in 1990. DDC believes these kits will provide the same durability as the kits provided to customers prior to 1995. These changes include a groove in the fire ring face to

provide improved lubrication of the ring surface, changes to the oil rings and skirt to facilitate oil drain back to the crankcase and modifications to the cylinder liner manufacturing technique, but not to the cylinder liner itself.

In a letter dated September 15, 1998 DDC provided information on the expected effect of this cylinder change on PM emission for the urban bus engine rebuild kit. DDC performed an engineering analysis demonstrating that the emission effects are small and that the emission standards will continue to be met using the revised cylinder kits. The grooved fire ring will carry more oil to the cylinder walls and increase oil consumption and, has the potential to increase volatile particulate emissions derived from the lubricating oil. DDC states that because the exhaust catalyst is very efficient in oxidizing volatile particulate, the net effect of any increase in engine out volatile components of the PM is substantially reduced. The soot and fuel derived volatile components of the PM are not expected to be affected. DDC also provided information on the breakdown of particulate emissions obtained during certification testing prior to revising the cylinder kit. Also shown is a particulate breakdown without any converter installed. DDC also provided data on the results of 100 hour oil consumption tests run at DDC to assess the impact of the cylinder kit revisions. The data shows that the cylinder kit revisions increased oil consumption by 21 percent. Based on the 21 percent oil consumption increase, DDC estimated the effect of the cylinder kit revisions on particulate matter exhaust emissions. DDC's analysis shows that the average PM increase with the three catalysts is 0.002 g/bhp-hr (the maximum increase was 0.0025 g/bhp-hr) and that the 0.10 g/bhp-hr standard will be met with each of the three catalysts. EPA finds that based on the analysis provided by DDC, the revised cylinder kit is acceptable for inclusion in the rebuild kit. A copy of DDC's letter and analysis has been placed in the public docket.

In response to the Metro concerns, DDC comments that Metro is correct in stating that DDC made a number of changes to bus engine cylinder kits in the 1990-1995 time frame. Changes to the cylinder kits included piston-to-liner clearance, compression ring gap, oil ring expander tension, and cylinder liner honing. DDC states that the position of the top fire ring was never changed. DDC notes that it uses different cylinder kit designs for urban bus engines rated at 253 and 277 horsepower and, the higher horsepower ratings typically used in truck

applications. As described above in response to the Pierce comments, DDC is modifying the cylinder kits provided with the certified kit to improve durability. DDC comments that these cylinder kits will be very similar to the kits used in 1990 which Metro suggests had superior life to overhaul. DDC commented that the retrofit/rebuild kit, will apply only to engines with 253 or 277 horsepower ratings. Consequently, it would not be applicable to the 330 horsepower engines in the Metro fleet.

EPA appreciates JMI's comments concerning a durability demonstration and understands that transit operators are concerned with the durability of retrofit/rebuild equipment, and subsequent additional costs or engine damage that potentially could result from premature equipment failure. However, EPA notes that the urban bus retrofit/rebuild regulations do not require a durability demonstration as a condition of certification. Rather, those certifying equipment, including DDC, are required pursuant to 40 CFR 85.1409 to provide a 100,000 mile equipment defect warranty and a 150,000 mile emissions performance warranty.

EPA believes that equipment suppliers will evaluate the durability of their equipment in order to minimize their liability resulting from the emissions defect and performance warranties. EPA believes that the available information does not indicate a durability concern with the equipment certified in today's notice, and therefore, does not provide sufficient basis to deny certification on these grounds. EPA will continue to monitor problems with this, and other certified equipment, and encourages transit operators to provide specific, detailed information regarding in-service problems with certified equipment.

The equipment certifier is responsible for the emissions performance of the engine through the 150,000 mile emissions performance warranty period, if the transit properly installs and maintains equipment in accordance with the equipment manufacturer's instructions. The transit operator is responsible for proper installation and use of certified equipment, and is responsible for the emissions performance of equipment operated beyond the 150,000 miles emissions warranty period. Also, the retrofit/rebuild program does not obviate compliance with any state or local emission requirements, such as inspection/maintenance (I/M) or smoke testing programs.

### *c. Installation Instructions*

JMI comments on the DDC statement that the standard procedures described in the service manual for the 92 series are sufficient for rebuilding base engines using the proposed equipment. JMI notes that the service manual in their possession dated October 1988 contains no information on how to install DDEC III equipment. For transits that have older DDEC engines without DDEC III information, this would be a burden. JMI commented that EPA should require DDC to supply specific instructions on how to install a DDEC III conversion.

While, as noted earlier, DDC is modifying the kit contents to use DDEC IV instead of DDEC III, the point of JMI's comment is still relevant. DDC states that the conversion will not be burdensome and will require less than three hours. DDC will provide detailed conversion instructions with each kit. DDC has provided EPA a sample copy of the instructions as an attachment to a letter to EPA from DDC dated September 24, 1998. A copy of these instructions has been placed in the public docket.

### *d. Kit Components*

JMI asked that EPA require DDC to explain why installation of the system does not alter or render inoperative any feature of the on-board diagnostic system incorporated by the engine manufacturer in view of the fact that the conversion to the DDEC III increases diagnostic and data logging capability. JMI also asks if there are any components or ancillary parts that are required which are not included in the parts lists of the kit. JMI comments that the parts lists in the DDC application do not include the appropriate ECM certification word codes (CWC's) for the listed parts combinations. JMI commented that to avoid confusion, EPA should require DDC to identify the correct CWC for each parts list. If the ECM needs to be changed to incorporate a different CWC, the EPA should require DDC to explain how this is done.

As noted above, DDC plans to use DDEC IV operating systems in the rebuild kits. All necessary conversion hardware will be supplied with the kit. DDC states that the change to DDEC IV per se will have no effect on engine performance or emissions. All diagnostic capabilities available with DDEC II will remain available with DDEC IV. The only changes to the diagnostic system with DDEC IV are the additions of memory that allows engine hour, time, and date information to be stored with each engine code to assist in troubleshooting, and the addition of a

coolant level sensor, and associated diagnostics according to DDC. DDC will provide in the kits the parts necessary to convert to DDEC IV. In regard to the CWC's, DDC states that the CWC used depends on the engine rating, engine rotation and the operators choice of #1 or #2 diesel fuel. Because the appropriate parts list is selected based on different criteria, engine rotation and tilt angle, DDC finds it is not appropriate to include the CWC in the parts lists 1-3. Attachment 9 of DDC's notification lists the twelve CWC's (six for right hand rotation engines and six for left hand rotation) and identifies when each is to be used. DDC will supply an unprogrammed DDEC IV ECM with each kit. Local DDC distributors will program the ECM with the operator specified CWC at the time of installation.

### *e. Life Cycle Cost*

CTA asked about the total cost of these upgrade kits be to fleet operators. JMI commented that EPA should require DDC to provide cost data in order for transits to fairly and objectively evaluate and compare the various 0.10 technologies. JMI asks about the labor costs associated with the conversion and whether there is a cost to a transit if a change to the ECM CWC program is necessary. JMI also asked about the impact of the DDC DDEC III technology on fuel consumption.

Engelhard commented that DDC has not included a baseline test for comparison with the proposed retrofit kit and that this data is necessary to verify that the equipment being installed on the engine does not affect engine performance or fuel economy. Engelhard commented that DDC has not provided life cycle cost data for this retrofit equipment and that the retrofit equipment should not be approved without providing the fuel economy penalty, installation costs, and additional maintenance.

As noted earlier, DDC has not provided cost information in this notification. The regulations do not require certifications that are not trigger technology to include cost data. However, EPA will provide a limited response to this comment, based on the cost information provided in the notification. Section 1403(b)(1)(ii) describes those items which must be considered when analyzing life cycle cost of equipment, including equipment purchase price, incremental fuel cost, maintenance costs and costs of any fuel additives required.

The price of the kit is not provided in the notification. This pricing information will obviously be provided

to the operator for consideration prior to purchase. The cost to program the CWC will be included in the price charged to the transit operator for the kit. Further, DDC responded that the conversion to the DDEC IV version will require approximately three additional hours of labor. Incremental fuel costs are based on a comparison with a baseline test. Since baseline test data was neither required nor provided in this notification, incremental fuel costs cannot be provided. However, based on the DDC data provided the brake specific fuel consumption (BSFC) in units of pounds of fuel per brake-horsepower-hour (lb/bhp-hr), fuel usage during the FTP testing provided BSFCs of 0.506, 0.516 and 0.517 lb/bhp-hr dependent upon which of the three catalysts was tested in conjunction with the kit. DDC responds that there will be no additional maintenance costs associated with this kit. No fuel additives are required or specified.

#### *f. Supply Options and Labeling*

JMI comments that it is unclear how DDC intends to supply the converter/muffler kits and asked how the kits would be stocked, supplied, delivered, labeled, serviced and warranted.

DDC states that complete rebuild kits, including converter/mufflers, will be supplied by DDC through DDC's normal parts distribution system. Adequate supply will be maintained to assure timely distribution, of complete rebuild and any replacement parts that users may require. The complete kits will be warranted by DDC. DDC will provide the label within each kit.

#### *g. Adverse Impact on NO<sub>x</sub> Emissions*

Engelhard questioned whether, if DDC is upgrading the control ECM from DDEC I and DDEC II to DDEC III, there will be a significant difference in the engine control maps. Engelhard also asked if this conversion would actually increase on-road NO<sub>x</sub> emissions. Engelhard requested that DDC verify that there will be no increase in NO<sub>x</sub> emissions under normal operating conditions.

As noted earlier, DDC will use the DDEC IV system in place of the DDEC III system proposed in the original notification. DDC responds that the engine control strategies are the same as were used on 1991–1993 DDC 6V–92 engines when originally manufactured. The control maps used during emission testing with the DDEC III system were modified slightly to meet emission requirements and achieve the same power/torque rating with the modified fuel injector. No changes were made to the engine programming or control

maps, which would have modified NO<sub>x</sub> emission characteristics during operation on or off the federal emission test cycle (FTP), compared to the 1991–1993 engine configurations. The 1991–1993 control maps and strategies, which were designed to meet the more stringent 5.0 g/bhp-hr NO<sub>x</sub> standard effective in 1991, should generally reduce NO<sub>x</sub> emissions for pre-1991 engines according to DDC. However, DDC commented that NO<sub>x</sub> emissions might conceivably increase in certain operating modes.

As stated in section IV of this notice, EPA has placed conditions on the 1985–1993 model year engines covered by this certification because these engines will receive an upgraded electronic control module. EPA is concerned that electronically controlled engines may have been equipped by the original manufacturers with strategies designed to decrease fuel consumption during certain driving modes not substantially included in the FTP, with the effect of substantially increasing NO<sub>x</sub> during these modes. As a result, certification of the DDC kit, as it applies to 1985 through 1993 model year engines, is conditioned upon DDC demonstrating by March 1, 1999 that any replacement engine control module (ECM) or ECM program used in conjunction with the certified kit will not adversely impact the emissions of NO<sub>x</sub> in comparison to the ECM or ECM program that is being replaced under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless such conditions are substantially included in the Federal emission test procedure.

### **III. California Engines**

The NO<sub>x</sub> emission standard for new engine certification applicable to 1988 through 1990 model year engines sold in the State of California is 6.0 g/bhp-hr. For 1991 through 1993, the standard is 5.0 g/bhp-hr. The emissions testing presented by DDC demonstrate a NO<sub>x</sub> emissions level that complies with the 5.0 g/bhp-hr standard. Therefore, today's certification of the DDC kit for DDEC engines applies to DDEC engines certified to meet California emissions standards, subject to the conditions discussed below.

The equipment certified today may require additional review by the California Air Resources Board (CARB) before use in the State of California. EPA recognizes that special situations may exist in California that are reflected in the unique emissions standards, engine calibrations, and fuel specifications of the State. While requirements of the federal urban bus

program apply to several metropolitan areas in California, EPA understands the view of CARB that equipment certified under the urban bus program, to be used in California, must be provided with an executive order exempting it from the anti-tampering prohibitions of that State. Parties interested in additional information should contact the Aftermarket Part Section of CARB, at (626) 575–6848.

### **IV. Certification and Conditional Certification**

EPA has reviewed this notification, along with comments received from interested parties, and finds the equipment described in this notification of intent to certify:

(1) Complies with a particulate matter emissions standard of 0.10 g/bhp-hr, without causing the applicable engine families to exceed other applicable emission requirements, subject to the conditions discussed below;

(2) Will not cause an unreasonable risk to the public health, welfare or safety;

(3) Will not result in any additional range of parameter adjustability; and

(4) Meets other requirements necessary for certification under the Urban Bus Rebuild Requirements (40 CFR 85.1401 through 85.1415).

With the following conditions, EPA hereby certifies this equipment for use in the Urban Bus Retrofit/Rebuild Program. As noted above, the equipment being certified today includes, for 1985–1993 model year engines, an upgraded control program for the electronic control module. EPA has recently become concerned that many electronically controlled engines may have been equipped by the original manufacturers with strategies designed to decrease fuel consumption during certain driving modes not substantially included in the federal test procedure, with the effect of substantially increasing NO<sub>x</sub> during these modes. Such electronic control strategies have the potential to be “defeat devices” as defined at 40 CFR 86.094–22, and thus may violate 40 CFR 85.1406 and 85.1408 if included in an urban bus retrofit application. The upgraded control program used for the 1985–1993 model year upgrade must therefore be reviewed for such violations.

As a result, certification of the DDC kit, as it applies to 1985 through 1993 model year engines, is conditioned upon DDC demonstrating by March 1, 1999 that any replacement engine control module (ECM) or ECM program used in conjunction with the certified kit will not adversely impact the emissions of NO<sub>x</sub> in comparison to the

ECM or ECM program that is being replaced under conditions which may reasonably be expected to be encountered in normal vehicle operation and use unless such conditions are substantially included in the Federal emission test procedure. The DDC equipment may be used immediately by transit operators in compliance with requirements of this program, subject to the above condition.

#### V. Transit Operator Responsibilities

Today's **Federal Register** notice announces certification of the above-described Engelhard equipment, when properly applied, as meeting the 0.10 g/bhp-hr particulate matter standard of the Urban Bus Rebuild Program for urban bus engines certified as meeting both federal and California emissions standards. Affected urban bus operators who choose to comply with compliance program 1 may use this, or other equipment that is certified to meet the 0.10 g/bhp-hr particulate matter standard, for any engines listed in Table 2 which are rebuilt or replaced, subject to the condition of Section IV.

Urban bus operators who choose to comply with compliance program 2 may use the certified DDC equipment, and those who use this equipment may claim the respective particulate matter certification level from Table 2 when calculating their Fleet Level Attained (FLA), subject to the condition of Section IV.

Urban bus operators must be aware of their responsibility for maintenance of records pursuant to 40 CFR 85.1403 through 85.1404. As stated in the program regulations (40 CFR 85.1401 through 85.1415), operators should maintain records for each engine in their fleet to demonstrate that they are in compliance with the Urban Bus Rebuild Requirements beginning on January 1, 1995. These records include purchase records, receipts, and part numbers for the parts and components used in the rebuilding of urban bus engines. Urban bus operators must be able demonstrate that all parts used in the rebuilding of engines are in compliance with program requirements. In other words, urban bus operators must be able demonstrate that all required components of the kit certified in today's **Federal Register** notice are installed on applicable engines.

Dated: February 19, 1999.

#### Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99-4828 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6240-3]

### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 01, 1999 Through February 05, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1999 (62 FR 17856).

#### Draft EISs

*ERP No. D-COE-J31027-WY* Rating EC2, Little Snake Supplemental Irrigation Water Supply Project, Construction, Right-of-Way Permit and COE Section 404 Permit, Carbon County, WY.

*Summary:* EPA objected to the proposed action given the potential significant adverse impacts associated with the Colorado River Cutthroat Trout recovery program. EPA also recommended that a new alternative which combines a reduced storage pool and increased water conservation be evaluated in the Final EIS.

*ERP No. D-DOI-K39053-CA* Rating EC2, San Joaquin River Agreement Project, Implementation of the Meeting Flow Objectives for 1999-2010, Vernalis Adaptive Management Plan, San Joaquin, Stanislaus, Madera, Merced, Fresno and Tuolumne Counties, CA.

*Summary:* EPA supported the project, as long as it will be implemented in a manner that does not degrade existing conditions or limit future management options. EPA expressed concerns regarding impacts to water quality, groundwater, and riparian habitat and requested additional information on these issues be included in the FEIS. EPA will continue to participate in implementation of the plan and a long-term fishery management program for the San Joaquin River.

*ERP No. D-FAA-B51021-MA* Rating EC2, Provincetown Municipal Airport Safety and Operational Enhancement Project, Improvements (1) Firefighter Equipment Garage; (2) General Aviation Parking Apron Expansion; (3) Runaway Safety Areas, and (4) a Runaway Extension, COE Section 404 Permit,

Cape Cod National Seashore, Barnstable County, MA.

*Summary:* EPA expressed environmental concerns that some alternatives considered in the DEIS were not adequately evaluated and that more information should be provided about mitigation measure associated with the runway extension proposals.

*ERP No. D-FHW-B40084-RI* Rating EC2, Western Johnston and Cranston, Improved Highway Access to the Environmental Management District, Funding and COE Section 404 Permit, Providence County, RI.

*Summary:* EPA requested information regarding stormwater management system for the proposed project and additional information to quantify the loss of wetland functions associated with either build alternative. Based on the available information, EPA also suggested that the Scituate Avenue extension appears to be less environmentally damaging than the Comstock Parkway extension.

*ERP No. DS-FHW-E40700-GA* Rating EC2, Harry S. Truman Parkway, Construction from the Abercon Street Extension (GA-204) to Derenne Avenue, COE Section 404 Permit and U.S. Coast Guard Permit, Chatham County, GA.

*Summary:* EPA's review found that although the preferred alternatives does avoid residential and commercial properties, it crosses the Vernon River floodplain and non floodplain wetlands. Bridging the entire floodplain and avoiding wetland impact is recommended.

#### Final EISs

*ERP No. F-COE-E32078-00* Savannah Harbor Section 203 Expansion Project, Channel Deepening, Harbor Improvements, Georgia Ports Authority, Federal Navigation Project, Chatham County, Ga and Jasper County, SC.

*Summary:* EPA noted that its earlier concerns over the proposal in the Draft EIS to deepen the channel by B feet have been eliminated by the proposal in the Final EIS to examine four deepening alternative, with a maximum deepening of only 6 feet. EPA has agreed with the need to continue the evaluate process associated with deepening the Savannah Harbor via a Tier II EIS analysis. The additional data developed by its preparation will form the basis for a reasoned decision, as to whether/how much this facility can be upgraded and the unavoidable environmental costs.

*ERP No. F-NOA-A91063-00* Monkfish Fishery Regulations Northeast Multispecies Fishery (FMP), Fishery Management Plan, Amendment 9, Implementation, Exclusive Economic

Zone, off the New England and Mid-Atlantic Coast.

*Summary:* Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

*ERP No. F-NOA-B39035-MA* New Bedford Harbor Environment Restoration Plan, Implementation, Acushnet River, Buzzards Bay, MA.

*Summary:* EPA found the Final EIS responsive to our earlier concerns with the exception of two technical concerns noted in the comment letter.

Dated: February 23, 1999.

**William D. Dickerson,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 99-4860 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6240-2]

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-7167 or (202) 564-7153.

Weekly receipt of Environmental Impact Statements

Filed February 16, 1999 Through February 19, 1999

Pursuant to 40 CFR 1506.9.

*EIS No. 990045, FINAL EIS, FHW, MN,* Ayd Mill Road Corridor, Improvements from I-35 E to St. Anthony Avenue (I-94) 2.6 kilometer (1.6 miles), Funding, Ramsey County, City of Saint Paul, MN, Due: April 12, 1999, Contact: Bill Lohr (651) 291-6100.

*EIS No. 990046, DRAFT EIS, COE, WA,* Programmatic EIS—Puget Sound Confined Disposal Site Study, Implementation, WA, Due: April 12, 1999, Contact: Stephen Martin (206) 764-3631.

*EIS No. 990047, DRAFT EIS, FHW, CA,* California Forest Highway 137, Improvements to Wentworth Springs Road and the Stumpy Meadows Reservoir Dam eastward (14.4 miles) to Ice House Road, Eldorado National Forest, El Dorado County, CA, Due: April 12, 1999, Contact: Richard J. Cushing (303) 716-2138.

*EIS No. 990048, DRAFT EIS, FRC, CA,* Potter Valley Project, Protection and Maintenance of Fishery Resources, (FERC No. 22-110), Eel River, Lake and Mendocino County, CA, Due: April 27, 1999, Contact: John M. Madre (202) 219-1208.

*EIS No. 990049, FINAL EIS, DOA, VA,* Buena Vista Watershed Plan, Multiple

Works Improvements, Watershed Protection and Flood Prevention, City of Buena Vista, Rockbridge County, VA, Due: March 29, 1999, Contact: M. Denise Doetzer (808) 287-1691.

*EIS No. 990050, DRAFT EIS, DOE, NM,* The Conveyance and Transfer of Certain Land Tracts Administered by the US DOE and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, NM, Due: April 12, 1999, Contact: Elizabeth Withers (800) 791-2280.

*EIS No. 990051, DRAFT EIS, FAA, MA,* Logan Airside Improvements Planing Project (EOEA #10458), Construction and Operation a new Unidirectional Runway 14/32, Centerfield Taxiway and Additional Taxiway Improvements, Boston Logan International Airport, Federal Funding, Airport Layout Plan and NPDES Permit, Boston, MA, Due: April 23, 1999, Contact: John C. Silva (781) 238-7020.

*EIS No. 990052, FINAL EIS, FTA, NY,* Buffalo Inner Harbor Development Project, Funding and COE Section 10 and 404 Permits, Downtown Waterfront Redevelopment Project, Eric County, NY, Due: March 29, 1999, Contact: Anthony C. Carr (212) 264-8162.

*EIS No. 990053, DRAFT EIS, BIA, MT,* Flathead Indian Reservation Forest Management Plan, Implementation, Rocky Mountain, Pablo, MT, Due: April 12, 1999, Contact: Donald R. Sutherland (202) 208-4791.

*EIS No. 990054, DRAFT EIS, NPS, TX,* Padre Island National Seashore Oil and Gas Management Plan, Implementation, Kleberg, Kenedy and Willacy Counties, TX, Due: May 12, 1999, Contact: Linda K. Dansby (505) 988-6095.

*EIS No. 990055, DRAFT EIS, FAA, MD,* VA, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON), To consolidated four TRACON in Baltimore-Washington Metro Terminal Area, Preferred Site is Vint Hill Farms, VA, DC and MD, Due: April 12, 1999, Contact: Joseph Champley (800) 762-9531.

*EIS No. 990056, DRAFT EIS, COE, MD,* Queen Anne's County Maryland, Proposed Open-Water Placement of Dredged Material at Site 104, Chesapeake Bay Channels, Anne's County, MD, Due: April 12, 1999, Contact: Wesley E. Coleman (410) 962-4713.

*EIS No. 990057, DRAFT EIS, COE, PA,* Lackawanna River Flood Protection Project, To Provide the Plot and Green Ridge Reevaluation, Scranton Local Flood Protection, Lackawanna River,

Lackawanna County, PA, Due: April 15, 1999, Contact: Ms. Stacey Brown (410) 962-2558.

### Amended Notices EIS

*EIS No. 980459, DRAFT EIS, USA, ND,* Maple River Dam and Reservoir, Construction and Operation, Flood Control, Cass County Joint Water Resource District, Cass County, ND, Due: March 15, 1999, Contact: Dwight Olson (402) 221-4628. Published FR-11-13-98—Review Period Extended.

*EIS No. 980483, DRAFT EIS, AFS, ID,* WY, Targhee National Forest Open Road and Open Motorized Trail Analysis, To Implement a New Travel Plan, several counties, ID and Lincoln and Teton Counties, WY, Due: March 5, 1999, Contact: Alan Silker (208) 624-3151. Published FR-12-04-98—Review Period Extended.

*EIS No. 990043, DRAFT EIS, BLM,* Programmatic EIS—Surface Management Regulations for Locatable Mineral Operation, (43 CFR 3809), Public Land, Due: May 10, 1999, Contact: Paul McNutt (775) 861-6604. Published FR-02-19-99—Due Date Correction.

Dated: February 23, 1999.

**William D. Dickerson,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 99-4861 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6305-7]

### Cancellation Notice of the Gulf of Mexico Program's Citizens Advisory Committee Meeting

**AGENCY:** U.S. Environmental Protection Agency (US EPA).

**ACTION:** Cancellation notice of the Gulf of Mexico Program's Citizens Advisory Committee Meeting announced in the **Federal Register** on February 10, 1999 at (64 FR 6651).

**SUMMARY:** The Gulf of Mexico Program has cancelled its Citizens Advisory Committee Meeting.

**DATES:** The meeting was scheduled for Monday, March 1, 1999.

**ADDRESSES:** The meeting site was the River House Conference Facility, Stennis Space Center, MS (228) 688-7618.

**FOR FURTHER INFORMATION CONTACT:** Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space

Center, MS 39529-6000 at (228) 688-2421.

Dated: February 23, 1999.

**James D. Giattina,**

*Director, Gulf of Mexico Program Office.*

[FR Doc. 99-4936 Filed 2-24-99; 12:37 pm]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6236-5]

### Preparing No-Migration Demonstrations for Municipal Solid Waste Disposal Facilities—A Screening Tool

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing a guidance document that will assist owners and operators of Municipal Solid Waste Landfills (MSWLFs) in deciding whether to consider making a no-migration demonstration (NMD). EPA regulations (40 CFR part 258) for MSWLFs allow groundwater monitoring requirements to be suspended by the Director of an Approved State if there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life and post-closure care period.

A NMD can provide a cost effective alternative for owners and operators of MSWLFs in specific climatic and hydrogeologic conditions to comply with the groundwater monitoring provisions of EPA's rules. NMDs are designed to result in the same environmental protection at less cost to the owner or operator.

The Agency prepared this guidance at the direction of the Land Disposal Program Flexibility Act (LDPFA) which required EPA to issue a guidance document to facilitate the use of NMDs by small MSWLFs. Thus, the primary audience for the draft guidance manual is owners and operators of small MSWLFs; however, the general approach would be useful to an owner or operator of any size MSWLF.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at 800 424-9346 or TDD 800 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412-9810 or TDD 703 412-3323. For information on specific aspects of the report, contact Allen J. Geswein, Office of Solid Waste (5306W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460,

(703 308-7261),  
(geswein.allen@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:** A paper copy of "Preparing No-Migration Demonstrations for Municipal Solid Waste Disposal Facilities—A Screening Tool," is free and may be obtained by calling the RCRA Hotline at 800 424-9346 or TDD 800 553-7672 (hearing impaired). The document number is EPA530-R-XX-XXX. In the Washington, DC, metropolitan area, call 703 412-9810 or TDD 703 412-3323. The Draft Guidance Document is also available in electronic format on the Internet System through the EPA Public Access Server at <http://www.epa.gov/epaoswer>.

Dated: February 5, 1999.

**Elizabeth A. Cotsworth,**

*Acting Director, Office of Solid Waste.*

[FR Doc. 99-4827 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6236-4]

### Cherokee Resources Superfund Sites; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to settle claims for response costs under section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9622(g), with parties qualifying for *de minimis* settlements. These claims relate to removal and response actions undertaken by EPA at the Cherokee Resources Sites on Berryhill Road and Summit Avenue in Charlotte, Mecklenburg County, North Carolina. A list of the parties to this proposed settlement is set forth below. As announced in an earlier notice, this is the second and final phase of the *de minimis* settlement for these Sites. The following list of 32 parties have returned signature pages accepting EPA's settlement offer:

AVM, Inc., Allwaste Tank Cleaning, Inc., American Linc Corporation, Amoco Oil Company, Ansco & Associates, Inc., Autry Concrete Products, Ayerst Laboratories, Inc. (d/b/a Wyeth-Ayerst Laboratories), Bi-Lo, Inc., Carlisle Geauga Company, Carolina Scrap Processors, Circle Bearing, Container Corporation of America (n/k/a Jefferson Smurfit Corporation), The Dickerson Group, Inc., Dixie Electric Motor Service, Inc., James Waste Oil, Kenan Transport Company, Lacy

J. Miller Machine Company, Inc., Lafayette Motor Sales, Inc., Mack Trucks, Inc., Marion Fabrics, Monarch Machine Tool Company—Cortland, Newco Fibre Company, Radiator Specialty Company, Sonoco Products Company, Sparks Oldsmobile (d/b/a Sparks Chrysler-Plymouth-Jeep, Inc.), Spencer—Pettus Machine Company, Inc., U-Haul Company, Valley Forge Tape & Label Company, Inc., Vermont American Corporation, Virginia Power, Walter Kidde Portable Equipment, and Western Auto.

EPA will consider public comments on the proposed settlement which are received by EPA within thirty (30) days of the date of publication of this document. EPA may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate.

Written comments should be sent to the EPA representative listed below. Request for copies of the settlement terms should be sent to this same address: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency—Region 4, Atlanta Federal Center, Program Services Branch, Cost Recovery Section, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562-8887.

Dated: February 11, 1999.

**Franklin E. Hill,**

*Chief, Program Services Branch.*

[FR Doc. 99-4826 Filed 2-25-99; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

February 19, 1999.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the

information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before April 27, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Les Smith, Federal Communications, Room 1 A-804, 445 12th St., SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at 202-418-0217 or via the Internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0863.

*Title:* Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents:* 848.

*Estimated Time Per Response:* 30 minutes.

*Frequency of Response:* On occasion recordkeeping requirement.

*Total Annual Burden:* 125,000 hours.

*Total Annual Costs:* \$12,500.

*Needs and Uses:* The information gathered as part of Grade B signal strength tests will be used to indicate whether consumers are "unserved" by over-the-air network signals. The written records of test results will be made after testing and predicting the strength of a television station's signal. Parties impacted by the test results will be consumers; parties using the written test results will primarily be the satellite and broadcasting industries.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99-4818 Filed 2-25-99; 8:45 am]

BILLING CODE 6712-10-P

**FEDERAL COMMUNICATIONS COMMISSION**

**Public Information Collection Approved By Office of Management and Budget**

February 19, 1999.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96-511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418-0214.

**Federal Communications Commission**

*OMB Control No.:* 3060-0865.

*Expiration Date:* 01/31/2002.

*Title:* Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

*Form No.:* N/A.

*Estimated Annual Burden:* 32,297 annual hours; .5-1 hour per response; 30,803 responses.

*Description:* ULS establishes a streamlined set of rules that minimize filing requirements; eliminates redundant, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. The recordkeeping and third party disclosure requirements contained in this collection are a result of the elimination of a number of filing requirements. The ULS forms contain a number of certifications. However, applicants must maintain records to document compliance with the requirements. In some instances third party coordination is required.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99-4817 Filed 2-25-99; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**Seventh Meeting of the Advisory Committee for the 2000 World Radiocommunication Conference (WRC-2000 Advisory Committee)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC-2000 Advisory Committee will be held on March 19, 1999, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2000 World Radiocommunication Conference. The Advisory Committee will consider any consensus views or proposals introduced by the Advisory Committee's Informal Working Groups.

**DATES:** March 19, 1999; 10:00 am-12:00 noon.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, Room TW-C305, Washington DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Damon C. Ladson, FCC International Bureau, Planning and Negotiations Division, at (202) 418-0420.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission (FCC) established the WRC-2000 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2000 World Radiocommunication Conference (WRC-2000). In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of the seventh meeting of the WRC-2000 Advisory Committee. The WRC-2000 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the seventh meeting is as follows:

**Agenda**

Seventh Meeting of the WRC-2000 Advisory Committee, Federal Communications Commission, 445 12th Street, SW, Room TW-C305, Washington, DC 20554

March 19, 1999; 10:00 am-12:00 noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Sixth Meeting
4. IWG Reports and Documents
  - 4a. Consideration of Consensus Views

- and Issue Papers  
4b. Development of Draft Proposals  
5. Future Meetings  
6. Other Business

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

[FR Doc. 99-4819 Filed 2-25-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91-300; DA 99-369]

### Private Land Mobile Radio Service, Virginia Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Announcement of a meeting.

**SUMMARY:** The Chief Public Safety and Private Wireless Division released this Public Notice announcing a meeting of the Virginia (Region 42) Public Safety Regional Planning Committee. The purpose of the meeting is to discuss the James City County/Williamsburg Public Schools application. The Region 42 Planning Committee solicits active participation by representatives of eligible entities.

**DATES:** March 4, 1999.

**ADDRESSES:** The meeting location is: Virginia—State Police Academy (Room 335), Midlothian Turnpike, Richmond, VA 23235. Interested parties should contact Region 42 Chairman David Warner at: Virginia State Police, P. O. Box 27472, Richmond, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Joy Alford, Federal Communications Commission, Washington, DC (202) 418-0694.

**SUPPLEMENTARY INFORMATION:** The full text of the Public Notice is as follows: The Virginia (Region 42) Public Safety Planning Committee announces that a meeting will be held on March 4, 1999 at 10:30 a.m., E.S.T., in Room 335 of the State Police Academy on Midlothian Turnpike, Richmond, Virginia. The purpose of the meeting is to discuss the James City County/Williamsburg Public Schools application. In accordance with the Public Safety National Plan, each region is responsible for planning its use of public safety radio frequency spectrum in the 821-824/866-869 MHz bands. The Region 42 Planning Committee is responsible for planning public safety radio frequency spectrum usage in the State of Virginia. The Regional Planning Committee solicits active participation by representatives of eligible entities. For additional

information, interested parties should contact the regional Chairman: David Warner, Virginia State Police, P. O. Box 27472, Richmond, Virginia 23261-7472 (804) 674-2208, voice; (804) 674-2602, fax.

Federal Communications Commission.

**John F. Clark,**

*Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.*

[FR Doc. 99-4820 Filed 2-25-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### FCC Office of the Secretary Closes Temporary Filing Facility at 1919 M Street, NW

Released: February 18, 1999.

Effective March 1, 1999, all paper filings hand delivered to the Federal Communications Commission will be accepted only at the designated filing counter, TW-A325, in the 12th Street Lobby of the Commission's Portals II building, 445-12th Street, SW, Washington, DC 20554. The temporary filing facility located at Room 222, 1919 M Street, NW, Washington, DC, will be discontinued at the close of business on Friday, February 26, 1999. Staff shortages in the Secretary's Office, increased workload associated with serving FCC staff in split locations, and the Secretary's desire to expedite the distribution of paper filings have triggered the need to close the temporary filing facility before the Commission's complete relocation to the Portals II building.

In accordance with current practice, paper filings will be accepted between the hours of 8:00 a.m. and 5:30 p.m. Filers will continue to receive their "stamp and return" copy upon request.

FCC Secretary Magalie Salas stated, "We appreciate everyone's cooperation during our transition period, and we look forward to serving you at the Portals II building."

Please forward any questions to FCC Secretary Magalie Román Salas; Deputy Secretary Bill Caton; or Assistant Secretary Ruth Dancy at (202) 418-0300 or <http://www.fcc.gov/office> of the secretary.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

[FR Doc. 99-4801 Filed 2-25-99; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Partially Open Meeting, Board of Visitors for the National Fire Academy

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice of partially open meeting.

**SUMMARY:** In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

**NAME:** Board of Visitors for the National Fire Academy.

**DATES OF MEETING:** March 11-13, 1999.

**PLACE:** Building J, Room 102, National Emergency Training Center, Emmitsburg, Maryland.

**TIME:** March 11, 1999, 8:30 a.m.-5 p.m. (Open Meeting); March 12, 1999, 8:30 a.m.-10:30 a.m. (Closed Meeting); March 12, 1999, 11 a.m.-9 p.m. (Open Meeting); March 13, 1999, 8:30 a.m.-12 noon (Open Meeting).

**PROPOSED AGENDA:** March 11, 1999, Review National Fire Academy Program Activities. March 12, 1999 (Closed Meeting From 8:30 a.m.-10:30 a.m., to develop Fiscal Year 1999, 2000, and 2001 budgetary and procurement recommendations.) March 12, 1999, 11 a.m.-9 p.m., and March 13, 1999, 8:30 a.m.-12 noon, Finish Review of National Fire Academy Program Activities.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public (except as noted) with seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1117, on or before March 1, 1999.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request within 60 days after the meeting.

Dated: February 18, 1999.

**Carrye B. Brown,**

*U.S. Fire Administrator.*

[FR Doc. 99-4841 Filed 2-25-99; 8:45 am]

BILLING CODE 6718-01-P

**FEDERAL MARITIME COMMISSION****Notice of Agreement(s) Filed**

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 202-011579-003.

*Title:* The Inland Shipping Service Association.

*Parties:* Crowley American Transport, Inc., Dole Ocean Liner Express King Ocean, A.P. Moller-Maersk Line, Sea-Land Service, Inc., Seaboard Marine, Ltd. and Seaboard Marine of Florida, Inc.

*Synopsis:* The proposed modification expands the scope of the Agreement to include ports in Mexico.

Dated: February 22, 1999.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**  
*Secretary.*

[FR Doc. 99-4760 Filed 2-25-99; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL MARITIME COMMISSION****Notice of Agreement(s) Filed**

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 202-011650.

*Title:* North Atlantic Agreement.

*Parties:*

A.P. Moller-Maersk Line  
Atlantic Cargo Services  
APL Limited  
Atlantic Container Line AB  
China Ocean Shipping (Group) Co.  
DSR-Senator Lines  
Hanjin Shipping Co., Ltd.  
Hapag-Lloyd Container Linie GmbH  
Hyundai Merchant Marine Co., Ltd.

Independent Container Line Europe  
NV

Kawasaki Kisen Kaisha, Ltd.  
Lykes Lines Limited  
Mediterranean Shipping Co.  
Mexican Line Limited  
Nippon Yusen Kaisha  
Orient Overseas Container Line (UK)  
Inc.

P&O Nedlloyd Limited  
POL-Atlantic  
Sea-Land Service, Inc.  
Yangming Marine Transport Corp.

*Synopsis:* The proposed agreement would authorize the parties to establish a conference in the trade between ports and points in the United States and ports and points in Northern Europe.

Dated: February 22, 1999.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**  
*Secretary.*

[FR Doc. 99-4761 Filed 2-25-99; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL MARITIME COMMISSION****Ocean Freight Forwarder License; Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

CSL GROUP INC., 13310 E. Firestone Blvd., C#2, San Fe Springs, CA 90670, Officers: Amy Cook, President.

Dated: February 22, 1999.

**Bryant L. VanBrakle,**  
*Secretary.*

[FR Doc. 99-4759 Filed 2-25-99; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM****Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 12, 1999.

**A. Federal Reserve Bank of Kansas City** (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*I. Gregg P. & Janet L. Lewis,* Osawatomie, Kansas, and Gordon G., and Susette M. Lewis, Naples, Florida; to acquire voting shares of Osawatomie Agency, Inc., Osawatomie, Kansas, and thereby indirectly acquire voting shares of First Option Bank, Osawatomie, Kansas.

Board of Governors of the Federal Reserve System, February 22, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99-4779 Filed 2-25-99; 8:45 am]

BILLING CODE 6210-01-F

**FEDERAL RESERVE SYSTEM****Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking

activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 22, 1999.

**A. Federal Reserve Bank of Atlanta**  
(Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Habersham Bancorp*, Cornelia, Georgia; to acquire 45.91 percent of the voting shares of CB Financial Corporation, Warrenton, Georgia, and thereby indirectly acquire Citizens Bank, Warrenton, Georgia.

**B. Federal Reserve Bank of Dallas**  
(W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *First Louisiana Bancshares, Inc.*, Shreveport, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First Louisiana Bank, Shreveport, Louisiana (in organization).

2. *Security Pecos Bancshares, Inc.*, Pecos, Texas, and Security Delaware Pecos Bancshares, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The Security State Bank of Pecos, Pecos, Texas.

Board of Governors of the Federal Reserve System, February 22, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99-4778 Filed 2-25-99; 8:45 am]

BILLING CODE 6210-01-F

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10:00 a.m., Wednesday, March 3, 1999.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any matters carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202-452-3204.

**SUPPLEMENTARY INFORMATION:** You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 24, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99-4923 Filed 2-24-99; 10:47 pm]

BILLING CODE 6210-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Workshop To Explore the Hazards and Needs Relating to Respiratory Protection for Emergency Responders to Nuclear, Biological and for Chemical Incidents

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC) announces the following meeting.

*Name:* Workshop to Explore the Hazards and Needs Relating to Respiratory Protection for Emergency Responders to Nuclear, Biological, and/or Chemical Incidents.

*Time and Dates:* 12 Noon-6 p.m., March 10, 1999. 8 a.m.-6 p.m., March 11, 1999. 8 a.m.-1 p.m., March 12, 1999.

*Place:* Lakeview Resort and Conference Center, One Lakeview Drive, Morgantown, WV 26505. Telephone 800/624-8300.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 200 people. Seating will be limited to approximately 160 people.

*Purpose:* The National Institute for Occupational Safety and Health is requesting public participation in a workshop being co-sponsored with the U.S. Army—Soldiers and Biological Chemical Command and the Occupational Safety and Health Administration. The agencies are bringing together subject matter experts and stakeholders with common interests and concerns for the respiratory protection needs of emergency responders. This workshop will provide a forum to exchange information and learn about current respiratory protection issues associated with incidents involving nuclear, biological, and/or chemical agents. Participants are encouraged to provide and share the results from any testing or evaluations of respirators for potential use against these agents. The objectives of this meeting are (1) to identify and understand the hazards associated with a nuclear,

biological and/or chemical incident; (2) identify the different responders and their respiratory protection needs; (3) determine which respirators are currently being utilized for response to these types of events and the selection criteria; and (4) determine public health and medical community concerns which must be considered in developing a standard for chemical and biological respiratory protective devices. After the conclusion of the workshop, a Workshop Report summarizing information and discussions will be provided to all participants. The Workshop Report will be available upon request and may be used by attendees to form future partnerships and collaborations to address this emerging national issue.

Requests to participate in this public workshop and secure lodging are being coordinated by NIOSH. Please contact Ms. Kay Basile, Respirator Branch Secretary, at phone 304/285-5907, FAX 304/285-6030, or email "dkb1@cdc.gov". Requests for each person attending should include the name; title; affiliation; arrival and departure dates; and telephone, FAX & email contact numbers. Submit requests as soon as possible to ensure lodging accommodations.

#### FOR FURTHER INFORMATION CONTACT:

Richard W. Metzler or John Dower, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia, 26505-2888. Telephone 304/285-5907.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 19, 1999.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 99-4804 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-19-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### State Median Income Estimates for Four-Person Families (FY 2000); Notice of the Fiscal Year (FY) 2000 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

**AGENCY:** Office of Community Services, ACF, DHHS.

**ACTION:** Notice of estimated state median income for FY 2000.

**SUMMARY:** This notice announces the estimated median income for four-person families in each state and the District of Columbia for FY 2000 (October 1, 1999 to September 30, 2000). LIHEAP grantees may adopt the state median income estimates beginning with the date of this publication or the estimates in the **Federal Register** or at a later date as discussed below. This means that LIHEAP grantees could choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 1999, or by the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using state median income estimates must adjust their income eligibility criteria to be in accord with the FY 2000 state median income estimates.

This listing of estimated state median incomes concerns maximum income levels for households to which LIHEAP grantees may make payments under LIHEAP.

**EFFECTIVE DATE:** The estimates are effective at any time between the date of this publication and October 1, 1999, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

**FOR FURTHER INFORMATION CONTACT:** Leon Litow Administration for Children and Families, HHS Office of Community Services Division of Energy Assistance 5th Floor West 370 L'Enfant Promenade, S.W. Washington, D.C. 20447 Telephone: (202) 401-5304 Internet E-Mail: llitow@acf.dhhs.gov

**SUPPLEMENTARY INFORMATION:** Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FY 2000 (the period of October 1, 1999, through September 30, 2000).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of FY 2004 by the Coats Human Services Reauthorization Act of 1998, Pub. L. 105-285, which was enacted on October 27, 1998.

Estimates of the median income of four-person families for each state and the District of Columbia for FY 2000 have been developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recently

available income data. In developing the median income estimates for FY 2000, the Bureau of the Census used the following three sources of data: (1) The March 1998 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 1997 per capita personal income estimates, by state, from the Bureau of Economic Analysis of the U.S. Department of Commerce.

Like the estimates for FY 1999, the FY 2000 estimates include income estimates from the March Current Population Survey that are based on population controls from the 1990 Decennial Census of Population. Income estimates prior to FY 1996 from the March Current Population Survey had been based on population controls from the 1980 Decennial Census of Population. Generally, the use of 1990 population controls results in somewhat lower estimates of income.

For further information on the estimating method and data sources, contact the Housing and Household Economic Statistics Division, at the Bureau of the Census (301-457-3243).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FY 2000 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45 CFR 96.85(b), which was published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

Dated: February 19, 1999.

**Donald Sykes,**  
*Director, Office of Community Services.*

**ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FISCAL YEAR 2000<sup>1</sup>**

States	Estimated state median income 4-person families <sup>2</sup>	60 Percent of estimated state median income 4-person families
Alabama .....	\$48,240	\$28,944
Alaska .....	57,474	34,484
Arizona .....	47,133	28,280
Arkansas .....	38,646	23,188
California .....	55,217	33,130
Colorado .....	58,988	35,393
Connecticut .....	72,706	43,624
Delaware .....	63,171	37,903
District of Col. ....	56,125	33,675
Florida .....	49,913	29,948
Georgia .....	51,649	30,989
Hawaii .....	58,474	35,084
Idaho .....	46,126	27,676
Illinois .....	57,811	34,687
Indiana .....	53,581	32,149
Iowa .....	51,782	31,069
Kansas .....	52,900	31,740
Kentucky .....	46,033	27,620

**ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FISCAL YEAR 2000<sup>1</sup>—Continued**

States	Estimated state median income 4-person families <sup>2</sup>	60 Percent of estimated state median income 4-person families
Louisiana .....	46,087	27,652
Maine .....	48,043	28,826
Maryland .....	66,508	39,905
Massachusetts ..	65,012	39,007
Michigan .....	57,521	34,513
Minnesota .....	60,577	36,346
Mississippi .....	42,238	25,343
Missouri .....	52,179	31,307
Montana .....	43,559	26,135
Nebraska .....	53,419	32,051
Nevada .....	53,302	31,981
New Hampshire ..	59,981	35,989
New Jersey .....	67,335	40,401
New Mexico .....	40,033	24,020
New York .....	55,911	33,547
North Carolina ..	51,790	31,074
North Dakota ....	46,921	28,153
Ohio .....	55,926	33,556
Oklahoma .....	44,283	26,570
Oregon .....	54,226	32,536
Pennsylvania ....	55,386	33,232
Rhode Island ....	62,005	37,203
South Carolina ..	49,660	29,796
South Dakota ....	46,831	28,099
Tennessee .....	48,244	28,946
Texas .....	48,007	28,804
Utah .....	50,823	30,494
Vermont .....	51,814	31,088
Virginia .....	57,050	34,230
Washington .....	57,421	34,453
West Virginia ....	43,668	26,201
Wisconsin .....	57,270	34,362
Wyoming .....	48,412	29,047

NOTE—FY 2000 covers the period of October 1, 1999 through September 30, 2000. The estimated median income for 4-person families living in the United States is \$53,350 for FY 2000. The estimates are effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 1999, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

<sup>1</sup> In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% to 132% for each additional family member and multiply the new percentage by the state's estimated median income for a 4-person family.

<sup>2</sup> Prepared by the Bureau of the Census from the March 1998 Current Population Survey, 1990 Decennial Census of Population and Housing, and 1997 per capita personal income estimates, by state, from the Bureau of Economic Analysis.

[FR Doc. 99-4748 Filed 2-25-99; 8:45 am]

BILLING CODE 4184-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 93N-0371]

**Agency Information Collection Activities; Announcement of OMB Approval; Prescription Drug Product Labeling, Medication Guide Requirements**

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Prescription Drug Product Labeling, Medication Guide Requirements" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 1, 1998 (63 FR 66378), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0393. The approval expires on January 31, 2002.

Dated: February 19, 1999.

**William K. Hubbard,***Associate Commissioner for Policy Coordination.*

[FR Doc. 99-4765 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 97N-0165]

**Agency Information Collection Activities; Announcement of OMB Approval; Regulations Requiring Manufacturers to Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients**

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Regulations Requiring Manufacturers to Assess the Safety and Effectiveness of New Drugs and Biological Products in Pediatric Patients" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of August 15, 1997 (62 FR 43903), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910-0392. The approval expires on January 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at "<http://www.fda.gov/ohrms/dockets>".

Dated: February 19, 1999.

**William K. Hubbard,***Associate Commissioner for Policy Coordination.*

[FR Doc. 99-4766 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 84N-0102]

**Cumulative List of Orphan Drug and Biological Designations**

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the cumulative list of orphan drug and biological designations as of December 31, 1998. FDA has announced the availability of previous lists, which are updated monthly, identifying the drugs and biologicals granted orphan designation under the Federal Food, Drug, and Cosmetic Act (the act).

**ADDRESSES:** Copies of the cumulative list of orphan drug and biological designations are available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and the Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3666.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Hubbard or Stephanie Donahoe, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3666.

**SUPPLEMENTARY INFORMATION:** FDA's Office of Orphan Products Development (OPD) reviews and takes final action on applications submitted by sponsors seeking orphan designation of their drug or biological under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act which requires public notification of designations, FDA maintains a cumulative list of orphan drug and biological designations. This list includes the name of the drug or biological, the specific disease/condition for which the drug or biological is designated, and information about the sponsor such as the name, address, telephone number, and contact.

At the end of each calendar year, the agency publishes a cumulative list of orphan drug and biological designations current through the calendar year. The list that is the subject of this notice is the cumulative list of orphan drug and biological designations through December 31, 1998, and, therefore, brings the January 30, 1998 (63 FR 4644), publication up to date. This list is available upon request from the Dockets Management Branch (address above). Those requesting a copy should specify Docket No. 84N-0102, which is the docket number for this notice. In addition, the list is updated monthly and is available upon request from OPD or FDA's Dockets Management Branch (address above). The current list is also available on the website, <http://www.fda.gov/orphan>.

The orphan designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing a drug or biological for an orphan indication must apply for orphan designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which

designation is requested (21 CFR 316.23). Copies of the orphan drug regulations (21 CFR part 316) (57 FR 62076, December 29, 1992) and explanatory background materials for use in preparing an application for orphan designation may be obtained from OPD (address above).

The names of the drugs and biologicals shown in the cumulative list of orphan designations may change upon marketing approval/licensing, reflecting the established, proper name approved by FDA. Because drugs and biologicals not approved/licensed for marketing are investigational, the appropriate established, proper name has not necessarily been assigned.

Dated: February 19, 1999.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 99-4764 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 95D-0349]

#### **Guidance for Industry on SUPAC-IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "SUPAC-IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum." This guidance is intended to provide insight and recommendations to pharmaceutical sponsors of new drug applications and abbreviated new drug applications who wish to change equipment during the postapproval period.

**DATES:** Written comments may be submitted at any time.

**ADDRESSES:** Copies of this guidance for industry are available on the Internet at "<http://www.fda.gov/cder/guidance/index.htm>". Submit written requests for single copies of "SUPAC-IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum" to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research (CDER), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** John L. Smith, Center for Drug Evaluation and Research (HFD-590), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301-827-2175.

**SUPPLEMENTARY INFORMATION:** FDA is announcing the availability of a guidance for industry entitled "SUPAC-IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum." This guidance is intended to provide recommendations to pharmaceutical manufacturers using CDER's Guidance for Industry on "Immediate Release Solid Oral Dosage Forms, Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls, In Vitro Dissolution Testing, and In Vivo Bioequivalence Documentation" (SUPAC-IR), which published in November 1995 and CDER's Guidance for Industry "SUPAC-MR: Modified Release Solid Oral Dosage Forms Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation," which published in September 1997.

This guidance is a revision of and supersedes the guidance entitled "SUPAC-IR: Immediate Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum," which published in October 1997. The guidance includes information on equipment used to manufacture modified release solid oral dosage form products as well as immediate release solid oral dosage form products and may be used to determine what documentation should be submitted to FDA regarding equipment changes made in accordance with the recommendations in the SUPAC-IR guidance and SUPAC-MR guidance.

This guidance represents the agency's current thinking on scale-up and postapproval equipment changes for immediate release and modified release solid oral dosage forms regulated by CDER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 19, 1999.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 99-4767 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99D-0236]

#### **Draft Guidance for Industry on Skin Irritation and Sensitization Testing of Generic Transdermal Drug Products; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Skin Irritation and Sensitization Testing of Generic Transdermal Drug Products." This draft guidance provides assistance to sponsors of abbreviated new drug applications (ANDA's) by recommending study designs and scoring systems that can be used to test skin irritation and sensitization during development of transdermal products. To fully evaluate the equivalence of a transdermal product to a reference listed drug, skin irritation and sensitization should be assessed because skin conditions may affect the efficacy or safety of the product. This guidance does not address the actual bioequivalence studies that would be needed for a particular transdermal drug product.

**DATES:** Written comments may be submitted on the draft guidance document by April 27, 1999. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Copies of this draft guidance for industry are available on the Internet at "<http://www.fda.gov/>

cdcr/guidance/index.htm". Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**

Mary Fanning, Center for Drug Evaluation and Research (HFD-600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-5845.

**SUPPLEMENTARY INFORMATION:** FDA is announcing the availability of a draft guidance for industry entitled "Skin Irritation and Sensitization Testing of Generic Transdermal Drug Products." Transdermal products have properties that may lead to skin irritation and/or sensitization. The delivery system, or the system in conjunction with the drug substance, may cause these skin reactions. In the development of transdermal products, dermatologic adverse events are evaluated primarily with animal studies and safety evaluations in the context of large clinical trials generally associated with the submission of new drug applications. Separate skin irritation and skin sensitization studies also are used for this purpose. These later studies are designed to detect irritation and sensitization under conditions of maximal stress. These studies may be used during the assessment of transdermal drug products for ANDA's.

This draft level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on skin irritation and sensitization testing of generic transdermal drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the

requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 19, 1999.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 99-4763 Filed 2-25-99; 8:45 am]

BILLING CODE 4160-01-F

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443-7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Persistent Effect of Treatment in Cuyahoga County, Ohio—New—The Center for Substance Abuse Treatment (CSAT) is undertaking a major initiative to study the long-term course of substance abuse within the context of receipt of substance abuse treatment. It has often been observed that success in treating substance abuse may require multiple episodes of treatment. The Persistent Effects of Treatment Studies (PETS) will be a family of studies structured to provide data on a wide range of populations and treatment approaches over a three-year period following admission to a substance abuse treatment program in a community setting. The family of studies will be built on existing studies currently being conducted by other organizations (including Federal, State, and local governments) in order to minimize costs and response burden. Collectively, the PETS studies are expected to provide valuable insights into the factors that lead to long-term success in treatment of substance abuse.

Persistent Effects of Treatment in Cuyahoga County, Ohio, is the first of these studies. Under the aegis of an existing, CSAT-funded, Target Cities cooperative agreement, the county has built a strong substance abuse treatment information capability including standardized client intake assessment using the computerized Central Intake Assessment Instrument (CIAI-C), sound and comprehensive treatment information systems, and ongoing client follow-up at 6- and 12-months after treatment. This proposed project will build upon this foundation by conducting additional interviews at 24, 30, and 36 months after treatment admission using the computerized CIAI-C Followup version. At month 36, additional information needed to construct a natural history of substance use, treatment, criminal justice involvement, and employment for each subject over the previous 4-year period will be collected.

The estimated response burden over the three-year period of approval is summarized below.

	Number of respondents	Number of responses/respondent	Average burden/response (hours)	Total burden (hours)
CIAI-C Followup Interview .....	1,297	3	1.5	5,837
Natural History Interview .....	1,038	1	1.0	1,038
Total .....				6,875

**Note:** The annualized burden for this project is expected to be 2,292 hours over the three-year period of approval.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16-105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 19, 1999.

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 99-4805 Filed 2-25-99; 8:45 am]

BILLING CODE 4162-20-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-4442-N-06]

**Notice of Proposed Information Collection for Public Comment**

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

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments are due April 27, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: the Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Sepanik, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Washington. Telephone (202)-708-1060, Ext. 5887 (this is not a toll-free number), or Jane Kneessi, Bureau of the Census, HHES Division, Washington, DC 20233, (301)-457-3235 (this is not a toll-free number). Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Mr. Sepanik or Ms. Kneessi.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork

Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* 1999 American Housing Survey—National Survey.

*OMB Control Number:* 2528-0017.

*Description of the need for the information and proposed use:* The 1999 American Housing Survey—National Sample (AHS-N) provides a periodic measure of the size and composition of the housing inventory in our country. Title 12, United States Code, Sections 1701Z-1, 1701Z-2(g), and 1701Z-10a mandate the collection of this information.

The 1999 survey is similar to previous AHS-N surveys and collects data on subjects such as the amount and types of housing in the inventory, the physical condition of the inventory, the characteristics of the occupants, the persons eligible for and beneficiaries of assisted housing by race and ethnicity, and the number and characteristics of vacancies.

Policy analysts, program managers, budget analysts, and Congressional staff use AHS data to advise executive and legislative branches about housing conditions and the suitability of policy initiatives. Academic researchers and private organizations also use AHS data in efforts of specific interest and concern to their respective communities.

The Department of Housing and Urban Development (HUD) needs the AHS data for two important uses.

1. With these data, policy analysts can monitor the interaction among housing needs, demand and supply, as well as changes in housing conditions and costs, to aid in the development of housing policies and the design of housing programs appropriate for

different target groups, such as first-time home buyers and the elderly.

2. With these data, HUD can evaluate, monitor, and design HUD programs to improve efficiency and effectiveness.

*Agency Form Numbers:* Computerized Versions of AHS-22 and AHS-23.

*Members of affected public:* Households.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:*

*Number of respondents:* 61,000.

*Estimated responses per respondent:*

1 every two years.

*Time per respondent:* 34 minutes.

*Total hours to respond:* 34,567.

*Status of the proposed information collection:* Pending OMB approval.

**Authority:** Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z-1 *et seq.*

Dated: February 18, 1999.

**Lawrence L. Thompson,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 99-4771 Filed 2-25-99; 8:45 am]

BILLING CODE 4210-62-M

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-4445-N-03]

**Submission for OMB Review: Comment Request**

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708-3055 (this is not a toll-free number). Copies of this proposed forms and other

available documents submitted to OMB maybe obtained from Mr. Eddins.

**SUPPLEMENTARY INFORMATION:** This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with request to HUD's proposed issuance of a Notice of Funding Availability. The Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (FY 1998 Appropriations Act) set aside \$10 million from the HOME Investment Partnership Program for grants for up to three organizations that are exempt from Federal Taxation under Section 501(c)(3) of the Internal Revenue Code.

The basis for expedited processing is that this demonstration program is a high priority to the Department as evidenced by the \$10 million dollar set aside from the HOME Investment Partnerships Program to properly execute this program.

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* NOFA for Secondary Market for Non-conforming Loans to Low-Wealth Borrowers Demonstration Program.

*OMB Control Number, if applicable:* None.

*Agency form numbers, if applicable:* None.

*Members of affected public:* Not for profit institutions.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The estimated number of respondents are 30, an average of 25 hours per response, and the annual burden hours are 750 with a frequency of 1.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 16, 1999.

**David S. Cristy,**

*Director, IRM Policy and Management Division.*

[FR Doc. 99-4772 Filed 2-25-99; 8:45 am]

BILLING CODE 4210-27-M

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-4441-N-17]

**Submission for OMB Review: Comment Request**

**AGENCY:** Office of the Assistant Secretary for Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: March 29, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 16, 1999.

**David S. Cristy,**

*Director, IRM Policy and Management Division.*

**Notice of Submission of Proposed Information Collection to OMB**

*Title of Proposal:* Requirements for Single Family Mortgage Instruments.

*Office:* Housing.

*OMB Approval Number:* 2502-0404.

*Description of the need for the Information and Its Proposed Use:* HUD insures home mortgages and must ensure that the mortgage instruments contain provisions that are compatible with FHA program requirements. The subject instruments contain the specific language of accomplish program objectives.

*Form Number:* None.

*Respondents:* Individuals or Households and Business or Other For-Profit.

*Frequency of Submission:* On Occasion.

*Reporting Burden:*

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
747,000		1		.25		186,750

*Total Estimated Burden Hours:*  
186,750.

*Status:* Reinstatement without changes.

*Contact:* James A. Beavers, HUD, (202) 708-2121; Joseph F. Lackey, Jr., OMB, (202) 395-7316.

[FR Doc. 99-4773 Filed 2-25-99; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Reopening Certain Escheated Estates

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** The Secretary of the Interior is granting a petition filed by the Deputy Commissioner of Indian Affairs with the Office of Hearings and Appeals (OHA) to reopen estates in which property escheated to an Indian tribe under the escheat provision of the Indian Land Consolidation Act. The petition is granted to give full effect to the 1997 decision of the U.S. Supreme Court in *Babbitt v. Youpee*, 519 U.S. 234 (1997), which found the escheat provision unconstitutional, and to prevent manifest injustice.

**EFFECTIVE DATE:** February 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Baum, Director, Office of Hearings and Appeals, United States Department of the Interior, 4015 Wilson Boulevard, Mail Stop 1103 BT-3, Arlington, Virginia 22203; telephone: (703) 235-3810.

#### SUPPLEMENTARY INFORMATION:

##### Background

The U.S. Supreme Court issued a decision in *Babbitt v. Youpee*, 519 U.S. 234 (1997), holding that the escheat provision of the Indian Land Consolidation Act, 25 U.S.C. 2206(a), was unconstitutional. The Deputy Commissioner for Indian Affairs filed a Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 (the Petition) with the OHA.

On October 2, 1998, the Secretary of the Interior assumed jurisdiction over the Petition pursuant to 43 CFR 4.5(a), and issued a proposed order reopening the escheated estates in question. The proposed reopening of the estates gave the Department of the Interior (Department) the opportunity to redistribute the escheated interests to the rightful distributees without regard to the unconstitutional provision. The proposed order provided that all prior

Departmental probate determinations wherein land interests were ordered escheated to Indian tribes under 25 U.S.C. 2206 would be reopened and modified "to the extent that the appropriate Bureau of Indian Affairs official having jurisdiction over the affected land titles shall distribute any such escheated interests to the rightful heirs and beneficiaries without regard to the provisions of 25 U.S.C. 2206, except that prior determinations where an Indian tribe has paid fair market value for any escheated interest under 25 U.S.C. 2206 will not be reopened or modified." Recognizing that some cases would fall outside the parameters of the proposed order, the Secretary delegated authority to the Department's Administrative Law Judges to adjudicate such cases on an ad hoc basis pursuant to existing law.

On October 7, 1998, the Office of the Secretary published a "Notice of the Secretary's Assumption of Jurisdiction Over Probate of Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 and Opportunity to Comment" in the **Federal Register**. The Notice gave interested parties until November 2, 1998, to submit comments to the Director of OHA.

#### Discussion of Interested Party Comments

The OHA Director received seven timely comments in response to the published Notice. One additional comment was received after November 2, 1998. None of the comments received objected to the proposed reopening of the escheated estates or suggested any changes to the language in the Secretary's proposed order. The comments are summarized below and responses follow.

*Comment:* Four comments expressed concern about the administrative burdens and costs associated with the complicated task of reopening the case, and suggested that the tribes should not bear the burden and expense of correcting a problem they did not create.

*Response:* The Department expects that the Bureau of Indian Affairs (BIA) will bear the majority of administrative burdens and costs associated with the reopening of these estates. Direct cost to the tribes should be minimal. The Department will request a supplemental appropriation for the costs incurred by the BIA in reopening the estates.

*Comment:* Four comments suggested that no tribe should be held liable for reimbursing lease income and interest that BIA sent the tribe from the escheated interests.

*Response:* The heirs and beneficiaries are entitled to the money that they lost while the tribes held their interests under the escheat provision. The Supreme Court's decision makes it clear that the tribes were not entitled to that money. Furthermore, many tribes escrowed this money in anticipation of a reopening of the escheated estates.

*Comment:* One Tribe requested that the option of government purchase of escheated interests on the Quinault Reservation not be considered.

*Response:* This comment is outside the scope of the current issue and does not affect this decision.

*Comment:* One Tribe suggested that Congress should appropriate funds for the process of reopening the estates as well as for the tribes to buy the fractionated interests from any heirs who may not want to keep their interest, but seek a fair market value for them.

*Response:* The Department will be requesting supplemental appropriations for costs incurred by the BIA in reopening the escheated interests. Congress has provided a \$5 million appropriation for a pilot project to enable tribes to purchase fractional interests from willing sellers. However, there is no program at present that would apply nationally.

*Comment:* One Tribe commented that it was incorrectly listed in the **Federal Register** Notice of October 7, 1998, as the "Stockbridge-Munsee Community of Minnesota" and their correct name is the "Stockbridge-Munsee Community of Wisconsin." The Tribe also said it had no record of land escheating to it under 25 U.S.C. 2206, and asked to be told if the BIA or the Department is aware of any property that escheated to this Tribe under Act.

*Response:* BIA is looking into this matter and will advise the Tribe.

*Comment:* One Tribe expressed concerns about time delays or reallocation of resources affecting ongoing fee-to-trust conveyances by tribal governments or tribal members, and funding to participate in the Indian Land Consolidation Project proposed by BIA. The Tribe has applied to participate in this pilot project and seeks funding at the earliest possible date for tribes with escheated lands that have already applied for the pilot to carry out their proposed projects.

*Response:* This comment is outside the scope of the current issue and does not affect this decision.

#### Department's Determination

The Secretary of the Interior has determined the following:

1. The Supreme Court of the United States has found the escheat provision

of the Indian Land Consolidation Act to be unconstitutional.

2. Reopening all estates in which property escheated to an Indian tribe under the escheat provision of the Indian Land Consolidation Act:

- a. Allows correction of the prior distribution of assets;
- b. Is in the public interest;
- c. Furthers the Department's trust responsibility; and
- d. Prevents manifest injustice.

3. For the reasons given above, all estates in which property escheated to an Indian tribe under the escheat provision of the Indian Land Consolidation Act are reopened. The Secretary will distribute interests in these estates to the rightful distributees in accordance with *Babbitt v. Youpee*, 519 U.S. 234 (1997).

4. The Bureau of Indian Affairs will bear the majority of administrative costs associated with this action.

5. The Department will ask Congress for a supplemental appropriation for this project.

#### Text of the Secretary's Order

The text of the Order signed by the Secretary on February 19, 1999, reads as follows:

#### United States Department of the Interior

Office of the Secretary, Washington, D.C. 20240

In the matter of all estates in which property escheated to an Indian Tribe pursuant to 25 U.S.C. 2206.

#### Order

On January 21, 1997, the United States Supreme Court issued a decision in *Babbitt v. Youpee*, 519 U.S. 234 (1997), in which it essentially held that the "escheat provision" of the Indian Land Consolidation Act, 25 U.S.C. 2206, as amended, is unconstitutional. On October 2, 1998, the Deputy Commissioner for Indian Affairs filed a Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 (the "Petition") with the Office of Hearings and Appeals. By Order the same day, I took jurisdiction of the Petition and solicited comments on it and a Proposed Order for Reopening Escheated Estates. Both the Petition and Proposed Order were served upon the affected tribes.

To give full effect to the Supreme Court's holding in *Youpee* and to further the Department of the Interior's trust responsibility to the Indian people, I find that the public interest would be furthered by applying the *Youpee* decision retroactively to prior Departmental probate determinations

consistent with the procedures set forth more fully below. I further determine that reopening these estates will prevent manifest injustice and that a reasonable possibility exists for correction of prior distribution of assets which occurred in reliance on the unconstitutional statute.

In furtherance of my Order dated October 2, 1998 in which I assumed jurisdiction to decide the Petition pursuant to 43 CFR § 4.5(a), and further by virtue of the power and authority vested in me by Section 1 of the Act of June 25, 1910, as amended, 25 U.S.C. 372 (1970), and other applicable statutes, *it is hereby ordered*:

The Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 is hereby granted. All prior Departmental probate determinations wherein land interests were Ordered to be escheated to Indian tribes pursuant to 25 U.S.C. 2206 are hereby reopened. The determinations made therein are modified to the extent that the appropriate Bureau of Indian Affairs official having jurisdiction over the affected land titles shall distribute any such escheated interests to the rightful heirs and beneficiaries without regard to the provisions of 25 U.S.C. 2206, except that prior determinations where an Indian tribe has paid fair market value for any escheated interest under 25 U.S.C. 2206 will not be reopened or modified.

It is recognized that there will be cases that do not fall within the parameters of this Order and which will need to be treated on an *ad hoc* basis, such as cases where there was no determination of heirs, cases of will construction, and any other type of miscellaneous case where Bureau of Indian Affairs personnel are uncertain as to how to proceed. The Bureau of Indian Affairs shall refer such cases to the respective Administrative Law Judge for adjudication. To the extent not already delegated, I hereby delegate authority to the Administrative Law Judges to assume jurisdiction over, and enter determinations in, those cases pursuant to existing law.

The Director, Office of Hearings and Appeals, or his delegate will have jurisdiction to decide any objection to the implementation of this Order. Any objection to implementation of this Order shall be made in writing to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Room 1111/BT-3, Arlington, VA 22203.

Dated the 19th day of February, 1999.

**Bruce Babbitt**,

*Secretary of the Interior.*

**Edward B. Cohen**,

*Deputy Solicitor.*

[FR Doc. 99-4791 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-79-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

*Applicant:* Audubon Zoological Garden, New Orleans, LA, PRT-008168. The applicant requests a permit to import one male and one female captive-born, captive-held jaguars (*Panthera onca*) from Zoologico de Guadalajara, Mexico, for the purpose of enhancement of the survival of the species through conservation education, propagation, and scientific research.

*Applicant:* Carl W. Strawberry, Annapolis, MD, PRT-008186. The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Hawthorn Corporation, Grayslake, IL, PRT-673366. The applicant requests a permit to re-export and re-import captive-born Tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

*Applicant:* Rare Feline Breeding Center, Inc., Center Hill, FL, PRT-004337. The applicant requests a permit to re-export and re-import captive-born Tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities

conducted by the applicant over a three year period.

*Applicant:* Bowmanville Zoo, Ontario, Canada, PRT-805163. The applicant requests a permit to import and re-export captive-born Bengal tigers (*Panthera tigris tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

*Applicant:* Alberto J. deJongh, Baton Rouge, LA, PRT-008115. The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

*Applicant:* Jeff C. Neal, Tulsa, OK, PRT-008116. The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Davis Strait polar bear population, Northwest Territories, Canada, prior to April 30, 1994 for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office

within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: February 23, 1999.

**MaryEllen Amtower,**

*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 99-4833 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### North American Wetlands Conservation Council; Availability of Grant Application Instructions

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. North American Wetlands Conservation Act Standard Grant Application Instructions booklet and computer disk are now available. In addition, both will be available via the Internet in early 1999.

**DATES:** Proposals may be submitted at any time. To ensure adequate review time prior to North American Wetlands Conservation Council meetings, due dates continue to be the first Friday in April (April 2, 1999) and August (August 6, 1999).

**ADDRESSES:** For a copy of the booklet and/or disk, contact the Fish and Wildlife Service Publications Unit, c/o National Conservation Training Center Support Services, Route 1, Box 166, Shepherd Grade Road, Shepherdstown, WV 25443 in writing or by phone (304) 876-7203 during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** North American Wetlands Conservation Council Coordinator at (703)358-1784, R9ARW\_NAWWO@MAIL.FWS.GOV or WWW.FWS.GOV/R9NAWWO/NAWCAHP.

**SUPPLEMENTARY INFORMATION:** The Council has two U.S. conservation grants programs for acquisition, restoration, and enhancement of wetlands. Any individual or organization who has a long-term, partner-based project with matching funds can apply. The focus of this notice is the larger (up to \$1,000,000) grants program (a separate notice is issued for "Small Grants"). The booklet provides the schedule, review criteria, definitions, information required in the

proposal, and a format for proposals. The disk contains a proposal outline, budget table and Technical Assessment Questions (including species lists) in Word Perfect and Word word-processing programs.

Major changes and clarifications since last year are:

- (1) Proposals must be unbound.
  - (2) We require a Cover Page.
  - (3) We require Standard Form 424 and attachments submitted with the proposal, rather than later.
  - (4) We wrote instructions in plain language (active voice, more headers, more use of lists, and Table of Contents in question format).
  - (5) We included Office of Management and Budget Information Collection Statement.
  - (6) We replaced the term "overhead" with clearer statements.
  - (7) We disallow the short-hand method for reporting numbers in the Budget Table.
  - (8) Technical Assessment Question 2 non-waterfowl migratory birds lists are organized by Partners in Flight physical geographic areas.
  - (9) We gave more information about what to expect after the proposal is approved for funding.
  - (10) We require appraisals for grant and match tracts acquired and donated in fee or easement.
  - (11) We must receive proposals by the first Friday in April and August (versus postmarked by).
  - (12) Part 1 font size = 11 and suggested font face = Times New Roman.
  - (13) We gave a Technical Assessment Questions Contacts table.
  - (14) We listed more Internet web sites in the Directory.
- We prepared the booklet and disk to assist partners in developing proposals that comply with the "North American Wetlands Conservation Act." The Act established a North American Wetlands Conservation Council, a Federal-State-Private body, that recommends projects to the Migratory Bird Conservation Commission for final approval. The Council requires that proposals contain a minimum of 50 percent non-Federal matching funds and follow a prescribed format.
- We have submitted information collection requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Pub. Law 104-13. On August 24, 1998, OMB gave an emergency approval for this information collection requirement and assigned it approval number 1018-0100. Our request for continued approval has been submitted to OMB. An agency may not conduct or sponsor, and a person is

not required to respond to, a collection of information unless it displays a currently valid OMB control number. The information collection solicited: is necessary to gain a benefit in the form of a grant, as determined by the Council and the Migratory Bird Conservation Commission; is necessary to determine the eligibility and relative value of wetland projects; results in an approximate paperwork burden of 400 hours per application; and does not carry a premise of confidentiality. The information collections in this program will not be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: February 19, 1999.

**Jamie Rappaport Clark,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 99-4803 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Announcement of the Time and Place of the Eleventh Regular Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Announcement of the Times and Places of the Next Meetings of the CITES Plants and Animals Committees; Announcement of Public Meeting**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice announces the time and place of the eleventh regular meeting of the Conference of the Parties (COP11) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This notice also announces that the next meeting of the CITES Plants Committee will be held June 7-11, 1999, in Darwin, Australia, and the next meeting of the CITES Animals Committee will be held July 5-9, 1999, in Madagascar. A public meeting will be held to discuss issues that will be raised at the next meetings of the CITES Plants and Animals Committees.

**DATES:** The public meeting will be held on May 6, 1999, from 2:00 p.m. to 4:00 p.m. For COP11 and Committee meeting dates, see the **SUPPLEMENTARY INFORMATION** section of this notice.

**ADDRESSES:** The public meeting will be held in Room 200 of the U.S. Fish and Wildlife Service Arlington Square building at 4401 N. Fairfax Drive, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Office of Scientific Authority, phone 703/358-1708, fax 703/358-2276, E-mail: r9osa@mail.fws.gov; or Office of Management Authority, Branch of CITES Operations, phone 703/358-2095, fax 703/358-2298, E-mail: r9oma\_cites@mail.fws.gov.

**SUPPLEMENTARY INFORMATION:** The U.S. Fish and Wildlife Service Arlington Square building is accessible to the handicapped. Persons requiring interpretation for the hearing impaired should notify the Office of Scientific Authority as soon as possible, so that arrangements can be made. You may obtain directions to the building or other information on the Plants and Animals Committees by contacting the Office of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 750; Arlington, Virginia 22203, or via E-mail at: r9osa@mail.fws.gov. You may obtain logistical information on COP11 by contacting the Office of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 700; Arlington, Virginia 22203, or via E-mail at: r9oma\_cites@mail.fws.gov.

#### **Background**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES, is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction. These species are listed in Appendices to CITES, copies of which are available from the Office of Management Authority at the above address, from the Service's World Wide Web site <http://www.fws.gov/r9dia/applinks.html>, or from the official CITES Web site at <http://www.wcmc.org.uk/CITES/english>. Currently, 145 countries, including the United States, are Parties to CITES. CITES calls for biennial meetings of the Conference of the Parties, which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II, resolutions, or agenda items for consideration by the other Parties.

This is our third in a series of **Federal Register** notices which, together with announced public meetings, provides

you with an opportunity to participate in the development of the United States' negotiating positions for the eleventh regular meeting of the Conference of the Parties to CITES (COP11). We published our first such **Federal Register** notice on January 30, 1998 (63 FR 4613), and with it we requested your information and recommendations on potential species amendments for the United States to consider submitting for discussion at COP11. Information on that **Federal Register** notice, and on species amendment proposals, is available from the Office of Scientific Authority at the above address. We published our second such **Federal Register** notice on September 4, 1998 (63 FR 47316), and with it we requested your information and recommendations on potential resolutions and agenda items for the United States to consider submitting for discussion at COP11. You may obtain information on that **Federal Register** notice, and on proposed resolutions and agenda items, from the Office of Management Authority at the above address. You may locate our regulations governing this public process in 50 CFR §§ 23.31-23.39.

The CITES Animals and Plants Committees are technical committees established by the CITES Conference of the Parties. They meet to discuss scientific and technical issues pertaining to CITES implementation for animals and plants, respectively.

The Animals Committee provides scientific expertise on animal-related issues, develops and maintains a standardized list of animal species, reviews trade impacts on heavily traded Appendix II species; and analyzes and makes recommendations to the CITES Parties on a number of issues directed to it by the Conference of the Parties. The Committee meets several times between COPs (usually once a year) to work on resolving CITES animal related issues carried over from past Animals Committee meetings and COPs, as well as identifying new issues in need of resolution. The members of the Animals Committee are individuals with scientific and technical expertise selected by the countries in each of the six CITES geographic regions. The regional representative for North America (selected by the United States, Canada, and Mexico) is Dr. Susan Lieberman, Chief of the Office of Scientific Authority (OSA). She is also the Vice-Chair of the Animals Committee. A list of other regional representatives is available upon request from OSA. The Chair of the Animals Committee is Hank Jenkins, with the Government of Australia, and the regional representative for Oceania. The

next meeting of the Animals Committee will be July 5–9, 1999, in Madagascar. Non-governmental organizations wishing to attend must obtain approval from the Chair of the Committee. Interested organizations should contact Dr. Jenkins directly; his address and contact information are available upon request from OSA (see the **FOR FURTHER INFORMATION CONTACT** section of this notice), or directly from the CITES Secretariat.

The Plants Committee provides scientific expertise on plant species, develops and maintains a standardized list of plant species, reviews trade impacts on species of particular concern, and analyzes and makes recommendations to the CITES Parties on a number of issues directed to it by the Conference of the Parties. It meets several times between COPs (usually once a year) to work on resolving CITES plant related issues carried over from past Plants Committee meetings and COPs, as well as identifying new issues in need of resolution. The members of the Plants Committee are individuals with scientific and technical expertise selected by the countries in each of the six CITES geographic regions. The regional representative for North America (selected by the United States, Canada, and Mexico) is Dr. Bertrand von Arx, with the Government of Canada. A list of regional representatives is available upon request from OSA (see the **FOR FURTHER INFORMATION CONTACT** section of this notice). The Chair of the Plants Committee is Dr. Margarita Clemente Muñoz, with the Government of Spain. The next meeting of the Plants Committee will be June 7–11, 1999, in Darwin, Australia. Non-governmental organizations wishing to attend must obtain approval from the Chair of the Committee. Interested organizations should contact Dr. Clemente Muñoz directly; her address and contact information are available upon request from OSA (see the **FOR FURTHER INFORMATION CONTACT** section of this notice), or directly from the CITES Secretariat.

The United States is an active participant in all CITES matters and attends both the Plants and Animals Committee meetings. The U.S. delegation to the Animals Committee meeting will be comprised of representatives of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The U.S. delegation to the Plants Committee meeting is expected to include representatives of the U.S. Fish and Wildlife Service, the U.S. Department of

Agriculture's Animal and Plant Health Inspection Service, and the U.S. Forest Service.

#### **Announcement of the Eleventh Regular Meeting of the Conference of the Parties**

The eleventh regular meeting of the Conference of the Parties to CITES (COP11) will be held at the United Nations Environment Programme (UNEP) Headquarters in Nairobi, Kenya, April 10–20, 2000. The CITES Secretariat will host the meeting.

In our **Federal Register** notice of January 30, 1998 (63 FR 4613), we announced that we expected COP11 to be held in November 1999, in Indonesia. Since the publication of that notice, the CITES Secretariat informed us and all Party countries via Notification to the Parties No. 1998/22, dated May 25, 1998, that Indonesia, through Diplomatic Note of April 29, 1998, withdrew from hosting COP11. As a result, the Secretariat invited Parties that might be interested in hosting COP11 to indicate this to the Secretariat by June 20, 1998. In Notification to the Parties No. 1998/55, dated October 30, 1998, the Secretariat announced that, since no CITES Party was in a position to host COP11, UNEP agreed to make its Conference Centre available for this meeting.

#### **Issues at the Next Meetings of the Plants and Animals Committees**

We expect to obtain draft agendas for the meetings of the two committees in early Spring, 1999. Copies of the agendas of the previous meetings are available upon request from OSA. Some of the many issues to be discussed at the Animals Committee meeting include: implementation of CITES, particularly scientific non-detriment findings for heavily traded "significant trade" species; implementation of CITES for animals that are bred in captivity; transport of live animals; marking of sturgeon specimens (particularly caviar); tagging of crocodilians; ranching; trade in coral; international trade in sharks; invasive species; marking of animals, including the use of microchips; and the use of CITES-listed species in traditional medicines.

Some of the many issues to be discussed at the Plants Committee meeting include: review of selected plant species included in the Appendices in light of the new CITES listing criteria (Resolution Conf. 9.24); implementation of the inclusion of bigleaf mahogany (*Swietenia macrophylla*) in Appendix III; other

timber-related issues; and the definition of artificial propagation.

#### **Future Actions**

We have developed a tentative U.S. schedule to prepare for COP11. The United States must submit any proposals to amend Appendix I or II, or any draft resolutions or agenda items for discussion at COP11, to the CITES Secretariat 150 days prior to the start of the meeting (i.e. by November 12, 1999). In order to accommodate this deadline, we plan to publish a **Federal Register** notice approximately 10 months prior to COP11 (approximately June, 1999) to:

- (a) Provide the provisional agenda of COP11;
- (b) Announce tentative species proposals, draft resolutions, and agenda items to be submitted by the United States, and to solicit further information and comments on them; and
- (c) Provide information on how to obtain approval to attend COP11 as an observer.

Approximately nine months prior to COP11 (approximately July 1999), we will hold a public meeting to allow for additional public input. We will announce in another **Federal Register** notice approximately four months prior to COP11 our decisions on those species proposals, resolutions, and agenda items submitted by the United States to the CITES Secretariat. The deadline for submission of the proposals, resolutions, and agenda items to the Secretariat is November 12, 1999.

Through a series of additional notices in advance of COP11, we will inform you about preliminary and "final" negotiating positions on resolutions and amendments to the Appendices proposed by other Parties for consideration at COP11. We will also publish announcements of public meetings expected to be held approximately nine months prior to COP11, and approximately two months prior to COP11, to receive public input on our positions regarding COP11 issues.

Author: This notice was prepared by Mark Albert, Office of Management Authority, under the authority of U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 2, 1999.

**Jamie Rappaport Clark,**

*Director.*

[FR Doc. 99-4834 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-55-P

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Notice of Availability of a Draft Environmental Impact Statement (DEIS) for a Forest Management Plan for the Flathead Indian Reservation, Pablo, Montana**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** A Draft Environmental Impact Statement (DEIS) for the proposed forest management plan for the trust forest lands of the Flathead Indian Reservation, Pablo, Montana, is now available for public review and comment. A description of the proposed action follows as supplemental information. This notice also announces a public hearing to receive public comments on the DEIS.

**DATES:** Written comments must be received by May 2, 1999. The public hearing will be held on Wednesday, April 21, 1999.

**ADDRESSES:** Address written comments to Mr. Ernest "Bud" Moran, Superintendent, Flathead Agency, Bureau of Indian Affairs, P.O. Box A, Pablo, Montana 59855. The public hearing will take place in the Dan Swaney Conference Room at the Mission Valley Power Headquarters, Pablo, Montana. It will begin at 6 p.m.

To obtain a copy of this DEIS, please write or call Mr. Ralph Goode, Tribal Forestry, Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855, Telephone (406) 676-3755. Copies of the DEIS have been sent to all agencies and individuals who participated in the scoping process or who have already requested copies of the document.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ralph Goode, 406-676-3755.

**SUPPLEMENTARY INFORMATION:** There are approximately 451,391 acres of forest trust land on the Flathead Indian Reservation. The Draft Forest Management Plan (the proposed action) takes an interdisciplinary approach to forest management and seeks to restore and maintain the long term ecological integrity of the reservation's forests in a manner consistent with tribal values. The plan describes resource management practices and levels of resource production. It establishes management standards, allocates land and prescribes management practices to achieve balanced forest ecosystems. The plan is needed to: (1) Ensure that management activities are compatible with sustainable forest ecosystems; (2)

balance tribal cultural, social, economic and environmental values; and (3) establish a basis for adaptive management and monitoring that incorporates tribal members' values.

The DEIS includes five alternatives, including a no action alternative. Alternatives One, Two and Three take an ecosystem approach to management. These focus on the overall vegetative structure and composition of the forest rather than on individual stands or on the needs of individual species. They seek to restore, to varying degrees, more natural structures, processes and functions to the forest in order to achieve more sustainable conditions over the long term. Of the three, Alternative One seeks the highest level of restoration, followed by Alternatives Two and Three. Alternative Five takes a passive approach to management, in which timber harvesting would be limited to salvage operations after fires, wind throw, or insect and disease outbreaks. Alternative Four, no action, would continue the management practices of the last forest management plan, which was adopted in 1987.

Alternative Two, the 1996 Draft Forest Plan with updates and revisions made in response to modeling refinements and new information, is both the proposed action and the preferred alternative. It is preferred because it best balances social, cultural, economic and environmental concerns and best meets the stated purpose and need.

This notice is furnished in accordance with § 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: February 19, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99-4641 Filed 2-25-99; 8:45 am]

**BILLING CODE 4310-02-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[ES-030-9-1430-02]

**Notice of Intent To Prepare the Wisconsin Resource Management Plan Amendment/Environmental Assessment**

**AGENCY:** Bureau of Land Management, Milwaukee Field Office.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the Bureau of Land Management (BLM), Milwaukee Field Office, will begin preparation of a Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA), whose purpose will be to assess future disposition of the remaining public domain parcels in the State of Wisconsin.

The planning effort will follow the procedures set forth in 43 Code of Federal Regulations, Subpart 1600. The EA will be prepared under 40 CFR 1500, *et seq.*

The public is invited to participate in this process, beginning with the identification of planning issues. Specifically, BLM would like input on how the properties should be managed. In most cases, however, it is BLM's policy to retain the properties in public ownership. This notice is not a solicitation for bids to purchase Federal land.

**DATES:** The comment period for scoping commences with the publication of this notice. Comments must be postmarked no later than April 12, 1999.

**ADDRESSES:** Written comments should be addressed to the Field Manager, Milwaukee Field Office, P.O. Box 631, Milwaukee, Wisconsin 53201-0631.

**FOR FURTHER INFORMATION CONTACT:** Howard Levine, Planning and Environmental Coordinator, telephone at (414) 297-4463, or electronic mail at hlevine@es.blm.gov.

**SUPPLEMENTARY INFORMATION:** The RMPA/EA will guide future management of public land in the State of Wisconsin. The parcels are located in Bayfield, Door, Forest, Langlade, Marinette, Oneida, Vilas, Waupaca Counties.

The plan will consider the disposition of relinquished U.S. Coast Guard lighthouse stations and other upland public domain parcels in the state. The plan will not include the over 600 river and lake islands within the state. These lands may be conveyed to the State through Federal legislation.

Public involvement will be an important part of the planning process.

The BLM will seek public input through direct mailings, personal contacts and coordination with local, state and other Federal agencies. Workshops or open houses may be scheduled, if public interest warrants holding them.

Complete records of all phases of the planning process will be available at the Milwaukee Field Office. Copies will be available upon request.

Dated: February 19, 1999.

**James W. Dryden,**

*Field Manager.*

[FR Doc. 99-4792 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-PN-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Environmental Assessment for the Proposed Air Force Memorial Preliminary Design and Park Improvements, Arlington, Virginia

**ACTION:** Notice of Continuation of a Public Meeting on the Environmental Assessment for the Proposed Air Force Memorial preliminary design and park improvements, Arlington, Virginia.

**SUMMARY:** Pursuant to Council on Environmental Quality regulations and National Park Service policy, the National Park Service announced the availability of an Environmental Assessment for the proposed Air Force Memorial preliminary design and park improvements, in Arlington, Virginia, on February 2, 1999 (64 FR 5073). The Environmental Assessment will remain available for public comment through March 22, 1999.

**DATES:** The National Park Service will continue the public meeting held February 17, 1999 (64 FR 5073), on March 3, 1999, at which time previously registered speakers will be provided the opportunity to speak. The meeting will be held in the Arlington County Central Library auditorium, 1015 North Quincy Street, Arlington, Virginia, from 7 p.m. to 9:30 p.m. Individuals and representatives of community and civic organizations will be able to present their comments in the order in which their requests to speak are received. Commenters not already registered may either sign up at the meeting or register in advance by calling Ms. Nancy Young at (202) 619-7097. Individuals will be allowed 3 minutes to present their comments; representatives of community and civic groups will be allowed 5 minutes. Presentation refers solely to oral comments; video and other multimedia materials will not be permitted. At the time commenters are

recognized to speak, they are requested to provide three copies of their comments in writing, if possible.

**ADDRESSES:** Comments on the Environmental Assessment should be received no later than March 22, 1999, and submitted to: Mr. John G. Parsons, Associate for Lands, Resources, and Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Room 220, Washington, DC, 20242. Public reading copies of the Environmental Assessment will be available at the following locations: National Capital Region, National Park Service, 1100 Ohio Drive, SW, First Floor Lobby, Washington, DC 20242; the Air Force Memorial Foundation, 1501 Lee Highway, Arlington, Virginia 22209-1198; and at Arlington County public libraries.

**FOR FURTHER INFORMATION CONTACT:** Contact Ms. Nancy Young, (202) 619-7097.

Dated: February 19, 1999.

**Joseph M. Lawlen,**

*Regional Director, National Capital Region Date.*

[FR Doc. 99-4800 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-70-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### Grazing Component (Plan) for Glen Canyon National Recreation Area and Environmental Assessment

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Interior, National Park Service has prepared an Environmental Assessment for the Grazing Component of the 1979 General Management Plan for Glen Canyon National Recreation Area (NRA). The Environmental Assessment (EA) analyzes the potential environmental impacts associated with implementing changes in future grazing practices within Glen Canyon NRA. The EA presents four alternatives and looks at the potential impacts associated with the proposed grazing management practices. The proposed plan clearly identifies the process, and the values and purposes used in the assessment of future actions on the part of the permittees, the Bureau of Land Management, and the Glen Canyon NRA management staff.

**DATES:** There will be a 30-day public review and comment period on the plan and environmental assessment beginning on March 1, 1999. Comments

should be received no later than March 31, 1999. There will be open public forums from 1:00 pm to 7:00 pm at the following locations:

Kanab, UT—March 29, at Kanab Court House, 76 N Main  
Escalante, UT—March 30 at Escalante City Office, 56 N 100 W  
Hanksville, UT—March 31, at Bureau of Land Management Field Office  
Page, AZ—March 26, at Page City Council Chamber  
Monticello, UT—March 22, at Old County Court House

Written comments will be accepted at these meetings, and if postmarked by March 31, 1999.

**ADDRESSES:** Requests for the grazing plan and EA, and all written comments can be sent to: Superintendent, Glen Canyon NRA, P.O. Box 1507, Page, Arizona 86040, or faxed to (520) 608-6259.

**SUPPLEMENTARY INFORMATION:** Grazing within Glen Canyon NRA is authorized by the enabling legislation (Pub. L. 92-593). The legislation mandates that the administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management (BLM). "The same policies followed by the BLM in issuing and administering mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the [finding] that such \* \* \* would not have significant adverse effects \* \* \* on the administration of the national recreation area (and) the conservation and management of natural resources . . . pursuant to this act."

Development of this Grazing Component satisfies one of four subsequent Resource Management planning needs listed in the General Management Plan for Glen Canyon NRA.

Dated: February 8, 1999.

**Joseph F. Alston,**

*Superintendent, Glen Canyon National Recreation Area.*

[FR Doc. 99-4798 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-70-M

## DEPARTMENT OF INTERIOR

### National Park Service

#### Keweenaw National Historical Park Advisory Commission Meeting

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory

Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463).

**DATES:** March 2, 1999; 8:30 a.m. until 4:30 p.m.

**ADDRESSES:** Keweenaw National Historical Park Headquarters, 100 Red Jacket Road (2nd floor), Calumet, Michigan 49913-0471.

The Chairman's welcome; minutes of the previous meeting; update on the general management plan; update on park activities; old business; new business; next meeting date; adjournment. This meeting is open to the public.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Keweenaw National Historical Park, Frank C. Fiala, P.O. Box 471, Calumet, Michigan 49913-0471, 906-337-3168.

**SUPPLEMENTARY INFORMATION:** The Keweenaw National Historical Park was established by Public Law 102-543 on October 27, 1992.

Dated: February 5, 1999.

**William W. Schenk,**

*Regional Director, Midwest Region.*

[FR Doc. 99-4799 Filed 2-25-99; 8:45 am]

BILLING CODE 4310-70-P

## DEPARTMENT OF JUSTICE

### Antitrust Division

[Civ. No. 98 CV 7168 (FB)]

#### **United States, et al. v. Waste Management, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of New York, Brooklyn, NY, in *United States and States of New York and Florida and Commonwealth of Pennsylvania v. Waste Management, Inc., Ocho Acquisition Corp., and Eastern Environmental Services, Inc.*, Civ. No. 98 CV 7168 (FB).

On November 17, 1998, the United States, New York Pennsylvania and Florida filed a Complaint, which alleged that Waste Management's proposed acquisition of Eastern would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in waste collection and/or disposal in nine markets around the country, including New York, NY (disposal of commercial and residential

municipal solid waste); Pittsburgh and Bethlehem/Allentown, PA (disposal of municipal solid waste); Carlisle/Chambersburg, PA area (collection of commercial waste and disposal of municipal solid waste); and Miami/Ft. Lauderdale, and suburban Tampa, FL (collection of commercial waste). the proposed Final Judgment, filed on December 31, 1998, requires Waste Management and Eastern to divest commercial waste collection and/or municipal solid waste disposal operations in each of the geographic areas alleged in the Amended Complaint.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW, Suite 3000, Washington, D.C. 20530 [telephone: (202) 307-0924].

**Constance K. Robinson,**

*Director of Operations & Merger Enforcement.*

#### **Hold Separate Stipulation and Order**

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

#### **I**

##### *Definitions*

As used in this Hold Separate Stipulation and Order:

A. "Waste Management" means defendant Waste Management, Inc., a Delaware corporation with its headquarters in Houston, Texas, and includes its successors and assigns, and its subsidiaries (including Ocho Acquisition Corp.), divisions, groups, affiliates, directors, officers, managers, agents, and employees.

B. "Eastern" means defendant Eastern Environmental Services, Inc., a Delaware corporation with its headquarters in Mt. Laurel, New Jersey, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, directors, officers, managers, agents, and employees.

C. "Rights to Eastern's RFP Proposal" means (1) all right, title and interest in the proposal submitted by Eastern to the New York City Department of Sanitation in response to the New York City Request for Proposals to Receive Solid Waste at a Marine Transfer Station, Procurement Identification No. 82797RR0014, dated June 16, 1997, and any amendments, revisions, or modifications thereto; (2) any intangible assets relating to that proposal,

including any engineering, technical, or construction designs, plans or specifications, permit or land use applications, and any options, commitments or agreements of any type for the design, construction, permitting, lease or sale of any land, building or equipment, or to receive, transport store or dispose of waste; (3) at purchaser's option, such technical assistance on that proposal as the purchaser reasonably may require from Eastern for a period of one hundred fifty days (150) after the purchase of the Rights to Eastern's RFP Proposal; and (4) at purchaser's option, airspace disposal rights for up to a twenty-year time period at Eastern's Waverly, VA landfill, pursuant to which defendants will sell rights to dispose of up to 4,000 tons of average daily waste pursuant to any contract award under the New York City RFP, on the terms and conditions specified in the Waste Disposal Agreement, dated December 29, 1998, between Atlantic Waste Disposal, Inc. and Republic Services, Inc.

D. "Relevant Disposal Assets" means, with respect to each landfill or transfer station listed and described herein: (1) All tangible assets, including all fee and leasehold and renewal rights in the listed landfill or transfer station; the garage and related facilities; offices; and landfill or transfer station-related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and (2) all intangible assets of the listed landfill or transfer station, including customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Disposal Assets, as used herein, includes each of the following properties:

#### 1. Landfills

a. Allegheny County, Pennsylvania—Eastern's Kelly Run Sanitation Landfill, located at State Route 51 South, Elizabeth, Pennsylvania 15037, and known as the Kelly Run Landfill (and includes the waste disposal agreement between Chambers Development Company, Inc. and William H. Martin, Inc. and Eastern Environmental Services, Inc. and Kelly Run Sanitation, Inc., dated 1997);

b. Bethlehem/Allentown, Pennsylvania—Eastern's Eastern Waste of Bethlehem Landfill, located at 2335 Applebutter Road, Bethlehem, Pennsylvania 18015, and known as the Bethlehem Landfill; and

c. Chambersburg-Carlisle, Pennsylvania—Eastern's R&A Bender Landfill located at 3747 White Church Road, Chambersburg, Pennsylvania

17201, and known as the Bender Landfill.

## 2. Transfer Stations

New York, New York—a. Eastern's PJ's Transfer Station located at 222 Morgan Avenue, Brooklyn, New York 11237 (also known as the Morgan Avenue Transfer Station);

b. Eastern's Atlantic Waste Transfer Station located at 110-120 50th Street, Brooklyn, New York 11232, also known as the Atlantic Transfer Station; and

c. Waste Management's Vacarro Transfer Station, located at 577 Court Street, Brooklyn, NY 11231 (also known as the Court Street Transfer Station); and Waste Management's Gesuale Transfer Station, located at 38-50 Review Avenue, Queens, NY 11101 (also known as the Review Avenue Transfer Station), only one of which must be sold pursuant to the terms of the proposed Final Judgment.

E. "Relevant Hauling Assets" means with respect to each commercial route or other hauling asset described herein: (1) All tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, and supplies [except real property and improvements to real property (*i.e.*, buildings)]; and (2) all intangible assets, including hauling-related customer lists, contracts, and accounts.

Relevant Hauling Assets, as used herein, includes each of the following assets:

1. Scranton, Pennsylvania—Waste Management's front-end loader truck ("FEL") commercial routes servicing Luzerne and Lackawanna County, Pennsylvania;

2. Franklin/Adams/Cumberland Counties, Pennsylvania—Eastern's FEL commercial routes servicing Franklin, Adams and Cumberland Counties, Pennsylvania;

3. Broward County, Florida—Eastern's FEL commercial routes servicing Broward County, Florida;

4. Dade County, Florida—Eastern's FEL commercial routes servicing portions of Dade County, Florida;

5. Hillsborough County, Florida—Eastern's Kimmins Recycling Corporation FEL commercial routes servicing the unincorporated (and grandfathered incorporated) areas of Hillsborough County, Florida solid waste service area, more specifically defined in RFP#C-277-96, Hillsborough County Board of County Commissioners documents 96-2393, as modified by 97-1913.

F. "Hauling" means the collection of waste from commercial customers and the transporting of the collected waste to disposal sites. Hauling, as used

herein, does not include collection of roll-off containers.

G. "Waste" means municipal solid waste.

H. "Disposal" means the business of disposing of waste into approved disposal sites.

I. "Relevant Area" means the county in which the Relevant Hauling Assets or Relevant Disposal Assets are located, or with respect to the Rights to Eastern's RFP Proposal, New York, New York.

J. "Relevant State" means the state in which the Relevant Disposal Assets or Relevant Hauling Assets are located.

## II

### *Objectives*

The Final Judgment filed in this case is meant to ensure defendants' prompt divestitures of the Relevant Disposal Assets, Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal for the purpose of establishing viable competitors in the waste disposal business or the commercial waste hauling business, or both, in the Relevant Areas to remedy the effects that plaintiffs allege would otherwise result from Waste Management's acquisition of Eastern. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Relevant Disposal Assets and the Relevant Hauling Assets are independent and, with the exception of assets listed in Sections I(D)(2)(a) and (c), economically viable and ongoing business concerns; that the Rights to Eastern's RFP Proposal remain independent and uninfluenced by Waste Management; and that competition is maintained during the pendency of the ordered divestitures.

## III

### *Jurisdiction and Venue*

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the Eastern District of New York.

## IV

### *Compliance With and Entry of Final Judgment*

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided

that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

## V

### *Hold Separate Provisions*

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and with the exception of assets listed in Sections I (C) and (D)(2)(a) and (c), operate the Relevant Disposal Assets, the Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal as independent competitive businesses, with management, sales and

operations of such assets held entirely separate, distinct and apart from those of defendants' other operations. Defendants shall not coordinate the marketing of, or negotiation or sales by, any Relevant Disposal Assets, Relevant Hauling Assets, or Rights to Eastern's RFP Proposal with defendants' other operations. Within twenty (20) days after the filing of the Hold Separate Stipulation and Order, or thirty (30) days after the entry of this Order, whichever is later, defendants will inform plaintiffs of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Relevant Disposal Assets and Relevant Hauling Assets will be maintained and, with the exception of assets listed in Sections I (D)(2)(a) and (c), operated as independent, ongoing, economically viable and active competitors in the waste disposal business or waste hauling business, or both in the Relevant Area; (2) management of the Relevant Disposal Assets, Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal will not be influenced by Waste Management; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning the Relevant Disposal Assets, Relevant Hauling Assets, and Rights to Eastern's RFP Proposal will be kept separate and apart from defendants' other operations. Waste Management's influence over the Relevant Disposal Assets, Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal shall be limited to that necessary to carry out Waste Management's obligations under this Hold Separate Stipulation and Order and the Final Judgment.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Relevant Disposal Assets [with the exception of assets listed in Sections I (D)(2)(a) and (c)] and the Relevant Hauling Assets, and shall maintain at 1998 or at previously approved levels, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the

Relevant Disposal Assets and Relevant Hauling Assets.

D. Defendants shall provide sufficient working capital to maintain the Relevant Disposal Assets [with the exception of assets listed in Sections I(D)(2)(a) and (c)] and the Relevant Hauling Assets as economically viable and competitive ongoing businesses.

E. Defendants shall take all steps necessary to ensure that the Relevant Disposal Assets [with the exception of assets listed in Sections I(D)(2)(a) and (c)] and the Relevant Hauling Assets are fully maintained in operable condition at no lower than their current capacity or sales, and shall maintain and adhere to normal repair and maintenance schedules for the Relevant Disposal Assets and Relevant Hauling Assets.

F. Defendants shall not, except as part of a divestiture approved by plaintiffs in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Relevant Disposal Assets, Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Relevant Disposal Assets and Relevant Hauling Assets.

H. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not hire, transfer, terminate, or otherwise alter the salary agreements for any Waste Management or Eastern employee who, on the date of defendants' signing of this Hold Separate Stipulation and Order, either: (1) Works at a Relevant Disposal Asset or Relevant Hauling Asset, or (2) is a member of management referenced in Section V(I) of this Hold Separate Stipulation and Order.

I. Until such time as the Relevant Disposal Assets and Relevant Hauling Assets are divested pursuant to the terms of the Final Judgment, the Relevant Disposal Assets and Relevant

Hauling Assets of Waste Management and Eastern shall be managed by Donald Chappel. Mr. Chappel shall have complete managerial responsibility for the Relevant Disposal Assets and Relevant Hauling Asset of Waste Management and Eastern, subject to the provisions of this Order and the Final Judgment. In the event that Donald Chappel is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, after consultation with the Relevant States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States, after consultation with the Relevant States, within ten (10) working days, the United States shall appoint a replacement.

J. Until such time as the Rights to Eastern's RFP Proposal are divested pursuant to the terms of the Final Judgment, the Rights to Eastern's RFP Proposal shall be managed by Donald Chappel, who shall have complete managerial responsibility for the Rights to Eastern's RFP Proposal, subject to the provisions of this Hold Separate Stipulation and Order, the Final Judgment, any such other written agreement between the defendants and both the United States and the State of New York. In the event that Donald Chappel is unable to perform his duties, the United States and the State of New York jointly shall appoint a replacement.

K. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to purchasers acceptable to the United States, after consultation with the Relevant State, or in the case of the Rights to Eastern's RFP Proposal and the Gesuale or Vaccaro transfer stations, acceptable to both the United States and the State of New York.

L. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures contemplated by the Final Judgment or until further order of the Court.

Dated: December 30, 1998.

For Plaintiff United States of America:  
 Anthony E. Harris, Esquire (AH 5876)  
*U.S. Department of Justice, Antitrust Division,  
 Litigation II Section, Suite 3000, Washington,  
 D.C. 20005, (202) 307-6583.*

For Plaintiff State of New York  
 Dennis C. Vacco,  
*Attorney General.*  
 Stephen D. Houck,  
*Assistant Attorney General in Charge.*  
 Richard E. Grimm (RG 6891)  
*Assistant attorney General, Antitrust Bureau,  
 Office of the Attorney Bureau, Office of the  
 Attorney General, 120 Broadway, Suite 26-  
 01, New York, NY 10271, (212) 416-8271.*

For Defendants Waste Management, Inc.  
 and Ocho Acquisition Corp.

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 DC 20006-8425, (202) 662-8425.*

For Defendant Eastern Environmental  
 Services, Inc.

Neal R. Stoll, Esquire,  
*Skadden, Arps, Slate, Meagher, & Flom, 919  
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 (212) 735-3000.*

Of Counsel:

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*Assistant Attorney General.*

For Plaintiff Commonwealth of  
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*Attorney General.*  
 James A. Donahue, III,  
*Chief Deputy Attorney General.*  
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 Strawberry Square, Harrisburg, PA 17120,  
 (717) 787-4530.*

For Plaintiff State of Florida

Robert A. Butterworth,  
*Attorney General.*  
 Lizabeth A. Leeds,  
 Douglas L. Kilby,  
*Assistant Attorneys General, Antitrust  
 Section, PL-01, The Capitol, Tallahassee, FL  
 32399-1050, (850) 414-3856.*

## Order

It is so ordered by the Court, this \_\_\_\_\_  
 day of \_\_\_\_\_.

\_\_\_\_\_  
 United States District Judge

## Final Judgment

Whereas, plaintiffs, the United States of America, the State of New York, the Commonwealth of Pennsylvania, and the State of Florida, and defendants Eastern Environmental Services, Inc. ("Eastern"), Waste Management, Inc. ("Waste Management"), and Ocho

Acquisition Corporation ("Ocho"), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein; and that this Final Judgment shall settle all claims made by plaintiffs in their Amended Complaint filed on December 2, 1998;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is, in the event of the acquisition of Eastern by Waste Management, the prompt and certain divestiture of the identified assets to assure that competition is not substantially lessened;

And whereas, plaintiffs require defendants to make certain divestitures for the purpose of establishing a viable competitor in the disposal business, the commercial waste hauling business, or both in the specified areas;

And whereas, defendants have represented to plaintiffs that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

And whereas, the United States, the states of New York and Florida, and the Commonwealth of Pennsylvania currently believe that entry of this Final Judgment is in the public interest;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

## I

### Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

## II

### Definitions

As used in this Final Judgment:  
 A. "Waste Management" means defendant Waste Management, Inc., a Delaware corporation with its headquarters in Houston, Texas and

includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, directors, officers, managers, agents, and employees.

B. "Eastern" means defendant Eastern Environmental Services, Inc., a Delaware corporation with its headquarters in Mt. Laurel, New Jersey, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, directors, officers, managers, agents, and employees.

C. "Rights to Eastern's RFP Proposal" means (1) all right, title and interest in the proposal submitted by Eastern to the New York City Department of Sanitation in response to the New York City Request for Proposals to Receive Solid Waste at a Marine Transfer Station. Procurement Identification No. 82797RR0014, dated June 16, 1997, and any amendments, revisions, or modifications thereto (hereinafter, the "New York City RFP"); (2) any intangible assets relating to that proposal, including any engineering, technical, or construction designs, plans or specifications, permit or land use applications, and any options, commitments or agreements of any type for the design, construction, permitting, lease or sale of any land, building or equipment, or to receive, transport, store or dispose of waste; (3) at purchaser's option, such technical assistance on that proposal as the purchaser reasonably may require from Eastern for a period of one hundred fifty days (150) after the purchase of the Rights to Eastern's RFP Proposal; and (4) at purchaser's option, airspace disposal rights for up to a twenty-year time at Eastern's Waverly, VA landfill, pursuant to which defendants will sell rights to dispose of up to 4,000 tons of average daily waste pursuant to any contract award under the New York City RFP, on the terms and conditions specified in the Waste Disposal Agreement, dated December 29, 1998, between Atlantic Waste Disposal, Inc. and Republic Services, Inc.

D. "Relevant Disposal Assets" means, with respect to each landfill or transfer station listed and described herein: (1) all tangible assets, including all fee and leasehold and renewal rights in the listed landfill or transfer station; the garage and related facilities; offices; and landfill- or transfer station-related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and (2) all intangible assets of the listed landfill or transfer station, including customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Disposal Assets, as used herein, includes each of the following properties:

#### 1. Landfills

a. Allegheny County, Pennsylvania—Eastern's Kelly Run Sanitation Landfill, located at State Route 51 South, Elizabeth, Pennsylvania 15037, and known as the Kelly Run Landfill (and includes the waste disposal agreement between Chambers Development Company, Inc. and William H. Martin, Inc. and Eastern Environmental Services, Inc. and Kelly Run Sanitation, Inc., dated 1997);

b. Bethlehem/Allentown, Pennsylvania—Eastern's Eastern Waste of Bethlehem Landfill, located at 2335 Applebutter Road, Bethlehem, Pennsylvania 18015, and known as the Bethlehem Landfill; and

c. Chambersburg-Carlisle, Pennsylvania—Eastern's R&A Bender Landfill located at 3747 White Church Road, Chambersburg, Pennsylvania 17201 (also known as the Bender Landfill).

#### 2. Transfer Stations

New York, New York—a. Eastern's PJ's Transfer Station located at 222 Morgan Avenue, Brooklyn, New York 11237 (also known as the Morgan Avenue Transfer Station);

b. Eastern's Atlantic Waste Transfer Station located at 110–120 50th Street, Brooklyn, New York 11232 (also known as the Atlantic Transfer Station); and

c. Waste Management's Vacarro Transfer Station, located at 577 Court Street, Brooklyn, NY 11231 (also known as the Court Street Transfer Station); and Waste Management's Gesuale Transfer Station, located at 38–50 Review Avenue, Queens, NY 11101 (also known as Review Avenue Transfer Station), only one of which must be sold pursuant to the terms of Sections IV or V of this Final Judgment.

E. "Relevant Hauling Assets" means with respect to each commercial route or other hauling asset described herein: (1) all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, and supplies [except real property and improvements to real property (i.e., buildings)]; and (2) all intangible assets, including hauling-related customer lists, contracts, and accounts.

Relevant Hauling Assets, as used herein, includes each of the following assets:

1. Scranton, Pennsylvania—Waste Management's front-end loader truck ("FEL") commercial routes servicing Luzerne and Lackawanna County, Pennsylvania;

2. Franklin/Adams/Cumberland Counties, Pennsylvania—Eastern's FEL commercial routes servicing Franklin, Adams and Cumberland Counties, Pennsylvania;

3. Broward County, Florida—Eastern's FEL commercial routes servicing Broward County, Florida;

4. Dade County, Florida—Eastern's FEL commercial routes servicing portions of Dade County, Florida;

5. Hillsborough County, Florida—Eastern's Kimmins Recycling Corporation FEL commercial routes servicing the unincorporated (and grandfathered incorporated) areas of Hillsborough County, Florida solid waste service area, more specifically defined in RFP#C-277-96, Hillsborough County Board of County Commissioners documents 96-2393, as modified by 97-1913.

F. "Hauling" means the collection of waste from commercial customers and the transporting of the collected waste to disposal sites. Hauling, as used herein, does not include collection of roll-off containers.

G. "Waste" means municipal solid waste.

H. "Disposal" means the business of disposing of waste into approved disposal sites.

I. "Relevant Area" means the country in which the Relevant Hauling Assets or Relevant Disposal Assets are located, or with respect to the Rights to Eastern's RFP Proposal, New York, New York.

J. "Relevant State" means the state in which the Relevant Disposal Assets or Relevant Hauling Assets are located.

### III

#### *Applicability*

A. The provisions of this Final Judgment apply to defendants, their successors and assigns, subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Waste Management shall require, as a condition of the sale or other disposition of all or substantially all of its assets, or of a lesser business unit that includes defendants' hauling or disposal business in any Relevant Area, that the acquiring party agree to be bound by the provisions of this Final Judgment.

### IV

#### *Divestitures*

A. In the event that Waste Management acquires Eastern, defendants are hereby ordered and

directed in accordance with the terms of this Final Judgment, within one hundred and twenty (120) calendar days after the filing of the Hold Separate Stipulation and Order in this case, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to:

(1) Sell the Relevant Disposal Assets (excluding the Gesuale and Vacarro transfer stations defined in Section II(D)(2)(c) hereof) and the Relevant Hauling Assets as viable, ongoing businesses to a purchaser or purchasers acceptable to the United States in its sole discretion, after consultation with the Relevant State; and

(2) Offer to sell both the Gesuale Transfer Station and the Vacarro Transfer Station, defined in Section II(D)(2)(c) hereof, and at Waste Management's sole election, sell either one of these two transfer stations to a purchaser or purchasers acceptable to both United States and the State of New York, in their sole discretion, but subject to the standard set forth in Section IV(J) of the Final Judgment.

B. In the event that Waste Management acquires Eastern, defendants are hereby ordered and directed in accordance with the terms of this Final Judgment, to sell by January 18, 1999, the Rights to Eastern's RFP Proposal to Republic Services, Inc. or any other purchaser acceptable to both the United States and the State of New York, in their sole discretion.

C. Defendants shall use their best efforts to accomplish the divestitures as expeditiously and timely as possible. The United States, in its sole discretion, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal, both the United States and the State of New York jointly, in their sole discretion—may extend the time period for any divestiture an additional period of time not to exceed sixty (60) calendar days.

D. In accomplishing the divestitures ordered by this Final Judgment, Waste Management promptly shall make known, by usual and customary means, the availability of the Relevant Disposal Assets and the Relevant Hauling Assets. Waste Management shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Waste Management shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all information regarding the Relevant Disposal Assets, the Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal customarily provided in a due

diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Waste Management shall make available such information to the plaintiffs at the same time that such information is made available to any other person.

E. Defendants shall not interfere with any negotiations by any purchaser to employ any Waste Management (or former Eastern) employee (with the exception of Louis D. Paolino, Jr. or Robert M. Kramer) who works at, or whose principal responsibility concerns, any disposal or hauling business that is part of the Relevant Disposal Assets, the Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal.

F. Waste Management shall permit prospective purchasers of the Relevant Disposal Assets, Relevant Hauling Assets, or Rights to Eastern's RFP Proposal to have access to personnel and to make such inspection of such assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

G. With the exception of the assets listed in Sections II (D)(2)(a) and (c), Waste Management shall warrant to any and all purchasers of the Relevant Disposal Assets or Relevant Hauling Assets that each asset will be operational on the date of sale.

H. Waste Management shall not take any action, direct or indirect, that will impede in any way the permitting or operation of the Relevant Disposal Assets or Relevant Hauling Assets, or take any action, direct or indirect, that will impede in any way the permitting of any facility to be built or used pursuant to an award by New York City relating to the Rights to Eastern's RFP Proposal.

I. Waste Management shall warrant to the purchaser of the Relevant Disposal Assets or Relevant Hauling Assets that with the exception of the assets listed in Sections II(D)(2)(a) and (c), there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset, and that with respect to all Relevant Disposal Assets or Relevant Hauling assets, Waste Management will not undertake, directly or indirectly, following the divestiture of each asset, any challenges to the environmental, zoning, or other permits pertaining to the operation of the asset.

J. Unless the United States, after consultation with the Relevant State,

otherwise consents in writing, the divestitures pursuant to Section IV, whether by defendants or by trustee appointed pursuant to Section V of this Final Judgment, shall include all Relevant Disposal Assets, Relevant Hauling Assets, and Rights to Eastern's RFP Proposal and be accomplished by selling or otherwise conveying each asset to a purchaser in such a way as to satisfy the United States, in its sole discretion, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal or Vacarro or Gesuale transfer stations [Section II(D)(2)(c)], in such a way as to satisfy both the United States and the State of New York—that the Relevant Disposal Assets or the Relevant Hauling Assets can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in waste disposal or hauling, or with respect to the Rights to Eastern's RFP Proposal, in such a way as to satisfy both the United States and the State of New York, in their sole discretion, that the purchaser will use its best efforts to compete for a contract award under the New York City RFP. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to a purchaser or purchasers for whom it is demonstrated to the United States sole satisfaction, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal or Vacarro or Gesuale transfer stations [Section II(D)(2)(c)], for whom it is demonstrated to both the United States and the State of New York's sole satisfaction—that the purchaser: (1) has the capability and intent of competing effectively in the waste disposal or hauling business in the Relevant Area; (2) has or soon will have the managerial, operational, and financial capability to compete effectively in the waste disposal or hauling business in the Relevant Area; and (3) is not hindered by the terms of any agreement between the purchaser and Waste Management which gives Waste Management the ability unreasonably to raise the purchaser's costs, lower the purchaser's efficiency, or otherwise interfere in the ability of the purchaser to compete effectively in the Relevant Area.

K. Defendants shall not institute any action to challenge the sale or assignment of the Rights to Eastern's RFP Proposal pursuant to the terms of this Final Judgment, and defendants shall not challenge, on the basis of such sale or assignment, the New York City Department of Sanitation's consideration of such proposal, as sold or assigned, or the New York City

Department of Sanitation's award to a purchaser or assignee of such proposal under the New York City RFP. If any legal action is commenced against such sale or assignment, defendants shall support in that action the sale or assignment of the Rights to Eastern's RFP Proposal.

L. The United States and the State of New York shall file a joint motion with Waste Management to modify the pending Final Judgment in *United States v. USA Waste Service, Inc.*, Civ. No. 98 CV 1616 (N.D. Ohio, filed June 16, 1998), to remove from the Judgment the contingent divestiture of Waste Management's Brooklyn Transfer Station, located at 485 Scott Avenue, Brooklyn, NY 12222 (also known as the Scott Avenue Transfer Station).

## V

### *Appointment of Trustee*

A. In the event that Waste Management has not sold the Relevant Disposal Assets, the Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal within the time period specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States (or with respect to the Rights to Eastern's RFP Proposal and Gesuale or Vacarro transfer station, a trustee selected by both the United States *and* the State of New York jointly), to effect the divestiture of each such asset not sold; *provided, however*, that if Waste Management has a definitive agreement to sell either Vacarro or Gesuale transfer station to a purchaser approved by both the United States and the State of New York under the Final Judgment, but the sale of the transfer station cannot be consummated because of Waste Management's or the purchaser's inability to obtain regulatory approval for a change of control or approval to operate the transfer station, then, as long as such inability persists, a trustee shall not be appointed with respect to the sale of either Vacarro or Gesuale transfer station; and *provided further* that if the inability to obtain such regulatory approval persists for one year or more after the signing of a definitive agreement to sell the transfer station and approval of the proposed purchaser by both the United States and the State of New York, Waste Management may request that the United States and the State of New York select—or both the United States and the State of New York may on their own jointly select—a trustee to effect the sale of Gesuale Transfer Station, and at the time such request or joint selection is made any

obligation to sell Vacarro Transfer Station shall terminate.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Relevant Disposal Assets, Relevant Hauling Assets, or Rights to Eastern's RFP Proposal described in Sections II (C), (D) and (E) of this Final Judgment. The trustee shall have the power and authority to accomplish any and all divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. With respect to the Rights to Eastern's RFP Proposal, the trustee shall have the power to offer to sell the airspace disposal rights option on the terms specified in the Waste Disposal Agreement, dated December 29, 1998, between Atlantic Waste Disposal, Inc. and Republic Services, Inc. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Waste Management any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser or purchasers acceptable to the United States, upon consultation with the Relevant State [except that the sale of the Rights to Eastern's RFP Proposal or the sale of Vaccaro or Gesuale transfer station shall be made to a purchaser or purchasers acceptable to both the United States *and* the State of New York], and shall have such other powers as this Court shall deem appropriate. Waste Management shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Waste Management must be conveyed in writing to the relevant plaintiffs and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of Waste Management, on such terms, and conditions as the Court may prescribe, and shall account for all monies derived from the sale of each asset sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Waste

Management and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Waste Management shall use its best effort to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Waste Management shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Waste Management shall permit bona fide prospective acquirers of each Relevant Disposal Asset, Relevant Hauling Asset, or the Rights to Eastern's RFP Proposal to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report a setting forth (1) the trustee's efforts to accomplish their required divestitures, (2) the reasons, in

the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at that same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in orders to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States, or with respect to the Rights to Eastern's RFP Proposal and Vacarro or transfer station Gesuale, requested by both the United States and the State of New York.

## VI

### *Notification*

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, and proposed divestiture pursuant to Sections IV or V of this Final Judgment, Waste Management or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiffs of the proposed divestiture. If the trustee is responsible, it shall similarly notify Waste Management. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiffs of such notice, the United States, in its sole discretion, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal or the sale of Vacarro or Gesuale transfer station [Section II(d)(2)(c)], both the United States *and* the State of New York jointly, in their sole discretion—may request from Waste Management, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Waste Management and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall

otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiffs have been provided the additional information requested from Waste Management, the proposed purchaser, and any third party, whichever is later, the United States, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal or the sale of Vaccaro or Gesuale transfer station, both the United States and the State of New York jointly—shall provide written notice to Waste Management and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States (or with respect to the Rights to Eastern's RFP Proposal and Vaccaro or Gesuale transfer station, both the United States and the State of New York jointly) provide written notice to Waste Management and the trustee that it does not object, then the divestiture may be consummated, subject only to Waste Management's limited right to object to the sale under Section V(B) of this Final Judgment. Upon objection by the United States (or with respect to the Rights to Eastern's RFP Proposal and Vaccaro or Gesuale transfer station, both the United States and the State of New York), and divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Waste Management under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

## VII

### *Affidavits*

A. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, Waste Management shall deliver to plaintiffs an affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that Waste Management has taken to solicit a buyer

for any and all Relevant Disposal Assets, Relevant Hauling Assets, or Rights to Eastern's RFP Proposal and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States, after consultation with the Relevant State—or with respect to the Rights to Eastern's RFP Proposal, and Vaccaro or Gesuale transfer station, any objection by both the United States and the State of New York—to information provided by Waste Management, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter, Waste Management shall deliver to plaintiffs an affidavit which describes in detail all actions Waste Management has taken and all steps Waste Management has implemented on an on-going basis to preserve the Relevant Disposal Assets, Relevant Hauling Assets, and Rights to Eastern's RFP Proposal pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, Waste Management's efforts to maintain and operate each Relevant Disposal Asset and Relevant Hauling Asset as an active competitor, maintain the management, staffing, sales, marketing and pricing of each asset, and maintain each asset in operable condition at current capacity configurations. Waste Management shall deliver to plaintiffs an affidavit describing any changes to the efforts and actions outlined in Waste Management's earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Waste Management shall preserve all records of all efforts made to preserve the Relevant Disposal Assets, Relevant Hauling Assets, and Rights to Eastern's RFP Proposal and to effect the ordered divestitures.

## VIII

### *Hold Separate Order*

Until the divestitures required by the Final Judgment have been accomplished, Waste Management shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the

sale of the Relevant Disposal Assets, Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal.

## IX

### *Financing*

Waste Management is ordered and directed not to finance all or any part of any acquisition by any person made pursuant to Sections IV or V of this Final Judgment.

## X

### *Compliance Inspection*

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or upon written request of duly authorized representatives of the Attorney General's Office of any Relevant State, and on reasonable notice to Waste Management made to its principal offices, shall be permitted:

(1) Access during office hours of Waste Management to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Waste Management, who may have counsel present, relating to the matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

(2) Subject to the reasonable convenience of Waste Management and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or upon the written request of the Attorney General's Office of any Relevant State, Waste Management shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the plaintiffs to any person other than a duly authorized representative of the Executive Board of the United States, or the Attorney General's Office of any Relevant State, except in the course of legal proceedings to which the United

States or any Relevant State is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Waste Management to plaintiffs, Waste Management represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Waste Management marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rule of Civil Procedure," then ten (10) calendar days notice shall be given by plaintiffs to Waste Management prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Waste Management is not a party.

## XI

### *Retention of Jurisdiction*

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

### *XII. Termination*

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

### *XIII. Public Interest*

Entry of this Final Judgment is in the public interest.

Dated: \_\_\_\_\_.

United States District Judge

## **Competitive Impact Statement**

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

### *I. Nature and Purpose of the Proceeding*

On November 17, 1998, the United States, and the states of New York and Florida, and the Commonwealth of Pennsylvania ("the governments") filed a civil antitrust suit alleging that the

proposed acquisition by Waste Management, Inc. of Eastern Environmental Services, Inc. ("Eastern") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Amended Complaint, filed on December 2, 1998, alleges that in nine markets in the eastern United States, Waste Management and Eastern are two of the most significant competitors in commercial waste collection, or disposal of municipal solid waste ("MSW") (i.e., operation of landfills, transfer stations and incinerators), or both services.

The Amended Complaint alleges that a combination of Waste Management and Eastern would substantially lessen competition for the massive \$6 billion contract to dispose of residential waste collected by the New City Department of Sanitation following the closure of the city's Fresh Kills Landfill in late 2001. The Amended Complaint alleges that the combination would also substantially reduce competition in disposal of municipal solid waste in four other highly concentrated markets—Pittsburgh (Allegheny County), Allentown/Bethlehem, and Chambersburg/Carlisle, Pennsylvania, and New York, New York (commercial waste)—and that it would substantially lessen competition in commercial waste collection services in four highly concentrated, relevant geographic markets: Scranton and Carlisle/Chamberburg, Pennsylvania; and the Miami/Ft. Lauderdale and suburban Tampa (Hillsborough County), Florida areas.

According to the Amended Complaint, the loss of competition would likely result in consumers paying higher prices and receiving fewer or lesser quality services for the collection and disposal of waste. The prayer for relief in the Amended Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act and (2) a permanent injunction that would prevent Waste Management from acquiring control of or otherwise combining its assets with Eastern.

On December 31, 1998, the governments filed a proposed settlement that would permit Waste Management to complete its acquisition of Eastern, but require the defendants to divest certain waste collection and disposal assets in such a way as to preserve competition in the affected markets. This settlement consists of Hold Separate Stipulation and Order, a proposed Final Judgment, and correspondence that outlines a methodology for selecting which commercial waste collection routes

should be divested in the Miami area and sets forth the standard by which the governments determined whether routes that serve a given geographic area should be divested under the Judgment (Appendix B).<sup>1</sup>

The proposed Final Judgment orders Waste Management and Eastern to divest commercial waste collection routes in each of the relevant areas in which the Complaint alleges the merger would substantially reduce competition in commercial waste collection services. In addition, the Judgment orders Waste Management and Eastern to divest landfills, transfer stations, or disposal rights in such facilities in each of the relevant markets in which the merger would substantially reduce competition in disposal of municipal solid waste. (A summary of the commercial waste collection and waste disposal assets that defendants must divest pursuant to the Judgment appears below in Appendix A.) Waste Management and Eastern must complete their divestitures of the rights to Eastern's RFP proposal by January 18, 1999,<sup>2</sup> and complete their divestitures of the other waste collection and disposal assets within 120 days after December 31, 1998, or five days after entry of the Final Judgment, whichever is later.

The Hold Separate Stipulation and Order ("Hold Separate Order") and the proposed Final Judgment ensure that until the divestitures mandated by the Judgment are accomplished, the currently operating waste collection and disposal assets that are to be divested will be maintained and operated as saleable, economically viable, ongoing concerns, with competitively sensitive

<sup>1</sup> Defendants are required to divest front end loader (FEL) commercial waste collection routes that serve certain geographic areas specified in the Judgment. Because some FEL commercial routes may serve more than one area, the governments agreed that in determining whether a defendant's routes that serve a given area are subject to divestiture under the Judgment the following standard would apply: if a defendant's FEL route obtained 10% or more of its commercial revenues from a geographic area set forth in the Judgment [§§ II(E)(1)-(5)] in the route's most recent year of operation, defendants must divest that FEL commercial route. Applying this principle in the Franklin/Adams/Cumberland area are Pennsylvania, for instance, would require defendants to divest any Eastern FEL commercial route from which 10 percent or more of its revenues derive from customers located in the Franklin, Adams or Cumberland County, PA area. Under this standard, route which serves an area but has a *de minimis* amount of revenue would be excluded.

Defendants have specifically noted the total number of FEL commercial routes they believe must be divested under the Judgment. At this time, the governments, however, have not verified defendants' representations.

<sup>2</sup> The rights to Eastern's RFP proposal were divested to Republic Services, Inc. in a transaction that closed on January 18, 1999.

business information and decision-making divorced from that of the combined company. Subject to the United States' approval. Waste Management will appoint a person to manage the operations to be divested and ensure defendants' compliance with the requirements of the proposed Judgment and Hold Separate Order.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Judgment would terminate this action, except that the Count would retain jurisdiction to construe, modify or enforce the provisions of the proposed Judgment and to punish violations thereof.

## II. Description of the Events Giving Rise to the Violations Alleged in the Complaint

### A. The Defendants and the Proposed Transaction

Waste Management is the largest waste collection and disposal firm in the United States. Based in Houston, Texas, it provides waste collection and disposal services throughout the country. In 1998, Waste Management's total operating revenues exceeded \$12 billion.

Eastern, based in Mt. Laurel, New Jersey, is a large regional waste collection and disposal firm, with operations concentrated in New York, New Jersey, Pennsylvania, Delaware and Florida, often in direct competition with Waste Management. In 1997, Eastern reported total operating revenues of over \$90 million.

In August 1998, Waste Management announced an agreement to acquire Eastern in a stock transaction worth nearly \$1.2 billion. This transaction, which would combine two major competitors and substantially increase concentration in a number of already highly concentrated, difficult-to-enter waste disposal and collection markets, precipitated the governments' suit.

### B. The Competitive Effects of the Transaction

Waste collection firms, or "haulers," contract to collect municipal solid waste ("MSW") from residential and commercial customers; they transport the waste to private and public disposal facilities (e.g., transfer stations, incinerators and landfills), which, for a fee, process and legally dispose of waste. Waste Management and Eastern compete in operating waste collection routes and waste disposal facilities.

### 1. The Effects of the Transaction on Competition in the Markets for Commercial Waste Collection

Commercial waste collection is the collection of MSW from commercial businesses such as office and apartment buildings and retail establishments (e.g., stores and restaurants) for shipment to, and disposal at, an approved disposal facility. Because of the type and volume of waste generated by commercial accounts and the frequency of service required, haulers organize commercial accounts into special routes, and use specialized equipment to store, collect and transport waste from these accounts to approved disposal sites. This equipment—one to ten cubic yard containers for waste storage, and front-end loader vehicles for collection and transportation—is uniquely well suited to commercial waste collection service. Providers of other types of waste collection services (e.g., residential and roll-off services) are not good substitutes for commercial waste collection firms. In their waste collection efforts, other firms use different waste storage equipment (e.g., garbage cans or semi-stationary roll-off containers) and different vehicles (e.g., rear- or side-load trucks), which, for a variety of reasons, cannot be conveniently or efficiently used to store, collect or transport waste generated by most commercial accounts, and hence, are infrequently used on commercial waste collection routes. For purposes of antitrust analysis, commercial waste collection constitutes a line of commerce, or relevant service, for analyzing the effects of the merger.

The Amended Complaint alleges that provision of commercial waste collection services takes place in compact, highly localized geographic markets. It is expensive to ship waste long distances in either collection or disposal operations. To minimize transportation costs and maximize the scale, density, and efficiency of their waste collection operations, commercial waste collection firms concentrate their customers and collection routes in small areas. Firms with operations concentrated in a distant area cannot easily compete against firms whose routes and customers are locally based. Sheer distance may significantly limit a distant firm's ability to provide commercial waste collection service as frequently or conveniently as that offered by local firms with nearby routes. Also, local commercial waste collection firms have significant cost advantages over other firms, and can profitably increase their charges to local commercial customers without losing

significant sales to firms outside the area.

Applying that analysis, the Amended Complaint alleges that four areas—Scranton and the Chambersburg/Carlisle area (Franklin/Adams/Cumberland counties), Pennsylvania, and Miami/Ft. Lauderdale and suburban Tampa (Hillsborough County), Florida areas—constitute sections of the country, or relevant geographic markets, for the purpose of assessing the competitive effects of a combination of Waste Management and Eastern in the provision of commercial waste collection services. In each of these markets, Waste Management and Eastern are two of the largest competitors, and the combined firm would command from 50 to 75 percent or more of total market revenues. These five commercial waste collection markets generate from \$7 million to well over \$150 million in annual revenues.

Significant new entry into these markets would be difficult, time consuming, and is unlikely to occur soon. Many customers of commercial waste collection firms have entered into "evergreen" contracts, tying them to a market incumbent for indefinitely long periods of time. In competing for uncommitted customers, market incumbents can price discriminate, *i.e.*, selectively (and temporarily) charge unbeatably low prices to customers targeted by entrants, a tactic that would strongly discourage a would-be competitor from competing for such accounts, which, if won, may be very unprofitable to serve. The existence of long term contracts and price discrimination substantially increases any would-be new entrant's costs and time necessary for it to build its customer base and obtain efficient scale and route density to become an effective competitor in the market.

The Amended Complaint alleges that a combination of Waste Management and Eastern would likely lead to an increase in prices charged to consumers of commercial waste collection services. The acquisition would diminish competition by enabling the few remaining competitors to engage more easily, frequently, and effectively in coordinated pricing interaction that harms consumers. This is especially troublesome in markets where entry has not proved an effective deterrent to the exercise of market power.

### 2. The Effect of the Transaction on Competition for the Disposal of New York City's Residential Waste After the Closing of Fresh Kills Landfill

A combination of Waste Management and Eastern would have some of its

most immediate, far-reaching and severe effects on competition for the New York City Department of Sanitation's 20–30 year, multi-billion dollar contracts for disposal of the city's residential waste following the state-mandated December 2001 closing of Fresh Kills Landfill, the only landfill that handles the disposal of the city's residential waste. In a lengthy competitive process known as the "RFP," between June 1997 and October 1998, the New York City Department of Sanitation solicited and evaluated proposals from a number of vendors for the disposal of the city's waste, and it recently concluded that Waste Management and Eastern are two of only three firms that remain in contention for contracts under this major procurement.

The RFP, once the contracts are awarded and the proposals implemented, would create a new infrastructure for processing and disposal of New York City's residential waste. The winning contractors would purchase and operate a fleet of barges that would collect up to 9,000 tons of residential waste each day from city-owned transfer stations, and deliver it to one or more new, privately-owned and operated enclosed marine barge unloading facilities ("EBUFs"). The EBUFs would process the residential waste and ship it by rail, truck or ocean-going barge primarily to massive distant landfills for final disposal far from New York.

New York City currently anticipates paying private contractors more than \$200 million annually, over a 20–30 year time period, to construct, operate and manage the waste processing and disposal facilities outlined in its RFP. With total estimated payments of well over \$6 billion over the length of the contracts, the RFP would be the single largest municipal procurement in the history of New York City.

A combination of Waste Management and Eastern would significantly reduce from three to two the city's competitive options for the disposal of its residential waste, and likely result in an increase (or a refusal to negotiate further reductions) in the finalists' charges for disposal of the city's residential waste. As it stands now, Eastern is a competitive alternative for a third or more of any final RFP award. With the elimination of Eastern, the market incumbents, Waste Management and Browning-Ferris Industries, Inc., would no longer compete as aggressively since they would no longer have to worry about losing business to Eastern.

### 3. The Effects of the Transaction on Competition in Other Markets for Disposal of Municipal Solid Waste

A number of federal, state and local safety, environmental, zoning and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. MSW can only be sent for disposal to a transfer station, sanitary landfill, or incinerator permitted to accept MSW. Anyone who attempts to dispose of MSW in a facility that has not been approved for disposal of such waste risks severe civil and criminal penalties. Firms that compete in the disposal of MSW can profitably increase their charges to haulers for disposal of MSW without losing significant sales to other firms. For these reasons, there are no good substitutes for disposal of MSW.

Disposal of MSW tends to occur in highly localized markets.<sup>3</sup> Disposal costs are a significant component of waste collection services, often comprising 40 percent or more of overall operating costs. It is expensive to transport waste significant distances for disposal. Consequently, waste collection firms strongly prefer to send waste to local disposal sites. Sending a vehicle to dump waste at a remote landfill increases both the actual and opportunity costs of a hauler's collection service. Natural and man-made obstacles (e.g., mountains and traffic congestion), sheer distance and relative isolation from population centers (and collection operations) all substantially limit the ability of a remote disposal site to compete for MSW from closer, more accessible sites. Thus, waste collection firms will pay a premium to dispose of waste at more convenient and accessible sites. Operators of such disposal facilities can—and do—price discriminate, *i.e.*, charge higher prices to customers who have fewer local options for waste disposal.

For these reasons, the Complaint alleges that, for purposes of antitrust analysis, five areas—New York City,

<sup>3</sup> Though disposal of municipal solid waste is primarily a local activity, in some densely populated urban areas there are few, if any, local landfills or incinerators available for final disposal of waste. In these areas, transfer stations are the principal disposal option. A transfer station collects, processes and temporarily stores waste for later bulk shipment by truck, rail or barge to a more distant disposal site, typically a sanitary landfill, for final disposal. In such markets, local transfer stations compete for municipal solid waste for processing and temporary storage, and sanitary landfills may compete in a broader regional market for permanent disposal of area waste. The Complaint in this case alleges that in one relevant area—New York, NY—transfer stations are the principal method for disposal of MSW.

NY; Pittsburgh (Allegheny County), Allentown/Bethlehem, and Carlisle/Chambersburg, PA—are relevant geographic markets for disposal of municipal solid waste. In each of these markets, Waste Management and Eastern are two of only a few significant competitors. Their combination would command from over 50 to well over 90 percent of disposal capacity for municipal solid waste, in markets that generate annual disposal revenues of from \$10 million to over \$100 million annually.

Entry into the disposal of municipal solid waste is difficult. Government permitting laws and regulations make obtaining a permit to construct or expand a disposal site an expensive and time-consuming task. Significant new entry into these markets is unlikely to occur in any reasonable period of time, and is not likely to prevent exercise of market power after the acquisition.

In each listed market, Waste Management's acquisition of Eastern would remove a significant competitor in disposal of municipal solid waste. With the elimination of Eastern, market incumbents will no longer compete as aggressively since they will not have to worry about losing business to Eastern. The resulting substantial increase in concentration, loss of competition, and absence of reasonable prospect of significant new entry or expansion by market incumbents likely ensure that consumers will pay substantially higher prices for disposal of MSW, collection of commercial waste, or both, following the acquisition.

### III. Explanation of the Proposed Final Judgment

The relief described in the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in commercial waste collection and in disposal of MSW from the relevant markets by establishing new, independent and economically viable competitors in each affected market.

#### A. The Proposed Divestitures

First, the proposed Final Judgment requires Waste Management and Eastern to sell by January 18th the rights to Eastern's RFP Proposal to Republic Services, Inc. or any other purchaser acceptable to both the United States and the State of New York.<sup>4</sup> That divestiture must be made promptly so as to not delay the New York Department of Sanitation's plans to quickly conduct

<sup>4</sup> As noted above, defendants sold the rights to Eastern's RFP proposal to Republic Services, Inc. on January 18, 1999.

and complete its final negotiations for contracts to dispose of the city's residential waste before the city must close its only landfill in 2001.<sup>5</sup>

The proposed Final Judgment also requires Waste Management and Eastern, within 120 days after the December 31, 1998 filing of the Hold Separate Stipulation and Order, or five days after notice of the entry of this Final Judgment by the Court, whichever is later, to sell certain commercial waste collection assets ("Relevant Hauling Assets") and disposal assets ("Relevant Disposal Assets") as viable, ongoing businesses to a purchaser or purchasers acceptable to the United States, in its sole discretion, after consultation with the relevant state, or in the case of certain New York City transfer stations, to a purchaser or purchasers acceptable to both the United States and the State of New York.<sup>6</sup> The collection assets to be divested include front-end loader commercial waste collection routes, trucks and customer lists. The disposal assets to be divested include landfills, transfer stations, disposal rights in such facilities, and certain other assets (e.g., leasehold and renewal rights in the particular landfill or transfer station, garages and offices, trucks and vehicles, scales, permits, and intangible assets such as landfill or transfer station-related customer lists and contracts).

Finally, the proposed Judgment [§IV(L)] provides that the United States and the State of New York will join a Waste Management motion to modify the pending consent decree in *United States v. USA Waste Services, Inc.*, No. 98 CV 1616 (N.D. Ohio, filed July 16, 1998), to eliminate this proposed Judgment would substitute an immediate divestiture of either Waste Management's Gesuale or Vacarro transfer station [§§ II(D)(2)(c) and IV(A)(2)]. A day after the filing of the proposed decree in that case, counsel for defendants informed the United States, New York and the other

<sup>5</sup> On December 30, 1998, the governments agreed that Donald Chappel be substituted for Robert Donna as interim trustee for the rights to Eastern's RFP proposal and defendants agreed to restrict Waste Management's access to highly confidential information contained in the rights to Eastern's RFP proposal prior to the proposal's divestiture by Waste Management or by a trustee appointed pursuant to the terms of the Judgment.

<sup>6</sup> The governments interpret Section VI of the proposed Final Judgment as meaning that any request for information involving the rights to Eastern's RFP proposal or Vacarro or Gesuale transfer stations must be a joint request from New York and the Antitrust Division. Since a request continues until such time as it is answered, it can effectively be withdrawn by either New York or the Antitrust Division withdrawing the request—under the decree, such action would mean that there was no ongoing "joint" request for additional information.

governments that defendants had mistakenly agreed to a contingent divestiture of the Brooklyn Transfer Station, when they had actually meant to agree to a contingent divestiture of the Gesuale Transfer Station, located at 38–50 Review Avenue, Queens NY. In addition, defendants contended that they needed to retain the Scott Transfer Station in order to provide disposal services under a New York residential waste contract, which they expected to receive, and that in any event, there was no assurance under the proposed Judgment that after defendants receive the residential waste contract, the Scott Avenue Transfer Station, if divested, would have any capacity remaining for disposal of commercial waste.

The United States and the State of New York agreed to join a motion to revise the proposed decree in the Ohio case, substituting a divestiture of either Vacarro or Gesuale, only if Waste Management agreed to divest both New York City transfer stations it would gain by acquiring Eastern—divestitures which defendants have agreed to make [see Judgment, §§ II(D)(2)(a) and (b) and IV(A)(1)].

#### B. Trustee Provisions

If Waste Management and Eastern cannot accomplish the divestitures within the prescribed time, the Final Judgment provides that, upon application of the United States (or in the case of certain New York City transfer stations, application by both the United States and the State of New York), the Court will appoint a trustee to complete the divestiture of each relevant disposal asset or relevant hauling asset not sold. The proposed Final Judgment generally provides that the assets must be divested in such a way as to satisfy the United States, in its sole discretion, after consultation with the relevant state, that the assets can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in waste collection or disposal that can compete effectively in the relevant area. Defendants must take all reasonable steps necessary to accomplish the divestitures, and shall cooperate with bona fide prospective purchasers and, if one is appointed, with the trustee.

If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the

trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestitures. At the end of six months, if the divestitures have not been accomplished, the trustee and the parties will make recommendations to the Court which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

#### IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendant.

#### V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H

Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Judgment.

#### VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Waste Management and Eastern. The United States could have continued the litigation to seek preliminary and permanent injunctions against Waste Management's acquisition of Eastern. The United States is satisfied, however, that defendants' divestiture of the assets described in the Judgment will establish, preserve and ensure viable competitors in each of the relevant markets identified by the governments. To this end, the United States is convinced that the proposed relief, once implemented by the Court, will prevent Waste Management's acquisition of Eastern from having adverse competitive effects.

#### VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively

harm third parties. See *United States v. Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."<sup>7</sup> Rather, absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should \* \* \* carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances. *United States v. Mid-America Dairymen, Inc.*, 1977-1 CCH Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.* 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.<sup>8</sup>

The proposed Final Judgment, therefore, should not be reviewed under

<sup>7</sup> 119 Cong. Rec. 24598 (1973). See *United States v. Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. 93-1463, 93rd Cong. 2d Sess. 8-9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

<sup>8</sup> *United States v. Bechtel*, 648 F.2d at 666 (citations omitted)(emphasis added); see *United States v. BNS, Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States v. Gillette Co.* 406 F. Supp. at 716. See also *United States v. American Cyanamid Co.*, 719 F.2d at 565.

a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."<sup>9</sup>

#### VIII. Determinative Documents

There are no determinative materials or documents with the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: February 1, 1999.

Filed: February 2, 1999.

Respectfully submitted,

Anthony E. Harris (AH 5876),

U.S. Department of Justice, Antitrust Division, Litigation II Section 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307-6583.

### Appendix A—Summary of Waste Disposal and Collection Assets That Must Be Divested Under the Proposed Final Judgment

#### I. The Rights to Eastern's RFP Proposal

The proposed Final Judgment (§§ II(C), IV and V) requires Waste Management and Eastern to divest to Republic Services, Inc. (or any other purchaser acceptable to the United States and the State of New York) the rights to Eastern's proposal to accept residential waste at a marine transfer terminal from the New York City Department of Sanitation. The rights to Eastern's RFP proposal include not only the rights to Eastern's original proposal, but also any amendments, revisions, or modifications to that proposal and any intangible assets relating to the proposal (e.g., any engineering, technical, or construction designs, plans or specifications, permit or land use applications, and any options, commitments or agreements of any type for the design, construction, permitting, lease or sale of any land, building or equipment, or to receive, transport, store or dispose of waste).

The purchaser of the Rights to Eastern's RFP Proposal, in addition, may obtain such technical assistance on that proposal as the purchaser reasonably may require from Eastern for a period of one hundred fifty days (150) after the purchase of the rights; and at purchaser's option, airspace disposal rights for up to a twenty-year time period at Eastern's Waverly, VA landfill, pursuant to which defendants will sell rights to dispose

<sup>9</sup> *United States v. American Tel. and Tel. Co.*, 552 F.Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) quoting *United States v. Gillette Co.*, *supra*, 406 F.Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985)

of up to 4,000 tons of average daily waste pursuant to any contract award under the New York City RFP. The optional airspace agreement must be entered into on the terms and conditions specified in the Waste Disposal Agreement, dated December 29, 1998, between Atlantic Waste Disposal, Inc. and Republic Services, Inc.

## II. Waste Disposal Assets

The proposed Final Judgment (§§ II (D) and (E), and (E), IV and V) requires Waste Management and Eastern to divest certain "relevant disposal assets." In general, this means, with respect to each landfill or transfer station, all tangible assets, including all fee and leasehold and renewal rights in the listed landfill or transfer station; the garage and related facilities; offices; and landfill- or transfer station-related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all intangible assets of the listed landfill or transfer station, including customer lists, contracts, and accounts, or options to purchase any adjoining property. The list of disposal facilities that must be divested includes properties in the following locations, under the listed terms and conditions:

### A. Landfills

#### 1. Allegheny County, Pennsylvania

Eastern's Kelly Run Sanitation Landfill, located at State Route 51 South, Elizabeth, Pennsylvania 15037, and known as the Kelly Run Landfill (and includes the waste disposal agreement between Chambers Development Company, Inc. and William H. Martin, Inc. and Eastern Environmental Services, Inc. and Kelly Run Sanitation, Inc., dated 1997);

#### 2. Bethlehem/Allentown, Pennsylvania

Eastern's Eastern Waste of Bethlehem Landfill, located at 2335 Applebutter Road, Bethlehem, Pennsylvania 18015, and known as the Bethlehem Landfill; and

#### 3. Chambersburg-Carlisle, Pennsylvania

Eastern's R&A Bender Landfill located at 3747 White Church Road, Chambersburg, Pennsylvania 17201 (also known as the Bender Landfill).

### B. Transfer Stations

New York, New York

1. Eastern's PJ's Transfer Station located at 222 Morgan Avenue, Brooklyn, New York 11237 (also known as the Morgan Avenue Transfer Station);

2. Eastern's Atlantic Waste Transfer Station located at 110-120 50th Street, Brooklyn, New York 11232 (also known as the Atlantic Transfer Station); and

3. Waste Management's Vacarro Transfer Station, located at 577 Court Street, Brooklyn, NY 11231 (also known as the Court Street Transfer Station); and Waste Management's Gesuale Transfer Station, located at 38-50 Review Avenue, Queens, NY 11101 (also known as the Review Avenue Transfer Station), only one of which must be

sold pursuant to the terms of Sections IV or V of this Final Judgment.

## III. Commercial Waste Collection Assets

The Final Judgment also orders Waste Management and Eastern to divest certain commercial waste collection assets. Those assets primarily include routes, capital equipment trucks and other vehicles, containers, interests, permits, supplies, customer lists, contracts, and accounts used to service customers along the routes in the following locations:

### A. Scranton, Pennsylvania

Waste Management's front-end loader truck ("FEL") commercial routes servicing Luzerne and Lackawanna County, Pennsylvania;

### B. Franklin/Adams/Cumberland Counties, Pennsylvania

Eastern's FEL commercial routes serving Franklin, Adams and Cumberland Counties, Pennsylvania;

### C. Broward County, Florida

Eastern's FEL commercial routes servicing Broward County, Florida;

### D. Dade County, Florida

Eastern's FEL commercial route servicing portions of Dade County, Florida; and

### E. Hillsborough County, Florida

Eastern's Kimmins Recycling Corporation FEL commercial routes servicing the unincorporated (and grandfathered incorporated) areas of Hillsborough County, Florida solid waste service area, more specifically defined in RFP#-277-96, Hillsborough County Board of County Commissioners documents 96-2393, as modified by 97-1913.

## Appendix B—Correspondence Between Counsel for Waste Management, Inc. and Eastern Environmental Services, Inc. and Counsel for the United States (Methodology for Determining Which FEL Commercial Routes Must Be Divested Under the Judgment)

### Shearman & Sterling

801 Pennsylvania Avenue, NW., Washington, DC 20004-2604

December 30, 1998.

### By Hand

Anthony E. Harris, Esq.,  
Litigation II Section, U.S. Department of  
Justice, Antitrust Division, 1401 H Street,  
NW., Washington, DC 20530

*United States, et al. v. Waste Management, Inc. et al.*

Dear Tony: I write regarding the Proposed Final Judgment in the above-referenced actions.

Section II(E) of the Proposed Final Judgment defines "Relevant Hauling Assets" and does so by reference to counties "serviced" by a designated defendant's front-end loader commercial routes. The United

States and each of the Relevant States, as defined in the Proposed Final Judgment and Hold Separate Order, have agreed that a front-end loader commercial route of a designated company is engaged in "servicing" a particular county if, in the most recent year of the route's operation, 10% or more of its revenues were generated by customers in that county.

Section II(E)(4) of the Proposed Final Judgment, titled "Dade County, Florida," reads "Eastern's FEL commercial routes servicing portions of Dade County, Florida." The United States, the State of Florida, and Defendants have further agreed that this provision means the following:

(a) one of Eastern's three largest front-end loader commercial routes servicing Dade County, Florida (calculated on the basis of monthly revenues); and

(b) four additional Eastern front-end loader commercial routes servicing Dade County, Florida to be selected by Waste Management in its sole discretion.

Eastern Environmental Services, Inc. has represented that it presently has 10 commercial FEL routes serving Dade County and that Eastern's three largest routes in Dade County are Routes 5, 6, and 11.

I have listed below for each area described in the Proposed Final Judgment the number of front-end loader commercial routes operated by the company whose routes will be divested and that have generated at least 10% of their revenues in the most recent year of operation from customers in the counties set forth in the definition of Section II(e). It is the Defendants' understanding that these routes are all those that need to be divested pursuant to the terms of the Proposed Final Judgment.

Scranton, Pennsylvania

Waste Management's three commercial FEL routes servicing Luzerne and Lackawanna Counties.

Franklin/Adams/Cumberland Counties, Pennsylvania

Eastern's two commercial FEL routes servicing Franklin County, two commercial FEL routes servicing Adams County, and one commercial FEL route servicing Cumberland County.

Broward County, Florida

Eastern's two commercial FEL routes servicing Broward County.

Dade County, Florida

Five of Eastern's ten commercial FEL routes servicing Dade County as described above in this letter.

Hillsborough County, Florida

Eastern's five commercial FEL routes servicing the unincorporated and grandfathered incorporated area of Hillsborough County.

Defendants understand that the United States and each of the relevant states have not, at this stage, verified the Defendants' representations as to which particular routes or the total number of routes that must be divested pursuant to the terms of the Proposed Final Judgment.

Very truly yours,  
 Steven C. Sunshine,  
*Counsel for Waste Management, Inc.*  
 Neal R. Stoll,  
*Counsel for Eastern Environmental Services, Inc.*

Agreed and Acknowledged:  
 Anthony E. Harris,  
*U.S. Department of Justice.*

cc: Douglas L. Kilby, Esq., State of Florida  
 James A. Donahue, III, Esq., Commonwealth of Pennsylvania  
 Richard F. Grimm, Esq., State of New York

### Certificate of Service

I certify that on February 1, 1999, I caused a copy of the foregoing Competitive Impact Statement to be served on the parties in this case by mailing the pleading first-class, postage prepaid, to a duly authorized legal representative of each of the parties as follows:

Jonathan L. Greenblatt, Esquire  
 Steven C. Sunshine, Esquire  
 Michael Strub, Jr., Esquire,  
*Shearman & Sterling, 801 Pennsylvania Avenue, NW, Washington, DC 20004-2604.*  
 James R. Weiss, Esquire,  
*Preston Gates Ellis & Rouvelas Meeds LLP, 1735 New York Avenue, NW, Washington, DC 20006-8425.*

Counsel for Defendants Waste Management, Inc. and Ocho Acquisition Corp.

Neal R. Stoll, Esquire,  
*Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, NY 10022-3897.*

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 Kay Taylor,  
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Counsel for Plaintiff Commonwealth of Pennsylvania  
 Lizabeth A. Leeds  
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*Assistant Attorneys General, Antitrust Section, PL-01, The Capitol, Tallahassee, FL 32399-1050.*

Counsel for Plaintiff State of Florida  
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*U.S. Department of Justice, Antitrust Division, 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307-6583.*

[FR Doc. 99-3925 Filed 2-25-99; 8:45 am]

BILLING CODE 4410-11-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 21, 1998, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm is importing the phenylacetone to manufacture dextroamphetamine sulfate.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 19, 1999.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement

Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 5, 1999.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 99-4753 Filed 2-25-99; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 23, 1998, Medeva Pharmaceuticals CA, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724) .....	II
Diphenoxylate (9170) .....	II

The firm plans to manufacture the listed controlled substances to make finished dosage forms for distributions to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 27, 1999.

Dated: February 5, 1999.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 99-4754 Filed 2-25-99; 8:45 am]

BILLING CODE 4410-09-M

**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****Manufacturer of Controlled Substances; Notice of Application**

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 4, 1998, Novartis Pharmaceuticals Corp., 59 Route 10, East Hanover, New Jersey 07936, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance methylphenidate (1724).

The firm plans to manufacture finished product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 27, 1999.

Dated: February 5, 1999.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 99-4755 Filed 2-25-99; 8:45 am]

BILLING CODE 4410-09-M

**DEPARTMENT OF JUSTICE****Federal Bureau of Investigation****Criminal Justice Information Services (CJIS); Advisory Policy Board**

The Criminal Justice Information Services (CJIS) Advisory Policy Board will meet on June 15-16, 1999, from 9 a.m. until 5 p.m., at the Wyndham Franklin Plaza Hotel, 17th and Race Street, Philadelphia, Pennsylvania, telephone (215) 448-2000, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI), on the security, policy, and operation of the Law Enforcement Online (LEO), the National Crime Information Center (NCIC), the NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), the National Instant Criminal Background Check System (NICS), the Uniform Crime Reporting

(UCR), and the National Incident-Based Reporting System (NIBRS) programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, and other topics related to the operation of the FBI's criminal justice information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimile, or a hand-delivered note. It should contain the requestor's name, corporate designation, consumer affiliation, or Government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. A non-member requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquires may be addressed to the Designated Federal Employee, Mr. Don M. Johnson, Section Chief, Programs Development Section, CJIS Division, FBI, 1000 Custer Hollow Road, Clarksville, West Virginia 26306-0145, telephone (304) 625-2740, facsimile (304) 625-5090.

Dated: February 10, 1999.

**Don M. Johnson,**

*Section Chief, Programs Development Section, CJIS Division, Federal Bureau of Investigation, Designated Federal Employee.*

[FR Doc. 99-4774 Filed 2-25-99; 8:45 am]

BILLING CODE 4410-02-M

**DEPARTMENT OF LABOR****Employment Standards Administration****Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wage payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts and 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

#### Volume I

None.

#### Volume II

None

#### Volume III

Georgia

GA990004 (Feb. 26, 1999)  
GA990033 (Feb. 26, 1999)  
GA990062 (Feb. 26, 1999)  
GA990089 (Feb. 26, 1999)  
GA990093 (Feb. 26, 1999)  
GA990094 (Feb. 26, 1999)

#### Volume IV

Michigan

MI990084 (Feb. 26, 1999)

#### Volume V

None

#### Volume VI

None

#### Volume VII

None

### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 18th day of February 1999.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 99-4529 Filed 2-25-99; 8:45 am]

BILLING CODE 4510-27-M

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99-36)]

#### NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee meeting.

**DATES:** Tuesday, April 6, 1999, 8:30 a.m. to 4:30 p.m. and Wednesday, April 7, 1999, 8:30 a.m. to 4:30 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Ames Research Center, Building 262, Room 100, Moffett Field, CA 94035-1000.

**FOR FURTHER INFORMATION CONTACT:** Dr. J. Victor Lebacqz, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604-5792.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

- Review of NASA Strategic Planning and Roadmaps.
- Review of Aviation System Capacity Program.
- Review of FAA "Safe Flight 21" Program.
- Review of Advanced Air Transportation Technologies Project.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: February 16, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99-4768 Filed 2-25-99; 8:45 am]

BILLING CODE 7510-01-P

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-037]

#### NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Aviation Operations Systems Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Aviation Operations Systems Subcommittee meeting.

**DATES:** Monday, March 22, 1999, 1:00 p.m. to 5:30 p.m. and Tuesday, March 23, 1999, 8:30 a.m. to 4:30 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Langley Research Center, Building 1268A, Room 2120, Hampton, VA 23681-0001.

**FOR FURTHER INFORMATION CONTACT:** Dr. J. Victor Lebacqz, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604-5792.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Aviation Operations Systems Review
- Aviation Safety Research Program
- Aviation Weather Information Element
- Measures of System Stability and Safety Element

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 16, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 99-4769 Filed 2-25-99; 8:45 am]

BILLING CODE 7510-01-P

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

[Notice 99-038]

**NASA Advisory Council (NAC), Space  
Science Advisory Committee (SScAC),  
Planetary Protection Task Force;  
Meeting**

**AGENCY:** National Aeronautics and  
Space Administration

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Planetary Protection Task Force.

**DATES:** Wednesday, March 10, 1999, 8:30 a.m. to 5:15 p.m.; Thursday, March 11, 1999, 8:30 a.m. to Noon.

**ADDRESSES:** Room 9H40, NASA Headquarters, 300 E Street, SW, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. John D. Rummel, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-0702.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

- Introduction to Planetary Protection Task Force
- Future Solar System Exploration Missions
- NASA Planetary Protection Policy
- Small Body Sample Return Discussion
- Task Force Discussion
- Planning

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: February 22, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 99-4770 Filed 2-25-99; 8:45 am]

BILLING CODE 7510-01-P

**NUCLEAR REGULATORY  
COMMISSION**

**Agency Information Collection  
Activities: Proposed Collection;  
Comment Request**

**AGENCY:** U.S. Nuclear Regulatory  
Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 33-Specific Domestic Licenses of Broad Scope for Byproduct Material.
2. Current OMB Approval Number: 3150-0015.
3. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 10-year resubmittal of the information for renewal of the license.
4. Who is required or asked to report: All applicants requesting a license of broad scope for byproduct material and all current licensees requesting renewal of a broad scope license.
5. The number of annual respondents: 177 NRC broad scope licensees and 354 Agreement State licensees.
6. The number of hours needed annually to complete the requirement or request: 4,425 hours for NRC licensees and 8,850 hours for Agreement State licensees.
7. Abstract: 10 CFR Part 33 contains mandatory requirements for the issuance of a broad scope license authorizing the use of byproduct material. The subparts cover specific requirements for obtaining a license of broad scope. These requirements include equipment, facilities, personnel, and procedures adequate to protect health and minimize danger to life or property.

Submit, by April 27, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov/NRC/NEWS/OMB/index.html>). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 F33, Washington, DC, 20555-0001, or by telephone at 301-415-7233, or by Internet electronic mail at [BJS1@NRC.GOV](mailto:BJS1@NRC.GOV).

Dated at Rockville, Maryland, this 23rd day of February, 1999.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief  
Information Officer.*

[FR Doc. 99-4814 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY  
COMMISSION**

[Docket No. 50-302]

**Florida Power Corporation; Crystal  
River Unit 3; Notice of Consideration of  
Approval of Transfer of Facility  
Operating License and Issuance of  
Conforming Amendment and  
Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of the interest held by the City of Tallahassee (the City) in Facility Operating License No. DPR-72 for Crystal River Unit 3 (CR-3). The transfer would be to Florida Power Corporation (FPC). The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by FPC, the City and FPC have reached an agreement that provides for the transfer of the City's 1.3333 percent ownership interest in CR-3 to FPC in exchange for FPC assuming responsibility for certain future liabilities. FPC presently owns about 90 percent of CR-3, and is exclusively authorized under the license to operate, maintain, and decommission the facility. No physical changes to, or operational changes for CR-3 are being proposed in the application. Also, no changes to FPC's authority to operate, maintain, and decommission the facility are being requested. The application seeks, in addition to the Commission's consent to the transfer, approval of a license amendment to remove the City from the license once the transfer is approved and completed.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for a hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By March 18, 1999, any person whose interest may be affected by the Commission's action on the application

may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC-A5A, P. O. Box 14042, St. Petersburg, Florida 33733-4042; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for a hearing and petitions to intervene, by March 29, 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated December 29, 1998, available for public

inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Dated at Rockville, Maryland this 19th day of February 1999.

For the Nuclear Regulatory Commission.

**Cecil O. Thomas,**

*Director, Project Directorate II-3, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-4812 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

### Southern California Edison Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company, *et al.* (the licensee) to withdraw its December 30, 1992, application for proposed amendments to Facility Operating License Nos. NPF-10 and NPF-15 for the San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, located in San Diego County, California.

The proposed change would have modified Technical Specifications 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and 3/4.3.3, "Radiation Monitoring Instrumentation" to eliminate the technical specification requirements and engineered safety feature actuation system circuitry for the control room isolation system particulate/iodine channel.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on March 3, 1993 (58 FR 12267). However, by letter dated August 11, 1995, the licensee withdrew the amendments request indicating that it had been superseded by the technical specification improvement program application dated December 30, 1993.

For further details with respect to this action, see the application for amendments dated December 30, 1992, and the licensee's letter dated August 11, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman

Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 22nd day of February 1999.

For the Nuclear Regulatory Commission.

**James W. Clifford,**

*Senior Project Manager, Project Directorate IV-2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-4813 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482]

### Wolf Creek Nuclear Operating Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-42, issued to the Wolf Creek Nuclear Operating Corporation (WCNOC or the licensee), for operation of the Wolf Creek Generating Station (WCGS), located in Coffey County, Kansas.

The initial Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing was published in the **Federal Register** on October 5, 1998 (63 FR 53471). The information included in the supplemental letters indicates that the original notice, that included fourteen proposed beyond-scope issues (BSIs) to the Improved Technical Specifications (ITS) conversion, needs to be expanded to add sixteen new BSIs and revised to delete 8 previous BSIs. This includes a total of twenty-two BSIs.

The proposed amendment, requested by the licensee in a letter dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, December 21, 1998 and February 4, 1999, would represent a full conversion from the current Technical Specifications (CTS) to a set of improved Technical Specifications (ITS) based on NUREG-1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995. NUREG-1431 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the staff as

part of an industry-wide initiative to standardize and improve the Technical Specifications for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement)," published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG-1431 as a basis, proposed an ITS for WCGS. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, "Technical Specifications," in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

This conversion is a joint effort in concert with three other utilities: Pacific Gas & Electric Company for Diablo Canyon Power Plant, Units 1 and 2 (Docket Nos. 50-275 and 323); TU Electric for Comanche Peak Steam Electric Station, Units 1 and 2 (Docket Nos. 50-445 and 50-446); and Union Electric Company for Callaway Plant (Docket No. 50-483). It is a goal of the four utilities to make the ITS for all the plants as similar as possible. This joint effort includes a common methodology for the licensees in marking-up the CTS and NUREG-1431 Specifications, and the NUREG-1431 Bases, that has been accepted by the staff. This includes the convention that, if the words in the CTS specification are not the same as the words in the ITS specification but they mean the same or have the same requirements as the words in the ITS specification, the licensee does not indicate or describe the change to the CTS.

This common methodology is discussed at the end of Enclosure 2, "Mark-Up of Current TS"; Enclosure 5a, "Mark-Up of NUREG-1431 Specifications"; and Enclosure 5b, "Mark-Up of NUREG-1431 Bases, for each of the 14 separate ITS sections that were submitted with the licensee's application. For each of the 14 ITS sections, there is also the following: Enclosure 1, the cross reference table connecting each CTS specification (i.e., limiting condition for operation, required action, or surveillance requirement) to the associated ITS specification, sorted by both CTS and ITS Specifications; Enclosure 3, the description of the changes to the CTS section and the comparison table showing which plants (of the four licensees in the joint effort) that each change applies to; Enclosure 4, the no significant hazards consideration (NHSC) of 10 CFR 50.91 for the changes

to the CTS with generic NHSCs for administrative, more restrictive, relocation, and moving-out-of-CTS changes, and individual NHSCs for less restrictive changes and with the organization of the NHSC evaluation discussed in the beginning of the enclosure; and Enclosure 6, the descriptions of the differences from NUREG-1431 specifications and the comparison table showing which plants (of the four licensees in the joint effort) that each difference applies to. Another convention of the common methodology is that the technical justifications for the less restrictive changes are included in the NHSCs.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG-1431 and does not involve technical changes to the existing TS. The proposed changes include (a) providing the appropriate numbers, etc., for NUREG-1431 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG-1431 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in TS. Relocated changes are those current TS requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents. There will be a license condition to require the licensee to implement the relocations as described in its letters.

The licensee's application of the screening criteria is described in Attachment 2 to its June 2, 1997, submittal, which is entitled, "General Description and Assessment." The affected structures, systems, components or variables are not

assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TS to administratively controlled documents such as the quality assurance program, the updated safety analysis report (USAR), the ITS BASES, the Technical Requirements Manual (TRM) incorporated by reference in the USAR, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual (ODCM), the Inservice Testing (IST) Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms, and may be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG-1431 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant "less restrictive" requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TS may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the

Improved Standard Technical Specifications. Generic relaxations contained in NUREG-1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG-1431, thus providing a basis for these revised TS, or if relaxation of the requirements in the current TS is warranted based on the justification provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event. Some of these changes will revise or add new surveillance requirements (SRs) compared to the SRs in the CTS. There may be scheduling issues with performance of these new or revised SRs. There will be a license condition to define the schedule to begin performing these SRs.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are different than the requirements in both the CTS and the improved Standard Technical Specifications (NUREG-1431). The first six BSIs listed below were included in the initial notice and still apply to the conversion, however there are sixteen additional BSIs. The additional beyond-scope issues (BSIs) are discussed in the licensee's response to requests for additional information (RAIs) from the NRC staff. These proposed beyond-scope issues to the ITS conversion are as follows:

1. ITS LCOs 3.4.5, 3.4.10, 3.4.11, and 3.4.12—revise applicability and add a note (to ITS 3.4.5) to add reactor coolant pump start restrictions for low temperature overpressure protection for the reactor coolant system.
2. ITS LCO 3.4.7 and SRs 3.4.5.2, 3.4.6.2, and 3.4.7.2—revise steam generator level requirements in Modes 3, 4, and 5 to ensure tubes are covered.
3. ITS SR 3.6.3.7—note added to not require leak rate test of containment purge valves with resilient seals when penetration flow path is isolated by leak-tested blank flange.
4. ITS LCO 3.8.6—revise battery float voltage in Table 3.8.6-1.
5. ITS SRs 3.8.4.1 and 3.8.4.6—revises the minimum allowable battery voltage.
6. ITS SR 3.8.4.8—revise restriction for rated capacity for the installed AT&T round cell batteries.

The sixteen additional BSIs are listed below with the associated change number, RAI number, RAI response submittal date, and description of the change.

7. Change 4-05-LS-31 (ITS3/4.4), question Q3.4.11-3, response letter dated December 21, 1998. The change would revise actions of CTS LCO 3.4.4 for inoperable power-operated relief valves and their associated block valves to be in hot shutdown by replacing it with the requirement to reduce  $T_{avg}$  to  $<500^{\circ}\text{F}$ . For consistency, the actions of CTS LCO 3.4.7, for specific activity of the reactor coolant, would be similarly revised and the time to reach the required  $T_{avg}$  extended by 6 hours.

8. Change 1-22-M (ITS3/4.3), question Q3.3-49, response letter dated November 24, 1998. The change was requested in the original application. Quarterly channel operational tests (COTs) would be added to CTS Table 4.3-1 for the power range neutron flux-low, intermediate range neutron flux, and source range flux trip functions. The CTS only require a COT prior to startup for these functions. New Note 19 would be added to require that the new quarterly COT be performed within 12 hours after reducing power below P-10 for the power range and intermediate range instrumentation (P-10 is the dividing point marking the Applicability for these trip functions), if not performed within the previous 92 days. New Note 20 would be added such that the P-6 and P-10 interlocks are verified to be in their required state during all COTs on the power range neutron flux-low and intermediate range neutron flux trip functions.

9. Change 1-7-LS-3 (ITS 3/4.3), question Q3.3-107, response letter dated December 2, 1998. The change was requested in the original application and would (1) extend the completion time for CTS Action 3.b from no time specified to 24 hours for channel restoration or changing the power level to either below P-6 or above P-10, (2) reduce the applicability of the intermediate range neutron flux channels and delete CTS Action 3.a as being outside the revised applicability, and (3) add a less restrictive new action that requires immediate suspension of operations involving positive reactivity additions and a power reduction below P-6 within 2 hours, but no longer require a reduction to Mode 3.

10. Change 1-9-A (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. A new administrative change was added. The CTS 6.2.2.e requirements concerning overtime would be replaced by a reference to

administrative procedures for the control of working hours.

11. Change 1-15-A (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. A new administrative change was added. The proposed change would revise CTS 6.2.2.G to eliminate the title of Shift Technical Advisor. The engineering expertise is maintained on shift, but a separate individual would not be required as allowed by a Commission Policy Statement.

12. Change 2-18-A (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change is a revision to the original application. The dose rate limits in the Radioactive Effluent Controls Program for releases to areas beyond the site boundary would be revised to reflect 10 CFR Part 20 requirements.

13. Change 2-22-A (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. A new administrative change is added. The Radioactive Effluents Controls Program would be revised to include clarification statements denoting that the provisions of CTS 4.0.2 and 4.0.3, which allow extensions to surveillance frequencies, are applicable to these activities.

14. Change 3-11-A (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. The proposed change is a revision to the original application. CTS 6.12, which provides high radiation area access control alternatives pursuant to 10 CFR 20.203(c)(2), would be revised to meet the current requirements in 10 CFR Part 20 and the guidance in NRC Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants," on such access controls.

15. Change 3-18-LS-5 (ITS 5.0), question Q5.2-1, response letter dated September 24, 1998. Proposed change 3-18-A was requested in the original application and is revised to be a new less restrictive change. The CTS 6.9.1.8 requirement to provide documentation of all challenges to the power operated relief valves (PORVs) and safety valves on the reactor coolant system would be deleted. This is based on NRC Generic Letter 97-02, "Revised Contents of the Monthly Operating Report," which reduced the requirements for submitting such information to the NRC. The GL did not include these valves for information to be submitted.

16. Change 9-17-LS-24 (ITS 3.4/4), question Q 9-17-LS-24, response letter dated September 24, 1998. The proposed change was requested in the original application. The proposed change would add four notes to CTS LCO 3.4.9.3, to reflect CTS SR 4.5.3.2, LCO 3.5.4 actions, LCO 3.5.4

applicability notes, and the accumulator action added in CN 9-10-M for CTS 3/4.4. Note 1 on centrifugal charging pump (CCP) swap operations would be a relaxation of the CTS because it allows both CCPs to be capable of injecting into the RCS for up to 4 hours throughout low temperature overpressure protection (LTOP) applicability.

17. Change 10-20-LS-39 (ITS 3/4.7), question Q3.7.10-14, response letter dated October 16, 1998. The proposed change was requested in the original application and would revise and add an action to CTS LCOs 3.7.6 and 3.7.7 for ventilation system pressure envelope degradation that allows 24 hours to restore the control room pressure envelope through repairs before requiring the unit to perform an orderly shutdown. The new action has a longer allowed outage time than LCO 3.0.4 which the CTS would require to be entered immediately. This change recognizes that the ventilation trains associated with the pressure envelope would still be operable.

18. Change 4-8-LS-34 (ITS 3/4.4), question Q3.4.11-2, response letter dated September 24, 1998. The proposed change was requested in the original application. The proposed change would limit the CTS SRs 4.4.4.1 and 4.4.4.2 requirements to perform the 92 day surveillance of the pressurizer PORV block valves and the 18 month surveillance of the pressurizer PORVs (i.e., perform one complete cycle of each valve) to only Modes 1 and 2.

19. Change 4-9-LS-36, (ITS 3/4.4), question Q3.4.11-4, response letter dated September 24, 1998. The proposed change in the original application is revised to add a note to Action d for CTS LCO 3.4.4 that would state that the action does not apply when the PORV block valves are inoperable as a result of power being removed from the valves in accordance with Action b or c for an inoperable PORV.

20. Change 1-60-A, (ITS3/4.3), question TR3.3-0073.3, response letter dated December 21, 1998. A new administrative change is being added. The frequency for conducting the trip actuating device operational test (TADOT) for the turbine trip of the reactor trip instrumentation surveillance requirements in CTS Table 4.3-1 would be changed from "prior to reactor startup" to "prior to exceeding the P-9 interlock whenever the unit has been in Mode 3."

21. Change 1-70-M (ITS 3/4.8), question Q3.8.2-04, response letter dated December 17, 1998. A new more restrictive change is being added. The change would add shutdown

requirements (including actions) for the load shedder and emergency load sequencer (LSELS) to CTS LCO 3.8.1.2 and surveillance requirements in SR 4.8.1.2. These requirements would reflect current practice.

22. Change 2-25-LS-23 (ITS 3/4.8). The proposed change was requested in the original application and would allow substitution of the service test with a performance discharge test or modified performance discharge test.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 29, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas, 66801, and Washburn University School of Law Library, Topeka, Kansas 66621. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A

copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, December 21, 1998, and February 4, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas, 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 22nd day of February 1999.

For the Nuclear Regulatory Commission,  
**Mel Gray,**

*Project Manager, Project Directorate IV-2,  
Division of Licensing Project Management,  
Office of Nuclear Reactor Regulation.*

[FR Doc. 99-4816 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454, STN 50-455]

### Commonwealth Edison Company; Byron Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of exemptions to Facility Operating License Nos. NPF-37 and NPF-66, issued to Commonwealth Edison Company (ComEd, the licensee) for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois.

### Environmental Assessment

#### Identification of the Proposed Action

The proposed action would exempt Byron Station, Units 1 and 2, from the requirements of 10 CFR 50.44, 10 CFR 50.46 and 10 CFR Part 50, Appendix K, to allow the use of two Lead Test Assemblies (LTA).

The proposed action is in accordance with the licensee's application of October 22, 1998.

#### The Need for the Proposed Action

As the nuclear industry pursues longer operating cycles with increased fuel discharge burnups and more aggressive fuel management, the corrosion performance requirements for the nuclear fuel cladding becomes more demanding. Industry data indicates that corrosion resistance improves for cladding with a lower tin content. In addition, fuel rod internal pressures resulting from the increased fuel duty, use of Integral Fuel Burnable Absorbers and corrosion/temperature feedback effects have become more limiting with respect to fuel rod design criteria. By reducing the associated corrosion buildup and, thus, minimizing temperature feedback effects, additional margin to fuel rod internal pressure design criteria is obtained. As part of a program to address these issues, Westinghouse Electric Company has developed an LTA program which includes a ZIRLO fuel cladding with a tin content lower than the currently licensed range for ZIRLO. 10 CFR 50.44, 10 CFR 50.46 and 10 CFR Part 50, Appendix K, make no provisions for use of fuel rods clad in a material other than Zircaloy or ZIRLO. The licensee has requested the use of an LTA with a tin composition that is less than the licensing basis for ZIRLO, as defined in Westinghouse design specifications. Therefore, use of the LTA requires exemptions from 10 CFR 50.44, 10 CFR 50.46 and 10 CFR Part 50. As part of this program, ComEd and Westinghouse propose to include two LTAs in the Byron Station, Unit 1, Cycle 10, core in non-limiting core locations during the refueling outage currently scheduled to begin March 27, 1999.

#### Environmental Impacts of the Proposed Action

The Commission has completed its environmental evaluation of the

proposed action and concludes that the proposed exemptions would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

#### *Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Byron Station, Units 1 and 2.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, on February 4, 1999, the staff consulted with the Illinois State official, Mr. Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

#### **Finding of No Significant Impact**

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter

dated October 22, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010.

Dated at Rockville, Maryland, this 22nd day of February 1999.

For the Nuclear Regulatory Commission.

**Stuart A. Richards,**

*Director, Project Directorate III-2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-4815 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

### **NUCLEAR REGULATORY COMMISSION**

#### **ASME Presentation on a "Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications"; Meeting**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** NRC has been supporting an ASME effort to develop a "Standard for Probabilistic Risk Assessment for Nuclear Power Plant Applications." ASME has issued a draft of this standard for review and comment. The purpose of this standard is to provide a way to ensure that the technical quality of a PRA used to support a risk-informed application is adequate for that application, such that the level of regulatory review needed for approval of that application is minimized. This standard, therefore, provides requirements for a reference PRA, documentation, configuration control (of the PRA), and peer review and criteria for determining the extent to which the reference PRA technical elements are necessary and sufficient to support a particular risk-informed application.

The NRC is hosting a workshop where ASME will describe the approach used in writing the standard, the contents of the standard, etc., and so that the public can meet with the ASME team. Chairman Jackson will be making some introductory remarks at the workshop. The workshop is open to the public and all interested parties are invited to attend.

**DATES:** March 16, 1999, from 8:30 am to 4:00 pm.

**ADDRESSES:** Nuclear Regulatory Commission, Two White Flint North

Auditorium, 11545 Rockville Pike, Rockville, Maryland.

#### **FOR FURTHER INFORMATION CONTACT:**

Mary Drouin, Mail Stop T10-E50, U.S. Nuclear Regulatory Commission, Washington, DC 20005-0001. Telephone: (301) 415-6675; FAX: (301) 415-5062; Internet: mxid@NRC.GOV.

For material related to the meeting, please access the ASME website at [www.asme.org](http://www.asme.org) or contact Jess Moon at ASME, 3 Park Avenue, New York, NY 10016. Telephone: (212) 591-8514; FAX: (212) 591-7196; Internet: moonj@asme.org.

**SUPPLEMENTARY INFORMATION:** Attendees are requested to notify Gloria Corbitt at (301) 415-2100 of their planned attendance if special services, such as for the hearing impaired, are necessary.

The NRC is accessible to the White Flint Metro Station. Attendees are strongly encouraged to use Metrorail as visitor parking near the NRC buildings is very limited. Visitors may enter either NRC building and stop at the guard's desk for directions to the auditorium.

Dated at Rockville, Maryland, this 22nd day of February, 1999.

For the Nuclear Regulatory Commission.

**Mary Drouin,**

*Acting Chief, Probabilistic Risk Analysis Branch, Division of Systems Technology, Office of Nuclear Regulatory Research.*

[FR Doc. 99-4811 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 35-26979]

#### **Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")**

February 19, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 16, 1999, to the Secretary, Securities and Exchange Commission,

Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 16, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### The Southern Company

The Southern Company ("Southern"), 270 Peachtree Street, NW, Atlanta, Georgia 30303, a registered holding company, has filed a post-effective amendment under sections 6(a), 7, 12(b), 32 and 33 of the Act and rules 45, 53, and 54 under the Act.

Southern is currently authorized under the terms of four separate orders to finance the operations of its subsidiaries by (1) issuing and selling additional shares of its common stock, (2) issuing guarantees of the securities of certain subsidiaries, and (3) issuing notes and commercial paper. By order dated August 3, 1995 (HCAR No. 26348), Southern is authorized to issue and sell, through December 31, 1999, up to 25 million additional shares of its authorized common stock (adjusted as needed to account for a share split). By order dated August 5, 1995 (HCAR No. 26347), Southern is authorized to issue and sell, through December 31, 1999, additional shares of its authorized common stock under its dividend reinvestment and employee savings and stock ownership plans, in an amount equal to 37 million shares of stock (adjusted as needed to account for a share split). By order dated February 2, 1996 (HCAR No. 26468), Southern is authorized, through December 31, 2000, to guarantee the securities of one or more exempt wholesale generators ("EWGs") or foreign utility companies ("FUCOs") (collectively, "Exempt Projects") or subsidiaries which directly or indirectly hold interests in Exempt Projects ("Intermediate Subsidiaries"), in amounts that in the aggregate would not exceed \$1.2 billion outstanding.<sup>1</sup> By order dated March 13, 1996 (HCAR No. 26489), Southern is authorized to issue and sell, through March 31, 2000, notes and/or commercial paper in an

aggregate principal amount not exceed \$2 billion outstanding.

By order dated April 1, 1996 (HCAR No. 26501) ("100% Order"), Southern is authorized to invest the proceeds of the issuance and sale of common stock and debt in Exempt Projects and to guarantee the obligations of these entities, so long as its "aggregate investment," as defined in rule 53 of the Act, in Exempt Projects does not exceed 100% of Southern's "consolidated retained earnings," as defined in the rule. As of December 31, 1998, Southern has invested or committed to invest, directly or indirectly, an aggregate amount of approximately \$3.566 billion in Exempt Projects, or approximately 90% of its consolidated retained earnings. Southern's consolidated retained earnings was approximately \$3.944 billion at December 31, 1998.

Southern now seeks to modify the limitation in the 100% Order so that it may invest the proceeds of authorized Southern financings in Exempt Projects, through December 31, 2005, in an aggregate amount not to exceed the greater of \$4 billion over amounts authorized in the 100% Order, or 175% of consolidated retained earnings ("Proposed Investment Limitation"). In addition, Southern seeks to further modify the limitation in the 100% Order so that it may issue guarantees of the securities or other obligations of Exempt Projects in an aggregate amount that, when combined with its investment in Exempt Projects, does not exceed the Proposed Investment Limitation.

Southern asserts that the use of financing proceeds and guarantees to make investments in Exempt Projects in an aggregate amount of up to the Proposed Investment Limitation will not have a substantial adverse impact on the financial integrity of the Southern system, or an adverse impact on any utility subsidiary of Southern, its customers, or the ability of the affected state commissions to protect customers. In addition, Southern states that it will not seek recovery through higher rates to its utility subsidiaries' customers in order to compensate for any possible losses that may be sustained on investments in Exempt Projects or for any inadequate returns on these investments.

### American Electric Power Co. (70-8779)

American Electric Power Company, Inc. ("AEP"), a registered holding company, 1 Riverside Plaza, Columbus, Ohio, 43215, has filed a post-effective amendment to an application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 54 under the Act.

By orders dated September 13, 1996 (HCAR No. 26572), September 27, 1996 (HCAR No. 26583), May 2, 1997 (HCAR No. 26713) and November 30, 1998 (HCAR 26947) (collectively "Prior Orders"), AEP was authorized, among other things, to guarantee, through December 31, 2000, up to \$100 million of debt ("Guarantee Authority") of certain nonutility subsidiaries ("New Subsidiaries").

AEP now proposes, through December 31, 2002, to: 1) extend the Guarantee Authority; and 2) increase the Guarantee Authority for New Subsidiaries from \$100 million up to \$200 million under the terms and conditions stated in the Prior Orders. AEP states that this increase in its Guarantee Authority is to support the additional brokering and marketing activities associated with its recent acquisition of certain gas trading assets.<sup>2</sup>

For the Commission by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 99-4777 Filed 2-25-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 1, 1999.

An open meeting will be held on Tuesday, March 2, 1999, at 10:00. A closed meeting will be held on Tuesday, March 2, 1999, following the 10:00 a.m. open meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

<sup>2</sup> See *American Electric Power Company Inc., Holding Company Act Release No. 26933* (Nov. 2, 1998) (authorizing acquisition of energy assets incidental to marketing, brokering and trading activities).

<sup>1</sup> Southern was also authorized in this order to issue guarantees, through December 31, 2003, with respect to other obligations of Exempt Projects, Intermediate Subsidiaries and other entities, in amounts not to exceed \$800 million.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject of the open meeting scheduled for Tuesday, March 2, 1999, at 10:00 a.m., will be:

(1) The Commission will hear oral argument on an appeal from the initial decision of an administrative law judge by Al Rizek, a former vice president of Painewebber Incorporated of Puerto Rico, a registered broker-dealer. For further information, contact William S. Stern at (202) 942-0949.

(2) The Commission will consider proposing rules regarding operational capability of non-bank transfer agents and broker-dealers. In addition, the Commission will consider rules regarding the protection of investors from non-bank transfer agents and broker-dealers that are not Year 2000 compliant. For further information, contact: Kevin An at (202) 942-0198 or Kevin Ehrlich, at (202) 942-0778.

The subject matter of the closed meeting scheduled for Tuesday, March 2, 1999, following the 10:00 a.m. open meeting will be: Post argument discussion. Institution of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: February 23, 1999.

**Jonathan G. Katz,**

Secretary.

[FR Doc. 99-4885 Filed 2-23-99; 4:28 pm]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41076; File No. SR-NASD-99-06]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Practice of Using a Fifth Character Identifier With the Symbol of Foreign Securities

February 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 2, 1999, the National Association of Securities Dealers, Inc. ("NASD" or

"Association"), through its wholly-owned subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### II Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is filing with the Commission a proposed rule change to explain a change in Nasdaq's current practice of using a fifth character identifier with the symbol of foreign securities. Nasdaq seeks to remove the "F" or "Y" letter, which designates a security as foreign, from the end of the symbol for that security.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Presently, it is Nasdaq's general practice to affix a "F" or a "Y" to the symbol of foreign securities and American Depositary Receipts that trade on the Nasdaq Stock Market to reflect that the issuer is a foreign issuer. Certain issuers have expressed a preference that the fifth character be removed and have suggested that they would switch to a marketplace without

<sup>3</sup> Nasdaq originally submitted the proposal on January 25, 1999. On February 22, 1999, Nasdaq submitted a letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Commission ("Amendment No. 1"). In Amendment No. 1, Nasdaq made technical and conforming changes to the proposal and clarified the investor protection concerns discussed in the purpose section of the filing. Because this filing was filed pursuant to Section 19(b)(3)(A) of the Act, it must be complete at the time it is filed. Therefore, the date of the amendment is deemed the date of the filing of the proposal.

a symbol designation if the fifth character is not removed. Therefore, the practice of affixing an identifier has become a competitive issue because Nasdaq is the only securities market that identifies foreign securities through such a symbol designator. Given this, and the fact that foreign issuers participating in the capital markets of the United States are required to comply with the rules of the Commission, Nasdaq believes that such designation serves no investor protection purpose and may cause investor confusion. In the absence of any investor protection concerns, changes to the practices related to symbols on the Nasdaq Stock Market are properly made by the Association. Accordingly, Nasdaq believes that it is appropriate to remove the fifth character identifier for foreign securities when requested by the issuer.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

subparagraph (e)(6) of Rule 19b-4 thereunder.<sup>6</sup> Although Rule 19b-4(e)(6) requires that an Exchange submit written notice of its intent of file at least five days prior to the filing date, the Commission notes that in this case, this requirement was waived at Nasdaq's request.

The Commission also notes that under Rule 19b-4(e)(6)(iii), the proposed rule change does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Nasdaq requests a waiver of this 30-day period. Nasdaq represents to the Commission that it is the only market that identifies a security as foreign through the extra character. According to Nasdaq, this extra character may lead to investor confusion. By removing the extra character, Nasdaq hopes to reduce this potential investor confusion. Moreover, Nasdaq believes that investor protection concerns are reduced because other markets actively trade foreign securities, yet these markets do not designate these securities as foreign by an additional character on the securities' symbols. For the reasons discussed above, the Commission finds the waiver of the 30 day period is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-99-06 and should be submitted by March 19, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 99-4776 Filed 2-25-99; 8:45 am]

BILLING CODE 8010-01-M

**SOCIAL SECURITY ADMINISTRATION**

**Agency Information Collection Activities: Comment Request**

In compliance with Public Law 104-13, the Paperwork Reduction Act of

1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed after this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965-4145, or by writing to him.

1. Function Report—Adult, SSA-3373-TEST; Function Report—Third Party, SSA-3380-TEST—0960-NEW. SSA will be testing new prototype disability forms. The information collected on the forms is needed for the determination of disability. The forms record information about the disability applicant's illnesses, injuries, conditions, impairment-related limitations and ability to function. The respondents are Title II and Title XVI disability applicants or individuals who know about the applicant's impairment, limitations and ability to function.

	Adult form	Third party form
Number of Respondents .....	7,000 .....	5,000.
Frequency of Response .....	1 .....	1.
Average Burden Per Response .....	30 minutes .....	30 minutes.
Estimated Annual Burden .....	3,500 hours .....	2,500 hours.

2. Symptoms Report—0960-NEW. SSA will be testing new prototype disability forms, including the SSA-3370-TEST. The information collected on the form is needed for the determination of disability. The form records information about the disability applicant's description of symptoms of his or her illness, injury or condition.

The respondents are applicants for Title II and Title XVI disability benefits.  
 Number of Respondents: 7,500  
 Frequency of Response: 1  
 Average Burden Per Response: 25 minutes  
 Estimated Annual Burden: 3,125 hours  
 SSA Address: Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401

Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235.  
 OMB Address: Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503.

<sup>6</sup> 17 CFR 240.19b-4(e)(6).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

Dated: February 19, 1999.

**Frederick W. Brickenkamp,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 99-4747 Filed 2-25-99; 8:45 am]

BILLING CODE 4190-29-P

## DEPARTMENT OF STATE

[Public Notice 2994]

### International Joint Commission Boundary Waters Treaty of 1909

On February 10, 1999, the United States and Canadian federal governments asked the International Joint Commission (IJC) to examine and report on the use, diversion and removal of waters along the common border. The governments noted that "boundary water resources continue to be the subject of ever-increasing demands in the light of expanding populations" and that "proposals to use, divert and remove greater amounts of such waters can be expected."

The request from governments comes in the wake of proposals to export water overseas from Canada and litigation involving the export of water from Canada to the United States. Both governments are concerned that existing management principles and conservation measures may be inadequate to ensure future sustainable use of shared waters.

The request from the governments asks the IJC to examine, report upon and provide recommendations on the following matters which may have effects on levels and flows of water within transboundary basins and shared aquifers:

1. Existing and potential consumptive uses of water;
2. Existing and potential diversions of water in and out of the transboundary basins, including withdrawals of water for export;
3. The cumulative effects of existing and potential diversions and removals of water, including removals in bulk for export;
4. The current laws and policies as may affect the sustainability of the water resources in boundary and transboundary basins.

The governments have asked the IJC to build on its experience, notably its study of Great Lakes diversions and consumptive uses that concluded in 1985, and to submit interim recommendations for the protection of Great Lakes waters within six months. A final report making recommendations on the broader issue of U.S.-Canada shared waters is requested within six

months of the interim recommendations.

As it addresses these matters, the IJC will undertake broad consultations with all interested parties. As a first priority, the International Joint Commission will hold a series of eight public hearings in March at the locations below: Chicago, Cleveland, Rochester, NY, Toronto, Montreal, Windsor, Duluth and Sault Ste. Marie, ON.

Dates will be announced in local media and on the IJC Web Site ([www.ijc.org](http://www.ijc.org)). The Commission also intends to hold workshops in the eastern and western border regions of the continent to obtain advice on the questions posed by governments, particularly as they might apply to the broader issue of Canada-U.S. shared waters outside the Great Lakes basin.

In addition to the public hearings, the IJC invites all interested parties to submit written comment over the course of this investigation to the addresses below:

Secretary, Canadian Section, 100 Metcalfe Street, 18th Floor, Ottawa, Ontario K1P 5M1, Fax 613.993.5583, Email [Commission@ottawa.ijc.org](mailto:Commission@ottawa.ijc.org).  
Secretary, United States Section, 1250 23rd Street NW, Suite 100, Washington, DC 20440, Fax 202.736.9015, Email [Commission@washington.ijc.org](mailto:Commission@washington.ijc.org).

The International Joint Commission is a binational Canada-U.S. organization established by the Boundary Waters Treaty of 1909. It assists the governments in managing waters along the border for the benefit of both countries in a variety of ways including examining issues referred to it by the two federal governments.

More information, including the full text of the letter of reference, may be found on the Commission's web site, at [www.ijc.org](http://www.ijc.org).

Dated: February 23, 1999.

**Gerald E. Galloway,**

*Secretary, United States Section.*

[FR Doc. 99-4839 Filed 2-25-99; 8:45 am]

BILLING CODE 4710-14-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Availability of a Draft Environmental Impact Statement on the Potomac Consolidated Terminal Radar Approach Control (TRACON) Facility

AGENCY: Federal Aviation Administration, DOT.

**ACTION:** Notice of availability of a Draft Environmental Impact.

**SUMMARY:** The Federal Aviation Administration (FAA) has released a Draft Environment Impact Statement (DEIS) for the consolidation and construction of a new Terminal Radar Approach Control (TRACON) facility in the Baltimore-Washington area. The proposed action is to consolidate four stand-alone TRACONs located in Baltimore-Washington International Airport, Ronald Reagan Washington National Airport, and Washington Dulles International Airport; and the FAA operated TRACON located at Andrews Air Force Base, Maryland. The new Potomac Consolidated TRACON (PCT) would be located at a site in Northern Virginia. The preferred site is at the former Vint Hill Farms and Station near Warrenton, VA.

FAA is preparing a tiered Environmental Impact Statement. This DEIS is the first tier and addresses physical consolidation of the four TRACONs as well as building location and construction. Physical TRACON consolidation does not mandate airspace changes. A subsequent tier, or tiers, will be prepared at a later date to assess the potential impacts resulting from air traffic control procedural changes made possible by the proposed PCT, as these issues become ripe for decision.

Copies of the DEIS are available for a review at major libraries in the study area. A summary of the DEIS can be viewed on the Internet at <http://www.faa.gov/ats/potomac>.

**DATES:** Written comments on the DEIS will be accepted until April 12, 1999. Written comments may be sent to: FAA Potomac TRACON Project, c/o Mr. Fred Bankert, PRC Inc., 12005 Sunrise Valley Drive, Reston, VA 20191-3423. Oral or written comments may also be delivered at a public hearing that will be held from 3 to 4:30 p.m. and 7 to 9 p.m. on March 25, 1999. The hearing will be at Stonewall Jackson Senior High School. The school is located behind Manassas Mall, off Business Route 234, at 8820 Rixlew Lane, Manassas, VA 20109.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, (800) 762-9531, Email: [joe.champley@faa.gov](mailto:joe.champley@faa.gov).

**SUPPLEMENTARY INFORMATION:** A TRACON facility provides radar air traffic control services to aircraft operating on Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) procedures generally beyond 5 miles and within 50 miles of the host airport

at altitudes from the surface to approximately 17,000 feet. These distances and altitudes may vary depending on local conditions and infrastructural constraints such as adequate radar and radio frequency coverage. The primary function of the TRACON is to provide a variety of air traffic control services to arrival, departure, and transient aircraft within its assigned airspace. These services include aircraft separation, in flight traffic advisories and navigational assistance. The four existing TRACON facilities provide terminal radar air traffic control services to the four major airports and a number of small reliever airports located within the Baltimore-Washington area.

A range of alternatives are considered in the DEIS including replacement or refurbishment of three of the four existing TRACONs, partial consolidation, No Action and full consolidation. Analysis of alternatives determined that only full consolidation meets the Purpose and Need of the proposed action. The full consolidation alternative would not cause significant environmental impact in any of the 23 impact categories assessed.

Dated: February 19, 1999 in Washington, DC.

**John Mayrhofer,**

*Director, TRACON Development Program.*

[FR Doc. 99-4838 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-99-04]

#### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or

omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before March 21, 1999.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-200), Petition Docket No.

\_\_\_\_\_, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9-NPRM-cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

**FOR FURTHER INFORMATION CONTACT:** Cherie Jack (202) 267-7271 or Terry Stubblefield (202) 267-7624 Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 23, 1999.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

#### Petitions for Exemption

*Docket No.:* 29410.

*Petitioner:* U.S. Technical.

*Section of the FAR Affected:* 14 CFR 145.37(b).

*Description of Relief Sought:* To permit U.S. Technical to install, modify, and retrofit passenger and cabin amenities at customer facilities without providing suitable permanent housing for at least one of the heaviest aircraft for which it is rated.

*Docket No.:* 29439.

*Petitioner:* Airbus Industrie.

*Regulations Affected:* 14 CFR 25.807(c)(1).

*Description of Petition:* To allow Airbus Industrie to add seating for one more passenger increasing the total passenger seating from 179 to 180 on the Airbus Model A320 series airplanes.

*Docket No.:* 29451.

*Petitioner:* Boeing Commercial Airplane Group.

*Regulations Affected:* 25.562(b)(2).

*Description of Petition:* The petitioner requests relief from the misalignment test requirements only for flight deck seats on the Boeing Model 767-400ER airplane.

[FR Doc. 99-4837 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Jacksonville International Airport, Jacksonville, Florida

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Jacksonville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before March 29, 1999.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822-5024.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to John Clark, Aviation Vice President of the Jacksonville Port Authority at the following address: Jacksonville Port Authority, Jacksonville International Airport, 2831 Talleyrand Avenue, Jacksonville, Florida, 32206-3496.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Jacksonville Port Authority under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Richard Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida, 32822-5024, 407-812-6331, Extension 19. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose

and use the revenue from a PFC at the Jacksonville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 22, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Jacksonville Port Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 1999.

The following is a brief overview of the application.

*PFC Application No.:* 99-04-C-00-JAX.

*Level of the proposed PFC:* \$3.00.

*Proposed charge effective date:* May 1, 1999.

*Proposed charge expiration date:* June 30, 2001.

*Total estimated PFC revenue:* \$14,868,000.

*Brief description of proposed project(s):* Land Acquisition for Airport Development, Terminal Development Planning and Preliminary Design, Acquisition of a 3000 Gallon Aircraft Rescue and Fire Fighting Vehicle, Perform an Environmental Assessment of a Proposed 2,500 Foot Long × 150 Foot Wide Extension to Runway 31 along with Related Taxiway Improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/ Commercial Operators (ATCO) filing FAA Form 1800-31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Jacksonville Port Authority.

Issued in Orlando, Florida on February 22, 1999.

**W. Dean Stringer,**

*Manager, Orlando Airports District Office  
Southern Region.*

[FR Doc. 99-4836 Filed 2-25-99; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33594]

#### Ballard Terminal Railroad Company, L.L.C.—Modified Rail Certificate<sup>1</sup>

On May 4, 1998, Ballard Terminal Railroad Company, L.L.C. (BTRC), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate a line of railroad (the Ballard Line) between milepost 0.09 and the end of the line at milepost 2.70, a distance of almost 3 miles in the Ballard District of Seattle, King County, WA. BTRC intends to operate over the Ballard Line under an agreement with the City of Seattle. Seattle has granted BTRC a 30-year franchise to operate the Ballard Line.

The involved rail line was approved for abandonment by Adventure Trail, Inc., doing business as Sea Lion Railroad (Sea Lion), in *Sea Lion Railroad—Abandonment Exemption—In King County, WA, et al.*, STB Docket No. AB-544X, *et al.* (STB served Aug. 11, 1998). In that proceeding, the Board deferred action on BTRC's request for a modified certificate pending administrative finality of the proceeding and notice from Seattle that it had acquired the line. The abandonment exemption proceeding has become administratively final, and Seattle has notified the Board that, on December 30, 1998, it acquired the real estate underlying the line.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

No subsidy is involved. BTRC indicates that, in order to receive service, shippers must meet the following preconditions: "Minimum of 30 carloads per year averaged over a rolling 36 month period."

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F St., NW,

<sup>1</sup> In a decision served on August 11, 1998, this proceeding was consolidated with *Sea Lion Railroad—Abandonment Exemption—In King County, WA*, STB Docket No. AB-544X, and *Adventure Trail D/B/A Sea Lion Railroad—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33486.

Washington, DC 20001; and on the American Short Line Railroad Association: American Short Line Railroad Association, 1120 G St., NW, Suite 520, Washington, DC 20005.

Decided: February 19, 1999.

By the Board, David M. Konschnick,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 99-4715 Filed 2-25-99; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33715]

#### New England Central Railroad, Inc.—Modified Rail Certificate

On February 10, 1999, New England Central Railroad, Inc. (NECR), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate a 14-mile rail line owned by the State of Vermont.

The involved rail line was approved for abandonment by Montpelier and Barre Railroad Company in *Montpelier and Barre Railroad Company—Entire Line Abandonment—From Graniteville to Montpelier Junction in Washington County, VT*, Docket No. AB-202 F (ICC served Mar. 12, 1980), and acquired by the State of Vermont on November 21, 1980. The Washington County Railroad Corporation (WACR) filed a notice for a modified certificate of public convenience and necessity on November 17, 1980, and a modified rail certificate was issued to WACR authorizing it to operate the line as of November 17, 1980.<sup>1</sup>

On February 2, 1999, WACR agreed to assign its lease of the line to NECR. On February 9, 1999, NECR accepted the assignment, and NECR and the State of Vermont agreed to cancel their lease. Also on February 9, 1999, NECR and the State of Vermont entered into an interim letter agreement for the operation of the line. The term of the letter agreement, unless modified, is 90 days. During that time, NECR and the State of Vermont intend to negotiate and enter into a lease and operating agreement that will govern future operations of the line by NECR.

The line extends from Montpelier Junction to Graniteville, VT, and

<sup>1</sup> See *Washington County Railroad Corporation—Operations—From Montpelier Junction to Graniteville, VT*, Finance Docket No. 29536F (ICC served Jan. 2, 1981).

connects at Montpelier Junction with NECR's main line extending from East Alburg, VT, to New London, CT. NECR proposes to provide once a week service over the line.

The rail segment qualifies for a modified certificate of public convenience and necessity. See *Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

A subsidy is involved. The State of Vermont's Agency of Transportation (VAOT) states that VAOT will waive

rental payments on the line for at least the first year of NECR's operation and will pay NECR a subsidy of \$105 per car for each revenue movement over the line through March 1, 2000, up to 200 cars.<sup>2</sup> There are no preconditions for shippers to meet in order to receive rail service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all

<sup>2</sup>VAOT states that it is authorized under 5 V.S.A. 3401-3409 to administer State-owned railroad properties and to take necessary action to ensure continuity of service over such properties.

railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line Railroad Association: American Short Line Railroad Association, 1120 G Street, N.W., Suite 520, Washington, DC 20005.

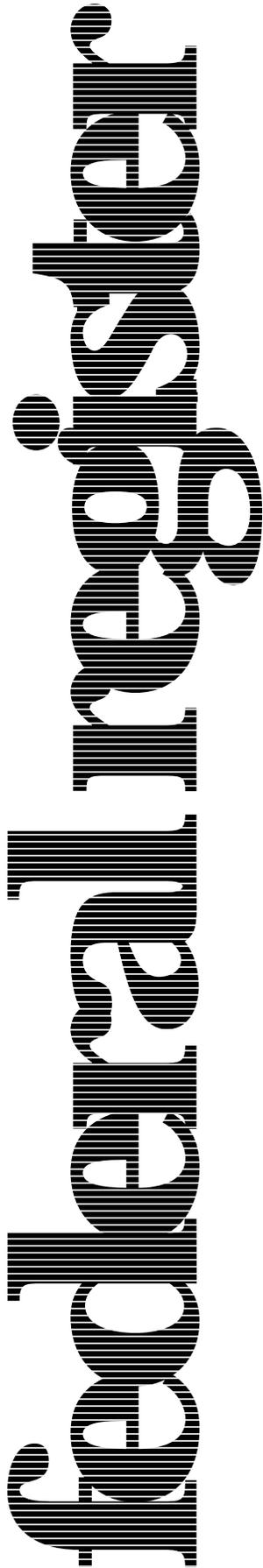
Decided: February 19, 1999.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 99-4716 Filed 2-25-99; 8:45 am]

BILLING CODE 4915-00-P



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Friday  
February 26, 1999

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**Part II**

**Environmental  
Protection Agency**

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**Radon in Drinking Water Health Risk  
Reduction and Cost Analysis; Notice**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6304-3]

### Radon in Drinking Water Health Risk Reduction and Cost Analysis

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice and request for public comments and announcement of stakeholder meeting.

**SUMMARY:** The Safe Drinking Water Act (SDWA), as amended in 1996, requires the U.S. Environmental Protection Agency (EPA) to publish a health risk reduction and cost analysis (HRRCA) for radon in drinking water for public comment. The purpose of this notice is to provide the public with the HRRCA for radon and to request comments on the document. As required by SDWA, EPA will publish a response to all significant comments to the HRRCA in the preamble to the proposed National Primary Drinking Water Regulation (NPDWR) for radon, due in August, 1999.

The goal of the HRRCA is to provide a neutral and factual analysis of the costs, benefits, and other impacts of controlling radon levels in drinking water. The HRRCA is intended to support future decision making during development of the radon NPDWR. The HRRCA evaluates radon levels in drinking water of 100, 300, 500, 700, 1000, 2000, and 4000 pCi/L. The HRRCA also presents information on the costs and benefits of implementing multimedia mitigation (MMM) programs to reduce the risks of radon exposure in indoor air. The SDWA, as amended, provides for development of an Alternative Maximum Contaminant Level (AMCL), which public systems may comply with if their State has an EPA approved MMM program to reduce radon in indoor air. The concept behind the AMCL and MMM option is to reduce radon health risks by addressing the larger source of exposure (air levels in homes) compared to drinking water. If a State chooses to employ a MMM program to reduce radon risk, it would implement a State program to reduce indoor air levels and require public water systems to control water radon levels to the AMCL. If a State does not choose a MMM program option, a public water system may propose a MMM program for EPA approval. Today's notice does not include any decisions regarding the choice of a Maximum Contaminant Level (MCL) for radon in drinking water. Today's notice also announces a stakeholder meeting

on the HRRCA and framework for the MMM program.

**DATES:** The Agency must receive comments on the HRRCA on or before April 12, 1999. EPA will hold a one day public meeting on Tuesday, March 16, 1999 from 9 a.m. to 5:30 p.m. EST.

**ADDRESSES:** Send written comments on HRRCA to the Comment Clerk, docket number W-98-30, Water Docket (MC4101), USEPA, 401 M St., SW, Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references).

Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to [ow-docket@epa.gov](mailto:ow-docket@epa.gov). Electronic comments must be submitted as an ASCII, WP6.1, or WP8 file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W-98-30. Comments and data will also be accepted on disks in WP6.1, WP8, or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The record for this notice has been established under docket number W-98-30, and includes supporting documentation as well as printed, paper versions of electronic comments. The full record is available for inspection from 9 a.m. to 4 p.m. EST Monday through Friday, excluding legal holidays at the Water Docket, Room EB57, USEPA Headquarters, 401 M St., SW, Washington, DC 20460. For access to docket materials, please call 202-260-3027 to schedule an appointment.

The stakeholder meeting on the HRRCA and multimedia mitigation framework will be held at the offices of at RESOLVE, Inc., 1255 23rd Street, N.W., Suite 275, Washington, DC 20037. Check-in will begin at 8:30 a.m.

**FOR FURTHER INFORMATION CONTACT:** For general information, please contact the EPA Safe Drinking Water Hotline at 1-800-426-4791 or 703-285-1093 between 9 a.m. and 5:30 p.m. EST. (For information on radon in indoor air, contact the National Safety Council's National Radon Hotline at 1-800-SOS-RADON.) The HRRCA, including the appendices, can also be accessed on the internet at <http://www.epa.gov/safewater/standard/pp/radonpp/html>. For specific information and technical inquiries, contact Michael Osinski at 202-260-6252 or [osinski.michael@epa.gov](mailto:osinski.michael@epa.gov).

For general information on meeting logistics, please contact Sheri Jobe at RESOLVE, Inc., at 202-965-6382 or Email: [sjobe@resolv.org](mailto:sjobe@resolv.org).

**SUPPLEMENTARY INFORMATION:** The purpose of the March 16, 1999 stakeholder meeting is to cover the following key issues, including: (1) Discussion of the Health Risk Reduction and Cost Analysis published in this notice; and (2) present information and discuss issues related to status of development of a framework for multimedia mitigation programs. This upcoming meeting is the fifth of a series of stakeholders meetings on the NPDWR for radon, intended to seek input from State and Tribal drinking water and radon programs, the regulated community (public water systems), public health and safety organizations, environmental and public interest groups, and other stakeholders. EPA encourages the full participation of stakeholders throughout this process.

To register for the meeting, please contact Sheri Jobe at RESOLVE, Inc., 1255 23rd Street, N.W., Suite 275, Washington, DC 20037, Phone: 202-965-6382, Fax: 202-338-1264, Email: [sjobe@resolv.org](mailto:sjobe@resolv.org). Please provide your name, affiliation/organization, address, phone, fax and email if you would like to be on the mailing list to receive further information about the meeting (including agenda and meeting summary). A limited number of teleconference lines will be available. Please indicate whether you would like to participate by phone. Those registered for the meeting by February 26, 1999 will receive an agenda, logistics sheet, and other information prior to the meeting.

Dated: January 5, 1999.

**Dana D. Minerva,**

*Acting Assistant Administrator, Office of Water, Environmental Protection Agency.*

### Radon in Drinking Water Health Risk Reduction and Cost Analysis

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#### Abbreviations Used in This Document

- AF: Average Flow
- AMCL: Alternative Maximum Contaminant Level
- AWWA: American Water Works Association
- BAT: Best Available Technology
- CWS: Community Water System
- DA: Diffused-Bubble Aeration
- DBP: Disinfection By-Products
- DF: Design Flow
- GAC: Granular Activated Carbon
- EPA: US Environmental Protection Agency
- FACA: Federal Advisory Committee Act
- HRRCA: Health Risk Reduction and Cost Analysis
- MCL: Maximum Contaminant Level
- MCLG: Maximum Contaminant Level Goal
- MMM: Multimedia Mitigation program
- MSBA: Multi-Stage Diffused Bubble Aeration
- NAS: National Academy of Sciences
- NDWAC: National Drinking Water Advisory Council
- NIRS: National Inorganics and Radionuclides Survey
- NPDWR: National Primary Drinking Water Regulation
- NTNCWS: Non-Transient Non-Community Water System
- OGWDW: Office of Ground Water and Drinking Water
- O&M: Operation and Maintenance
- OMB: Office of Management and Budget
- pCi/l: Picocurie Per Liter
- POE GAC: Point-of-Entry Granular Activated Carbon
- PTA: Packed Tower Aeration
- RIA: Regulatory Impact Analysis
- SAB: Science Advisory Board
- SDWA: Safe Drinking Water Act, as amended in 1986 and 1996
- SDWIS: Safe Drinking Water Inventory System
- THM: Trihalomethane
- VSL: Value of a Statistical Life
- WTP: Willingness To Pay

#### 1. Executive Summary

This document constitutes the Health Risk Reduction and Cost Analysis (HRRCA) in support of development of a National Primary Drinking Water Regulation (NPDWR) for radon in drinking water, as required by Section 1412(b)(13) of the 1996 Amendments to

the Safe Drinking Water Act (SDWA). The goal of the HRRCA is to provide a neutral and fact-based analysis of the costs, benefits, and other impacts of controlling radon levels in drinking water to support future decision making during development of the radon NPDWR. The document addresses the various requirements for the analysis of benefits, costs, and other elements specified by Section 1412(b)(13) of the SDWA, as amended.

This is the first time the Environmental Protection Agency (EPA) has prepared a HRRCA under the SDWA, as amended. As such, the EPA is very interested in seeking comment on the techniques, assumptions, and data inputs upon which the analysis is based. The Agency recognizes that there may be other methods of conducting the analysis and presenting the data required for this HRRCA, and encourages meaningful input from all stakeholders during the public comment period. Therefore, the specific analysis and findings presented here are intended as an initial effort to frame an analysis that can support development of the NPDWR. Since the HRRCA is a cost-benefit tool to analyze an array of radon levels during development of the NPDWR, many of the issues to be addressed in the regulatory development process (e.g. the selection of a Maximum Contaminant Level (MCL), Best Available Technology (BAT), and monitoring framework) are not analyzed here, but will be presented in the proposed rule.

The HRRCA evaluates radon levels in ground water supplies of 100, 300, 500, 700, 1000, 2000, and 4000 pCi/l. The HRRCA also presents information on the costs and benefits of implementing multimedia mitigation (MMM) programs. The scenarios evaluated are described in detail in Section 2.5. This executive summary presents a background on the radon in drinking water problem, followed by a summary of findings arranged according to each provision for HRRCA as specified by the SDWA, as amended.

#### **Background: Radon Health Risks, Occurrence, and Regulatory History**

Radon is a naturally occurring volatile gas formed from the normal radioactive decay of uranium. It is colorless, odorless, tasteless, chemically inert, and radioactive. Uranium is present in small amounts in most rocks and soil, where it decays to other products including radium, then to radon. Some of the radon moves through air or water-filled pores in the soil to the soil surface and enters the air, and can enter buildings through cracks and other holes in the

foundation. Some radon remains below the surface and dissolves in ground water (water that collects and flows under the ground's surface). Due to their very long half-life (the time required for half of a given amount of a radionuclide to decay), uranium and radium persist in rock and soil.

Exposure to radon and its progeny is believed to be associated with increased risks of several kinds of cancer. When radon or its progeny are inhaled, lung cancer accounts for most of the total incremental cancer risk. Ingestion of radon in water is suspected of being associated with increased risk of tumors of several internal organs, primarily the stomach. As required by the SDWA, EPA arranged for the National Academy of Sciences (NAS) to assess the health risks of radon in drinking water. The NAS released the "Report on the Risks of Radon in Drinking Water," (NAS Report) in September 1998 (NAS 1998B). The NAS Report represents a comprehensive assessment of scientific data gathered to date on radon in drinking water. The report, in general, confirms earlier EPA scientific conclusions and analyses of radon in drinking water (US EPA, 1994C).

NAS recently estimated individual lifetime unit fatal cancer risks associated with exposure to radon from domestic water use for ingestion and inhalation pathways (Table 3-4). The results show that inhalation of radon progeny accounts for most (approximately 89 percent) of the individual risk associated with domestic water use, with almost all of the remainder (11 percent) resulting from directly ingesting radon in drinking water. Inhalation of radon progeny is associated primarily with increased risk of lung cancer, while ingestion exposure is associated primarily with elevated risk of stomach cancer.

The NAS Report confirmed that indoor air contamination arising from soil gas typically account for the bulk of total individual risk due to radon exposure. Usually, most radon gas enters indoor air by diffusion from soils through basement walls or foundation cracks or openings. Radon in domestic water generally contributes a small proportion of the total radon in indoor air.

The NAS Report is one of the most important inputs used by EPA in the HRRCA. EPA has used the NAS's assessment of the cancer risks from radon in drinking water to estimate both the health risks posed by existing levels of radon in drinking water and also the cancer deaths prevented by reducing radon levels.

In updating key analyses and developing the framework for the cost-benefit analysis presented in the HRRCA, EPA has consulted with a broad range of stakeholders and technical experts. Participants in a series of stakeholder meetings held in 1997 and 1998 included representatives of public water systems, State drinking water and indoor air programs, Tribal water utilities and governments, environmental and public health groups, and other federal agencies.

The HRRCA builds on several technical components, including estimates of radon occurrence in drinking water, analytical methods for detecting and measuring radon levels, and treatment technologies. Extensive analyses of these issues were undertaken by the Agency in the course of previous rulemaking efforts for radon and other radionuclides. Using data provided by stakeholders, and from published literature, the EPA has updated these technical analyses to take into account the best currently available information and to respond to comments on the 1991 proposed NPDWR for radon. As required by the 1996 Safe Drinking Water Act (SDWA), EPA has withdrawn the proposed NPDWR for radon (US EPA 1997B) and will propose a new regulation by August, 1999. The HRRCA does not include any decisions regarding the choice of a Maximum Contaminant Level (MCL) for radon in drinking water.

The analysis presented in this HRRCA uses updated estimates of the number of active public drinking water systems obtained from EPA's Safe Drinking Water Information System (SDWIS). Treatment costs for the removal of radon from drinking water have also been updated. The HRRCA follows current EPA policies with regard to the methods and assumptions used in cost and benefit assessment.

As part of the regulatory development process, EPA has updated and refined its analysis of radon occurrence patterns in ground water supplies in the United States (US EPA 1998L). This new analysis incorporates information from the EPA's 1985 National Inorganic and Radionuclides Survey (NIRS) of 1000 community ground water systems throughout the United States, along with supplemental data provided by the States, water utilities, and academic research. The new study also addressed a number of issues raised by public comments in the previous occurrence analysis that accompanied the 1991 proposed NPDWR, including characterization of regional and temporal variability in radon levels, and

the impact of sampling point for monitoring compliance.

In general, radon levels in ground water in the United States have been found to be the highest in New England and the Appalachian uplands of the Middle Atlantic and Southeastern states (Figure 3-1). There are also isolated areas in the Rocky Mountains, California, Texas, and the upper Midwest where radon levels in ground water tend to be higher than the United States average. The lowest ground water radon levels tend to be found in the Mississippi Valley, lower Midwest, and Plains states. When comparing radon levels in ground water to radon levels in indoor air at the State level, the distribution of radon concentrations in indoor air (Figure 3-2) do not always mirror distributions of radon in ground water.

In addition, the 1996 Amendments to the SDWA introduce two new elements into the radon in drinking water rule: (1) an Alternative Maximum Contaminant Level (AMCL) and (2) multimedia radon mitigation (MMM) programs. The SDWA, as amended, provides for development of an AMCL, which public water systems may comply with if their State has an EPA approved MMM program to reduce radon in indoor air. The NAS Report estimated that the AMCL would be about 4,000 pCi/L, based on SDWA requirements. The concept behind the AMCL and MMM option is to reduce radon health risks by addressing the larger source of exposure (air levels in homes) compared to drinking water. If a State chooses to employ a MMM program to reduce radon risk, it would implement a State program to reduce indoor air levels and require public water systems to control radon levels in drinking water to the AMCL. If a State does not choose a MMM program option, a public water system may propose a MMM program for EPA approval.

### Summary of Findings

#### *Quantifiable and Non-Quantifiable Costs*

The capital and operating and maintenance (O&M) costs of mitigating radon in Community Water Systems (CWSs) were estimated for each of the radon levels evaluated. The costs of reducing radon in ground water to specific target levels were calculated using the cost curves discussed in Section 5.4 and the matrix of treatment options presented in Section 5.5. For each radon level and system size stratum, the number of systems that need to reduce radon levels by up to 50 percent, 80 percent and 99 percent were

calculated. Then, the cost curves for the distributions of technologies dictated by the treatment matrix were applied to the appropriate proportions of the systems. Capital and O&M costs were then calculated for each system, based on typical estimated design and average flow rates. These flow rates were calculated on spreadsheets using equations from EPA's Safe Drinking Water Suite Model (US EPA 1998N). The equations and parameter values relating system size to flow rates are presented in Appendix C. The technologies addressed in the cost estimation included a number of aeration and granular activated carbon (GAC) technologies described in Section 5.1, as well as storage, regionalization, and disinfection as a post-treatment. To estimate costs, water systems were assumed, with a few exceptions, to select the technology that could reduce radon to the selected target level at the lowest cost. CWSs were also assumed to treat separately at every source from which water was obtained and delivered into the distribution system.

The costs of reducing radon to various levels are summarized in Table 6-5, which shows that, as expected, aggregate radon mitigation costs increase with decreasing radon levels. The cost ranges presented in the table represent plausible upper and lower bounds of 50 percent above to 50 percent below the central tendency estimates. For CWSs, the costs per system do not vary substantially across the different radon levels evaluated. This is because the menu of mitigation technologies for systems with various influent radon levels remains relatively constant.

#### *Quantifiable and Non-Quantifiable Health Benefits*

The quantifiable health benefits of reducing radon exposures in drinking water are attributable to the reduced incidence of fatal and non-fatal cancers, primarily of the lung and stomach. Table 6-1 shows the health risk reductions (number of fatal and non-fatal cancers avoided) and the residual health risk (number of remaining cancer cases) at various radon in water levels. Since preparing the prepublication edition of the NAS Report, the NAS has reviewed and slightly revised their unit risk estimates. EPA uses these updated unit risk estimates in calculating the baseline risks, health risk reductions, and residual risks. Under baseline assumptions (no control of radon exposure), approximately 160 fatal cancers and 9.2 non-fatal cancers per year are associated with radon exposures through CWSs. At a radon

level of 4,000 pCi/l, approximately 2.2 fatal cancers and 0.1 non-fatal cancers per year are prevented. At the lowest level evaluated (100 pCi/l), approximately 115 fatal and 6.6 non-fatal cancers per year would be prevented.

The Agency has developed monetized estimates of the health benefits associated with the risk reductions from radon exposures. The SDWA, as amended, requires that a cost-benefit analysis be conducted for each NPDWR, and places a high priority on better analysis to support rulemaking. The Agency is interested in refining its approach to both the cost and benefit analysis, and in particular recognizes that there are different approaches to monetizing health benefits. In the past, the Agency has presented benefits as cost per life saved, as in Table 6-5. An alternative approach presented here for consideration as one measure of potential benefits is the monetary value of a statistical life (VSL) applied to each fatal cancer avoided. Since this approach is relatively new to the development of NPDWRs, EPA is interested in comments on these alternative approaches to valuing benefits, and will have to weigh the value of these approaches for future use.

Estimating the VSL involves inferring individuals' implicit tradeoffs between small changes in mortality risk and monetary compensation. In the HRRCA, a central tendency estimate of \$5.8 million (1997\$) is used in the monetary benefits calculations, with low- and high-end values of \$700,000 (1997\$) and \$16.3 million (1997\$), respectively, used for the purposes of sensitivity analysis. These figures span the range of VSL estimates from 26 studies reviewed in EPA's recent draft guidance on benefits assessment (US EPA 1998E), which is currently under review by the Agency's Science Advisory Board (SAB) and the Office of Management and Budget (OMB).

It is important to recognize the limitations of existing VSL estimates and to consider whether factors such as differences in the demographic characteristics of the populations and differences in the nature of the risks being valued have a significant impact on the value of mortality risk reduction benefits. Also, medical care or lost-time costs are not separately included in the benefits estimate for fatal cancers, since it is assumed that these costs are captured in the VSL for fatal cancers.

For non-fatal cancers, willingness to pay (WTP) data to avoid chronic bronchitis is used as a surrogate to estimate the WTP to avoid non-fatal lung and stomach cancers. The use of

such WTP estimates is supported in the SDWA, as amended, at Section 1412(b)(3)(C)(iii): "The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants."

A WTP central tendency estimate of \$536,000 is used to monetize the benefits of avoiding non-fatal cancers (Viscusi *et al.* 1991), with a range between \$169,000 and \$1.05 million (1997\$). The combined fatal and non-fatal health benefits are summarized in Table 6-2. The annual health benefits range from \$13 million for a radon level of 4000 pCi/l to \$673 million at 100 pCi/l. The ranges in the last column of Table 6-2 illustrate how benefits vary when the upper and lower bound estimates of the VSL and WTP measures are used.

Reductions in radon exposures might also be associated with non-quantifiable benefits. EPA has identified several potential non-quantifiable benefits associated with regulating radon in drinking water. These benefits may include any peace of mind benefits specific to reduction of radon risks that may not be adequately captured in the VSL estimate. In addition, treating radon in drinking water with aeration oxidizes arsenic into a less soluble form that is easier to remove with conventional removal technologies. In terms of reducing radon exposures in indoor air, it has also been suggested that provision of information to households on the risks of radon in indoor air and available options to reduce exposure is a non-quantifiable benefit that can be attributed to some components of a MMM program. Providing such information might allow households to make informed choices about the appropriate level of risk reduction given their specific circumstances and concerns. These potential benefits are difficult to quantify because of the uncertainty surrounding their estimation. However, they are likely to be somewhat less significant relative to the monetized benefits estimates.

#### *Incremental Costs and Benefits of Radon Removal*

Table 6-7 summarizes the central tendency and the upper and lower bound estimates of the incremental costs and benefits of radon exposure reduction. Both the annual incremental costs and benefits increase as the radon level decreases from 4000 pCi/l down to 100 pCi/l. Incremental costs and benefits are within 10 percent of each

other at radon levels of 1000, 700, and 500 pCi/l. The table also illustrates the wide ranges of potential incremental costs and benefits due to the uncertainty inherent in the estimates. There is substantial overlap between the incremental costs and benefits at each radon level.

#### *Impacts on Households*

The cost impact of reducing radon in drinking water at the household level was also assessed. As expected, costs per household increase as system size decreases (Table 6-10). Costs to households are higher for households served by smaller systems than larger systems for two reasons. First, smaller systems serve far fewer households than larger systems and, consequently, each household must bear a greater percentage share of the capital and O&M costs. Second, smaller systems tend to have higher influent radon concentrations that, on a per-capita or per-household basis, require more expensive treatment methods (e.g., one that has an 85 percent removal efficiency rather than 50 percent) to achieve the applicable radon level.

Another significant finding is that, like the per system costs, costs per household (which are a function of per system costs) are relatively constant across different radon levels within each system size category. For example, there is less than one dollar per year variation in household costs, regardless of the radon level being considered for households served by large public or private systems (between \$6 and \$7 annually), by medium public or private systems (between \$10 and \$11), and by small public or private systems (between \$19 and \$20 annually). Similarly, for very small systems (501-3300 people), the cost per household is consistently about \$34 annually for public systems and about \$40 annually for private systems, varying little with the target radon level. Only for very very small systems is there a noticeable variation in household costs across radon levels. The range for per household costs for public CWSs serving 25-500 people is \$87 per year (at 4,000 pCi/l) to \$135 per year (at 100 pCi/l). The corresponding range for private CWSs is \$139 to \$238 per year. For households served by the smallest public systems (25-100 people) the range of cost per household ranges from \$292 per year at 4,000 pCi/l to \$398 per year at 100 pCi/l. For private systems, the range is \$364 per year to \$489 per year, respectively.

#### *Summary of Annual Costs and Benefits*

Table 6-12 reveals that at a radon level of 4000pCi/l (equivalent to the AMCL estimated in the NAS Report), annual costs are approximately twice the annual monetized benefits. For radon levels of 1000pCi/l to 300 pCi/l, the central tendency estimates of annual costs are above the central tendency estimates of the monetized benefits, although they are within 10 percent of each other. However, as shown in Tables 6-2 and 6-5, due to the uncertainty in the cost and benefit estimates, there is a very broad possible range of potential costs and benefits that overlap across all of the radon levels evaluated.

#### *Benefits From the Reduction of Co-Occurring Contaminants*

The occurrence patterns of other industrial pollutants are difficult to clearly define at the national level relative to a naturally occurring contaminant such as radon. Similarly, the Agency's re-evaluation of radon occurrence has revealed that the geographic patterns of radon occurrence are not significantly correlated with other naturally occurring inorganic contaminants that may pose health risks. Thus, it is not likely that a clear relationship exists between the need to install radon treatment technologies and treatments to remove other contaminants. On the other hand, technologies used to reduce radon levels in drinking water have the potential to reduce concentrations of other pollutants as well. Aeration technologies will also remove volatile organic contaminants from contaminated ground water. Similarly, granular activated carbon (GAC) treatment for radon removal effectively reduces the concentrations of organic (both volatile and nonvolatile) chemicals and some inorganic contaminants. Aeration also tends to oxidize dissolved arsenic (a known carcinogen) to a less soluble form that is more easily removed from water. The frequency and extent that radon treatment would also reduce risks from other contaminants has not been quantitatively evaluated.

#### *Impacts on Sensitive Subpopulations*

The SDWA, as amended, includes specific provisions in Section 1412(b)(3)(C)(i)(V) to assess the effects of the contaminant on the general population and on groups within the general population such as children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are

identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population. The NAS Report concluded that there is insufficient scientific information to permit separate cancer risk estimates for potential subpopulations such as pregnant women, the elderly, children, and seriously ill persons. The NAS Report did note, however, that according to the NAS model for the cancer risk from ingested radon, which accounts for 11% of the total fatal cancer risk from radon in drinking water, approximately 30% of the fatal lifetime cancer risk is attributed to exposure between ages 0 to 10.

The NAS Report identified smokers as the only group that is more susceptible to inhalation exposure to radon progeny (NAS 1998A, 1998B). Inhalation of cigarette smoke and radon progeny result in a greater increased risk than if the two exposures act independently to induce lung cancer. NAS estimates that "ever smokers" (more than 100 cigarettes over a lifetime) may be more than five times as sensitive to radon progeny as "never smokers" (less than 100 cigarettes over a lifetime). Using current smoking prevalence data, EPA's preliminary estimate for the purposes of the HRRCA is that approximately 85 percent of the cases of radon-induced cancer will occur among current and former smokers. This population of current and former smokers, which consists of 58 percent of the male and 42 percent of the female population (US EPA 1999A), will also experience the bulk of the risk reduction from radon exposure reduction in drinking water supplies.

#### *Risk Increases From Other Contaminants Associated With Radon Exposure Reduction*

As discussed in Section 5.1, the need to install radon treatment technologies may require some systems that currently do not disinfect to do so. Case studies (US EPA 199D) of twenty-nine small to medium water systems that installed treatment (24 aeration, 5 GAC) to remove radon from drinking water revealed only two systems that reported adding disinfection (both aeration) with radon treatment (the systems either had disinfection already in place or did not add it). In practice, the tendency to add disinfection may be much more significant than these case studies indicate. EPA also realizes that the addition of chlorination for disinfection may result in risk-risk tradeoffs, since, for example, the disinfection technology reduces potential for infectious disease risk, but at the same time can result in

increased exposures to disinfection by-products (DBPs). This risk-risk trade-off is addressed by the recently promulgated Disinfectants and Disinfection By-Products NPDWR (US EPA 1998I). This rule identified MCLs for the major DBPs, which all CWSs and NTNCWSs must comply. These MCLs set a risk ceiling for DBPs that water systems adding disinfection in conjunction with treatment for radon removal could face. The formation of DBPs is proportional to the concentration of organic precursor contaminants, which tend to be much lower in ground water than in surface water.

The NAS Report addressed several important potential risk-risk tradeoffs associated with reducing radon levels in drinking water, including the trade-off between risk reduction from radon treatment that includes post-disinfection with the increased potential for DBP formation (NAS 1998B). The report concluded that, based upon median and average total trihalomethane (THM) levels taken from EPA's 1981 Community Water System Survey, a typical ground water CWS would face incremental individual lifetime cancer risk due to chlorination byproducts of  $5 \times 10^{-5}$ . It should be emphasized that this risk is based on average and median THM occurrence information that does not segregate systems that disinfect from those that do. Further, the NAS Report points out that this average DBP risk is smaller than the average individual lifetime fatal cancer risk associated with baseline radon exposures from ground water (untreated for radon), which is estimated at  $1.2 \times 10^{-4}$  using a mean radon concentration of 213 pCi/l.

A more meaningful comparison is to look at the trade-off between risk reduction from radon treatment in cases where disinfection is added with the added risks from DBP formation. This trade-off will affect only a minority of systems since a majority of ground water systems already have disinfection in place. For the smallest systems size category, approximately half of all CWSs already have disinfection in place. The proportion of systems having disinfection in place increases as the size categories increase, up to >95% for large systems (Table 5-2). In addition, although EPA is using the conservative costing assumption that all systems adding aeration or GAC would disinfect, not all systems adding aeration or GAC would have to add post-disinfection or, if disinfecting, may use a disinfection technology that does not form DBPs. For those ground water systems adding treatment with disinfection, this trade-

off tends to be favorable since the combined risk reduction from radon removal and microbial risk reduction outweigh the added risk from DBP formation.

An estimate of the risk reduction due to treatment of radon in water for various removal percentages and finished water concentrations is provided in Table 3.7. As noted by the NAS Report, these risk reductions outweigh the increased risk from DBP exposure for those systems that chlorinate as a result of adding radon treatment.

The ratios between risk reduction from radon removal and the risks from THMs at levels equal their MCLs (a conservative assumption) are shown in Table 3.8. The data indicate that the risk ratios are favorable for treatment with disinfection, ignoring microbial risk reduction, even assuming the worst case scenario that ground water systems have THM levels at the MCL. It is worth noting that there is the possibility that accounting quantitatively for the increased risk from DBP exposure for systems adding chlorination in conjunction with treatment for radon may somewhat decrease the monetized benefits estimates.

#### *Other Factors: Uncertainty in Risk, Benefit, and Cost Estimates*

Estimates of health benefits from radon reduction are uncertain. A few of the variables affecting the uncertainty in the benefit estimates include the distribution of radon in ground water systems, the NAS's risk models for ingestion and inhalation risks, and the transfer factor used to estimate indoor air radon activity levels. EPA plans to include an uncertainty analysis of radon in drinking water risks with the proposed rule. Monetary benefit estimates are also strongly affected by the VSL estimate that is used for fatal cancers. The WTP valuation for non-fatal cancers has less impact on benefit estimates because it contributes less than 1 percent to the total benefits estimates, due to the fact that there are few non-fatal cancers relative to fatal cancers.

Estimates of the regulatory costs also have associated uncertainty. The major factors affecting this uncertainty include assumptions regarding the distribution of radon levels among ground water systems and among treatment sites within systems, uncertainties in unit cost models, the assumed prevalence of the various compliance decisions, and the exclusion of NTNCWSs in the HRRCA's national cost estimates.

To deal with a lack of information regarding the intra-system variability of

radon levels between treatment sites (source wells), the national cost estimates are based on the assumption that all CWSs above a target radon level, as estimated by system-level average radon occurrence predictions from the occurrence model, will install separate treatment systems at each site. Ideally, occurrence information at each treatment site will provide a better estimate of national costs, since the wells within a water system would exhibit a range of radon occurrence levels, some of which may be below the target radon level, others above this level. Since it is not obvious whether the system-level approach will lead to either a positive or negative bias in the national cost estimates, EPA is in the process of performing an analysis of the intra-system variability for radon occurrence and will include this analysis in support of the upcoming proposed rule.

There are also significant uncertainties in estimated treatment unit costs and in the decision-trees that are used to model national level compliance decisions that will be made by the system-size stratified universe of drinking water systems in response to a range of radon influent levels. It is possible to estimate the uncertainties in both the unit costs and the decision-tree by performing sensitivity analyses for the factors affecting costs. Regarding unit costs, this analysis leads to a spread in costs that adequately resembles the "real-world" as shown by ranges in treatment cost case studies. Regarding the uncertainty in the decision-tree, it is unfortunately not possible to verify results in this way. However, since there are so few technologies to mitigate radon in water, the decision-tree is fairly robust.

#### *Other Impacts: Costs and Benefits of Multimedia Mitigation Program Implementation Scenarios*

In addition to evaluating the costs and benefits across a range of radon levels, two scenarios were evaluated that reduce radon exposure through the use of MMM programs. The two scenarios evaluated assume: (1) 50 percent of States (all water systems in those States) select MMM implementation; and (2) 100 percent of States select MMM. These two scenarios are described in detail in Section 7. For the MMM implementation analysis, systems were assumed to mitigate water to the 4,000 pCi/l Alternative Maximum Contaminant Level (AMCL), if necessary, and that equivalent risk reduction between the AMCL and the radon level under evaluation would be achieved through a MMM program.

Therefore, the actual number of cancer cases avoided is the same for the MMM implementation scenarios as for the water mitigation only scenario.

In calculating the cost of MMM programs, the cost per fatal cancer case avoided was estimated at \$700,000 (1997\$). This value was originally estimated by EPA in 1992 using 1991 data. The same nominal value is used in the HRRCA based on anecdotal evidence from EPA's Office of Radiation and Indoor Air (ORIA) that there has been an equivalent offset between a decrease in testing and mitigation costs since 1991 and the expected increase due to inflation in the years 1992-1997. This dollar amount reflects that real testing and mitigation costs have decreased, while nominal costs have remained approximately constant.

Tables 7-2 and 7-3 illustrate that, as expected, the costs of reducing radon exposures decrease with increasing numbers of States (i.e. CWSs) selecting the MMM implementation scenario. Also, as would be expected, the annual costs of implementing MMM are, on average, lower compared to reducing radon exposures in drinking water alone. Central tendency estimates of the total annualized benefits exceed the annualized costs for both the 50 and 100 percent MMM participation scenarios over all radon levels. The cost per fatal cancer case avoided is also lower for both the 50 and 100 percent MMM implementation scenarios compared to the scenario in which no States elect to develop a MMM program. In addition, the cost per fatal cancer case avoided is significantly lower for the MMM scenario with 100 percent of the States electing the MMM program compared to when 50 percent of the States choose the MMM scenario, especially at the lower radon levels. The costs and benefits estimates are also broken out into their respective MMM and water mitigation components. With the exception of 4000pCi/l (the NAS estimated AMCL), annual monetized benefits are significantly larger than annual costs for the MMM component of the total costs. For the water mitigation component, the annual costs are larger than the annual monetized benefits across all radon levels.

## **2. Introduction**

### *2.1 Background*

This Health Risk Reduction and Cost Analysis (HRRCA) provides the Environmental Protection Agency's (EPA) analysis of potential costs and benefits of different target levels for radon in drinking water. The HRRCA builds on several technical components,

including estimates of radon occurrence in drinking water supplies, analytical methods for detecting and measuring radon levels, and treatment technologies. Extensive analyses of these issues were undertaken by the Agency in the course of previous rulemaking efforts for radon and other radionuclides. Using data provided by stakeholders, and from published literature, the EPA has updated these technical analyses to take into account the best currently available information and to respond to comments on the 1991 proposed regulation for radon in drinking water. As required by the 1996 Safe Drinking Water Act (SDWA), EPA has withdrawn the proposed regulation for radon in drinking water (US EPA 1997B) and will propose a new regulation by August, 1999.

One of the most important inputs used by EPA in the HRRCA is the National Academy of Sciences (NAS) September 1998 report "Risk Assessment of Radon in Drinking Water" (NAS Report). EPA has used the NAS assessment of the cancer risks from radon in drinking water to estimate both the health risks posed by existing levels of radon in drinking water and also the estimated cancer deaths potentially prevented by reducing radon levels. The NAS Report is the most comprehensive accumulation of scientific data gathered to date on radon in drinking water. SDWA required the NAS assessment, which generally affirms EPA's earlier scientific conclusions and analyses on the risks of exposure to radon and progeny in drinking water.

The analysis presented in this HRRCA uses updated estimates of the number of active public drinking water systems obtained from EPA's Safe Drinking Water Information System (SDWIS). Treatment costs for the removal of radon from drinking water also have been updated. The HRRCA follows EPA policies with regard to the methods and assumptions used in cost and benefit assessment.

In updating key analyses and developing the framework for the cost-benefit analysis presented in the HRRCA, EPA has consulted with a broad range of stakeholders and technical experts. Participants in a series of stakeholder meetings held in 1997 and 1998 included representatives of public water systems, State drinking water and indoor air programs, tribal water utilities and governments, environmental and public health groups, and other federal agencies. EPA convened an expert panel in Denver in November of 1997 to review treatment technology costing approaches. The panel made a number of

recommendations for modification to EPA cost estimating protocols that have been incorporated into the radon cost estimates. EPA also consulted with a subgroup of the National Drinking Water Advisory Council (NDWAC) on evaluating the benefits of drinking water regulations. The NDWAC was formed in accordance with the Federal Advisory Committee Act (FACA) to assist and advise EPA. A variety of stakeholders participated in the NDWAC benefits working group, including utility company staff, environmentalists, health professionals, State water program staff, a local elected official, economists, and members of the general public.

The American Water Works Association (AWWA) convened a "Radon Technical Work Group," in 1998 that provided technical input on EPA's update of technical analyses (occurrence, analytical methods, and treatment technology), and discussed conceptual issues related to developing guidelines for multimedia mitigation programs. Members of the Radon Technical Work Group included representatives from State drinking water and indoor air programs, public water systems, drinking water testing laboratories, environmental groups and the U.S. Geological Survey. EPA also held a series of conference calls with State drinking water and indoor air programs, to discuss issues related to developing guidelines for multimedia mitigation programs.

## 2.2 Regulatory History

Section 1412 of the Safe Drinking Water Act (SDWA), as amended in 1986, requires the EPA to publish Maximum Contaminant Level Goals (MCLGs) and to promulgate National Primary Drinking Water Regulations (NPDWRs) for contaminants that may cause an adverse effect on human health and that are known or anticipated to occur in public water supplies. In response to this charge, the EPA proposed NPDWRs for radionuclides, including radon, in 1991 (US EPA 1991). The proposed rule included a maximum contaminant level (MCL) of 300 pCi/l for radon in drinking water, applicable to both community water systems and non-transient non-community water systems. A community water system (CWS) is defined as a public water system with at least 15 or more service connections or that regularly serves at least 25 year-round residents. A non-transient non-community system (NTNCWS) is a public water system that is not a CWS and that regularly serves at least 25 of the same persons for at least six months per year. Examples of NTNCWSs

include those that serve schools, offices, and commercial buildings. Under the proposed rule, all CWSs and NTNCWSs relying on ground water would have been required to monitor radon levels quarterly at each point of entry to the distribution system. Compliance monitoring requirements were based on the arithmetic average of four quarterly samples. The 1991 proposed rule required systems with one or more points of entry out of compliance to treat influent water to reduce radon levels below the MCL or to secure water from another source below the MCL.

The proposed rule was accompanied by an assessment of regulatory costs and economic impacts, as well as an assessment of the risk reduction associated with implementation of the MCL. The Agency received substantial comments on the proposal and its supporting analyses from States, water utilities, and other stakeholder groups. Comments from the water industry questioned EPA's estimates of the number of systems that would be out of compliance with the proposed MCL, as well as the cost of radon mitigation. EPA's Science Advisory Board (SAB) provided extensive comments on the risk assessment used by the Agency to support the proposed MCL. The SAB recommended that EPA expand the analysis of the uncertainty associated with the risk and risk reduction estimates. In response to these comments, the assessment was revised twice, once in 1993 and again in 1995 (US EPA 1995). Both of the revised risk analyses provided detailed quantitative uncertainty analysis.

## 2.3 Safe Drinking Water Act Amendments of 1996

In the 1996 Amendments to the Safe Drinking Water Act, Congress established a new charter for public water systems, States, and EPA to protect the safety of drinking water supplies. Among other mandates, amended Section 1412(b)(13) directed EPA to withdraw the drinking water standards proposed for radon in 1991 and to propose a new MCLG and NPDWR for radon by no later than August 6, 1999. As noted above, the amendments require NAS to conduct a risk assessment for radon in drinking water and an assessment of risk reduction benefits from various mitigation measures to reduce radon in indoor air (Section 1412(b)(13)(B)). In addition, the amendments introduce two new elements into the radon in drinking water rule: (1) An Alternative Maximum Contaminant Level (AMCL) and (2) multimedia radon mitigation (MMM) program.

If the MCL established for radon in drinking water is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, EPA is required to simultaneously establish an AMCL that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air (Section 1412(b)(13)(F)). If an AMCL is established, EPA is to publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to comply with the AMCL.

States may develop and submit to EPA for approval an MMM program to decrease radon levels in indoor air (Section 1412(b)(13)(G)). These programs may rely on a variety of mitigation measures, including public education, testing, training, technical assistance, remediation grants and loan or incentive programs, or other regulatory and non-regulatory measures. EPA shall approve a State's program if it is expected to achieve equal or greater health risk reduction benefits than would be achieved by compliance with the more stringent MCL. If EPA does not approve a State program, or a State does not propose a program, public water supply systems may propose their own MMM programs to EPA, following the same procedures outlined for States. Once the MMM programs are established, EPA is required to re-evaluate them no less than every five years.

## 2.4 Specific Requirements for the Health Risk Reduction and Cost Analysis

Section 1412(b)(13)(C) of the 1996 Amendments requires EPA to prepare a Health Risk Reduction and Cost Analysis (HRRCA) to be used to support the development of the radon NPDWR. SDWA requires the HRRCA be published for public comment by February 6, 1999, six months before the rule is to be proposed. In the preamble of the proposed rule, EPA must include a response to all significant public comments on the HRRCA.

The HRRCA must also satisfy the requirements established in Section 1412(b)(3)(C) of the amended SDWA. According to these requirements, EPA must analyze each of the following when proposing an NPDWR that includes a MCL: (1) Quantifiable and non-quantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to

occur as the result of treatment to comply with each level; (2) quantifiable and non-quantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the MCL, excluding benefits resulting from compliance with other proposed or promulgated regulations; (3) quantifiable and non-quantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the MCL, including monitoring, treatment, and other costs, and excluding costs resulting from compliance with other proposed or promulgated regulations; (4) The incremental costs and benefits associated with each alternative MCL considered; (5) the effects of the contaminant on the general population and on groups within the general population, such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population; (6) any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants; and (7) other relevant factors, including the quality and extent of the information, the uncertainties in the analysis, and factors with respect to the degree and nature of the risk.

To the extent possible, this HRRCA follows the new cost-benefit framework being developed by the Office of Ground Water and Drinking Water (OGWDW). As provided in the SDWA, as amended, the HRRCA discusses the costs and benefits associated with a variety of radon levels. Summary tables and figures are presented that characterize aggregate costs and benefits, impacts on affected entities, and tradeoffs between risk reduction and compliance costs. More in-depth discussions of input data and assumptions will be provided in a companion "Analytical Support Document" and an in-depth presentation and discussion of the results will appear in a separate "Cost/Benefit Document" that will accompany the proposed rule. The HRRCA by itself does not constitute the complete Regulatory Impact Analysis (RIA), but serves as a foundation upon which the RIA can be developed for the proposed rule.

### 2.5 Radon Levels Evaluated

The HRRCA is intended to present preliminary estimates of the potential costs and benefits of various levels of controlling radon in drinking water. The HRRCA assumes that all systems drawing water from sources above a defined radon level will employ treatment technologies to meet the target level or "regionalize" to obtain water from another source with lower radon levels. This analysis evaluates radon levels of 100, 300, 500, 700, 1,000, 2,000, and 4,000 pCi/l. The analysis did not include any provisions for exemptions or phased compliance and assumed that a simple quarterly monitoring scheme would be used to determine the need for mitigation and ongoing compliance.

The HRRCA also evaluates national costs and benefits of MMM implementation scenarios, with States choosing to reduce radon exposure in drinking water through an Alternative Maximum Contaminant Level (AMCL) and radon risks in indoor air through MMM programs. Based on NAS recommendations, the AMCL level that is evaluated is 4,000 pCi/l. Under the scenarios that include an AMCL, the HRRCA assumes that a portion of the States would adopt an AMCL supplemented with MMM programs to address indoor air radon risks. In the absence of information concerning the number of States that would choose to implement radon risk reduction through the use of AMCL plus multimedia programs, the HRRCA assumes that either 50 or 100 percent of the systems in the United States would choose to implement MMM programs and comply with the AMCL. For the MMM implementation scenarios, a single multimedia cost estimate is used, based on the cost-effectiveness of current voluntary mitigation efforts. These issues are discussed in more detail in Section 7.

### 2.6 Document Structure

The HRRCA is organized into 7 sections and a number of appendices. The appendices, while not included in this **Federal Register** Notice, are available in the docket for review and can be downloaded from the web at [www.epa.gov/safewater/standard/pp/radonpp/html](http://www.epa.gov/safewater/standard/pp/radonpp/html). Section 3 discusses the health effects of exposure to radon. Section 4 describes the assumptions and methods for estimating quantifiable benefits and assessing non-quantifiable benefits. Section 5 discusses the water treatment and MMM methods used to calculate the national costs of the various radon levels examined. Section

6 presents the results of the cost and benefit analysis of reducing radon levels in drinking water, and evaluates economic impacts on households. In addition, the major sources of uncertainty associated with the estimates of costs, benefits, and economic impacts are identified. Section 7 estimates the costs and benefits of two different implementation scenarios in which States and water systems elect to develop and implement a MMM program and comply with the AMCL. Appendices provide details of the risk calculations, cost curves for treatment technologies, methods used to calculate system flows, and detailed breakdown summaries of the cost, benefit and impact calculations.

## 3. Health Effects of Radon Exposure

This Section presents an overview of the major issues and assumptions addressed in order to characterize the health impacts and potential benefits of reductions in radon exposures. The methods that have been used to characterize risk and benefits in the HRRCA are also described. The assumptions and methods presented below are used in Section 4 to derive detailed estimates of the health reduction benefits of different radon levels in ground water supplies.

### 3.1 Radon Occurrence and Exposure Pathways

As part of the regulatory development process, EPA has updated and refined its analysis of radon occurrence patterns in ground water supplies in the United States (US EPA 1998L). This new analysis incorporates information from the EPA 1985 National Inorganic and Radionuclides Survey (NIRS) of 1000 community ground water systems throughout the United States, along with supplemental data provided by the States, water utilities, and academic researchers.

The new study also addressed a number of issues raised by public comments on the previous occurrence analysis. These include characterization of regional and temporal variability in radon levels, variability in radon levels across different-sized water systems, impact of sampling point, and the proper statistical techniques for evaluating the data.

#### 3.1.1 Occurrence

Radon is a naturally occurring volatile gas formed from the normal radioactive decay of uranium. It is colorless, odorless, tasteless, chemically inert, and radioactive. Uranium is present in small amounts in most rocks and soil, where it decays to other products including

radium, then to radon. Some of the radon moves through air or water-filled pores in the soil to the soil surface and enters the air, while some remains below the surface and dissolves in ground water (water that collects and flows under the ground's surface). Due to their very long half-life (the time required for half of a given amount of a radionuclide to decay), uranium and radium persist in rock and soil.

Radon itself undergoes radioactive decay and has a radioactive half-life of about four days. When radon atoms decay they emit radiation in the form of alpha particles, and transform into decay products, or progeny, which also decay. Unlike radon gas, these progeny easily attach to and can be transported by dust and other particles in air. The decay of progeny continues until stable, non-radioactive progeny are formed. At each step in the decay process, radiation is released. The term radon, as commonly used, refers to radon-222 as well as its radioactive decay products.

In general, radon levels in ground water in the United States have been found to be the highest in New England and the Appalachian uplands of the Middle Atlantic and Southeastern States (Figure 3-1). There are also isolated areas in the Rocky Mountains, California, Texas, and the upper Midwest where radon levels in ground water tend to be higher than the United States average. The lowest ground water radon levels tend to be found in the Mississippi Valley, lower Midwest, and Plains States. When comparing radon levels in ground water to radon levels in indoor air at the State level, the

distribution of radon concentrations in indoor air (Figure 3-2) do not always mirror distributions of radon in ground water.

In addition to large-scale regional variation, radon levels in ground water also vary significantly over smaller distance scales. Local differences in geology tend to greatly influence the patterns of radon levels observed at specific locations (e.g., not all radon levels in New England are high; not all radon levels in the Gulf Coast region are low). Over small distances, there is often no consistent relationship between measured radon levels in ground water and radium levels in the ground water or in the parent bedrock (Davis and Watson 1989). Similarly, no significant national correlation has been found between radon levels in individual ground water systems and the levels of other inorganic contaminants or conventional geochemical parameters. Potential correlations between radon levels and levels of organic contaminants in ground water have not been investigated, but there is little reason to believe any would be found. Radon's volatility is rather high compared to its solubility in water. Thus, radon volatilizes rapidly from surface water, and measured radon levels in surface water supplies are generally insignificant compared to those found in ground water.

**Figure 3-1. General Patterns of Radon Occurrence in Groundwater in the United States**

Figure 3-1 is not printed in the **Federal Register**. It is available in the

Water Docket at the address listed in the **ADDRESSES** section.

**Figure 3-2. EPA Map of Radon Zones in Indoor Air**

Figure 3-2 is not printed in the **Federal Register**. It is available in the Water Docket at the address listed in the **ADDRESSES** section.

Because of its short half life, there are relatively few man-made sources of radon exposure in ground water. The most common man-made sources of radon ground water contamination are phosphate or uranium mining or milling operations and wastes from thorium or radium processing. Releases from these sources can result in high ground water exposures, but generally only to very limited populations; for instance, to persons using a domestic well in a contaminated aquifer as a source of potable water (US EPA 1994B).

Table 3-1 summarizes the regional patterns of radon in drinking water supplies as seen in the NIRS database. This survey of 1,000 ground water systems, undertaken by EPA in 1985, provides the most representative national characterization of radon levels in drinking water.

However, the NIRS has the disadvantage that the samples were all taken from within the water distribution systems, making estimation of the naturally occurring influent radon levels difficult. In addition, the NIRS data provide no information to allow analysis of the variability of radon levels over time or within individual systems.

TABLE 3-1.—RADON DISTRIBUTIONS BY REGION (ALL SYSTEM SIZES)

Region	Arithmetic mean (pCi/l)	Geometric Mean <sup>1</sup> (pCi/l)	Geometric standard deviation <sup>2</sup> (pCi/l)
Appalachian .....	1,127	333	4.76
California .....	629	333	3.09
Gulf Coast .....	263	125	3.38
Great Lakes .....	278	151	3.01
New England .....	2,933	1,214	3.77
Northwest .....	222	161	2.23
Plains .....	213	132	2.65
Rocky Mountains .....	607	361	2.77

<sup>1</sup> The geometric mean is the anti-log of the average of the logarithms (log base e) of the observations.

<sup>2</sup> The geometric standard deviation is the anti-log of the standard deviation of the logarithms (log base e) of the observations.

Source: US EPA 1998L. The values given are not population-weighted, but reflect averages across systems.

The NIRS data illustrate the wide regional variations in radon levels in ground water. The arithmetic mean and geometric mean radon levels are substantially higher in New England and the Appalachian region (in this analysis, all the States on the east coast between New York and Florida) than in

other regions of the United States. The large differences between the geometric (anti-log of the average of the logarithms (log base e) of the observations) and arithmetic means indicate how "skewed" (i.e., "stretched" in a positive direction; a bell-shaped curve with a tail out to the right) the radon distributions

are. The Agency selected a lognormal model as the best approach to evaluating these data.

EPA's current re-evaluation of radon occurrence in ground water uses data from a number of additional sources to supplement the NIRS information and to develop estimates of the national

distribution of radon in ground water systems of different sizes. Data from 17 States were used to evaluate the differences between radon levels in ground water and radon levels in distribution systems in the same regions. The results of these comparisons were used to estimate national distributions of radon occurrence in ground water. Table 3-2 summarizes EPA's latest characterization of the distributions of radon levels in ground water supplies of different sizes and populations exposed to radon through CWSs.

In this table, radon levels and populations are presented for systems serving various population ranges from 25 to greater than 100,000. For purpose of estimating costs and benefits, the

CWSs are aggregated to be consistent with the following system size categories identified in the 1996 SDWA, as amended: very very small systems (25-500 people), further subdivided into 25-100 and 101-500; very small systems (501-3,300 people); small systems (3,301-10,000 people); medium systems (10,001-100,000 people); and large systems (greater than 100,000 people).

In the updated occurrence analysis, insufficient data were available to accurately assess radon levels in the highest CWSs size stratum. Thus, data from the two largest size strata were pooled to develop exposure estimates for the risk and benefits assessments.

The Agency estimates that approximately 89.7 million people are

served by community ground water systems in the United States based on an EPA analysis of SDWIS data in 1998). The data in Table 3-2 show that systems serving more than 500 people account for approximately 95 percent of the population served by ground water systems, even though they represent only 40 percent the total active systems (USEPA 1997A). The estimated system geometric mean radon levels range from approximately 120 pCi/l for the largest systems to 312 pCi/l for the smallest systems. Arithmetic mean values for the various size categories range from 175 pCi/l to 578 pCi/l, and the population-weighted arithmetic mean radon level across all the community ground water supplies is 213 pCi/l.

TABLE 3-2.—RADON DISTRIBUTIONS IN PUBLIC WATER SYSTEMS

	System size (population served)				
	25-100	101-500	501-3,300	3,301-10,000	>10,000
Total Systems .....	14,651	14,896	10,286	2,538	1,536
Geometric Mean Radon Level, pCi/l .....	312	259	122	124	132
Geometric Standard Deviation .....	3.0	3.3	3.2	2.3	2.3
Population Served (Millions) .....	0.87	4.18	14.2	14.5	65.9
Radon Level, pCi/l .....	Proportions of Systems Exceeding Radon Levels (percent)				
100 .....	84.7	78.7	56.9	60.4	62.9
300 .....	51.4	45.1	22.1	14.3	16.2
500 .....	33.6	29.1	11.4	4.6	5.5
700 .....	23.4	20.3	6.8	1.8	2.3
1000 .....	14.7	12.9	3.6	0.6	0.8
2000 .....	4.7	4.4	0.8	0.0	0.1
4000 .....	1.1	1.1	0.1	0.0	0.0

Table 3-3 presents the total exposed population above each radon level by system size category. Approximately 20% of the total population for all system sizes are above the radon level of 300 pCi/l and 63% are above a radon level of 100 pCi/l.

TABLE 3-3.—POPULATION EXPOSED ABOVE VARIOUS RADON LEVELS BY SYSTEM SIZE

[Thousands]

Radon level (pCi/l)	Very very small	Very small	Very small	Small	Medium	Large	Total
	25-100	101-500	501-3,300	3,301-10K	10K-100K	>100K	
4,000 .....	9.4	46	20	0.2	0.9	0.4	77.2
2,000 .....	41	183	119	5.7	21.7	11.0	381
1,000 .....	128	541	513	85.5	289	147	1,695
700 .....	202	848	962	267	859	436	3,558
500 .....	290	1,210	1,620	672	2,070	1,050	6,893
300 .....	445	1,880	3,140	2,080	6,060	3,070	16,641
100 .....	733	3,290	8,080	8,760	23,400	11,900	56,054

Radon exposures also arise from NTNCWSs. The Agency estimates that approximately 5.2 million people use water from NTNCWSs (US EPA 1998G). An analysis of SDWIS data in 1998 shows there are approximately 19,500 active NTNCWSs in the United States. Over 96 percent of these systems serve

fewer than 1,000 people. EPA recently identified useful data on radon levels in NTNCWSs from six States. A preliminary analysis of data from these States suggested that geometric mean radon levels are approximately 60 percent higher in NTNCWSs than in CWSs in the same size category.

There are currently no data which enable the agency to determine the extent to which the populations exposed to radon from CWSs and NTNCWSs overlap. Some portion of individuals exposed through a CWS at home may be exposed to radon from a NTNCWS at school or at work.

Similarly, the same populations may be exposed to radon from two different community systems in the course of their normal daily activities. Further, in the case of NTNCWSs, it is possible that the same individual could be exposed sequentially throughout their life to radon from a series of different systems; at school, then at work, etc.

3.1.2 Exposure Pathways

People are exposed to radon in drinking water in three ways: from ingesting radon dissolved in water; from inhaling radon gas released from water during household use; and from inhaling radon progeny derived from radon gas released from water.

Typically, indoor air contamination arising from soil gas accounts for the bulk of total individual risk due to radon exposure (NAS 1998B). Nationally, levels of radon in household air average approximately 1.25 pCi/l (US EPA 1992A). Usually, the bulk of the radon enters indoor air by diffusion from soils through basement walls or foundation cracks or openings. Radon in domestic water generally contributes a small proportion of the total radon in indoor air. The NAS recommends that EPA use the central estimate of a transfer factor of 1.0 pCi/l for radon in domestic water contributing  $1 \times 10^{-4}$  pCi/l to indoor air. As an example, for a typical ground water CWS with a radon level of 250 pCi/l, the increment in indoor air activity would be 0.025 pCi/l. This is about 2 percent of the average indoor level, which is derived mostly from soils.

As noted, the bulk of radiation exposure through inhalation comes from radon progeny, which tend to bind to

airborne particulates. When the particles are inhaled, they become deposited in the respiratory tract, and further radioactive decay results in a radiation dose to the respiratory epithelium. In contrast, when radon gas is inhaled, it is absorbed through the lung, and much of this fraction remains in the body only a short time before being exhaled.

Direct ingestion of radon gas in water is the other important exposure pathway associated with domestic water use. If water is not agitated or heated prior to consumption, the bulk (80 to 100 percent) of the radon remains in the water and is consequently ingested with it (US EPA 1995). Heating, agitation (for example, by a faucet aerator), and prolonged standing cause radon to be released and the proportion consumed to be reduced. After a person ingests radon in water, the radon passes from the gastrointestinal tract into the blood. The blood then circulates the radon to all organs of the body before it is eventually exhaled from the lungs. When radon and its progeny decay in the body, the surrounding tissues are irradiated by alpha particles. However, the dose of radiation resulting from exposure to radon gas by ingestion varies from organ to organ. Stomach, followed by the tissues of colon, liver, kidney, red marrow, and lung appear to receive the greatest doses.

Exposure patterns to radon vary with different exposure settings. Depending on the relative radon levels in water and air, water use patterns, and exposure frequency and duration, the relative contribution of ingestion and inhalation exposure to total risks will vary. In the case of domestic water use, inhalation of

radon progeny accounts for most of the total individual risk resulting from radon exposure (Section 3.2). Inhalation exposure to radon from NTNCWSs is expected to be less than for CWSs, however, because buildings served by these systems tend to be larger, and ventilation rates higher, than the corresponding values for domestic exposures. In addition, exposure at these facilities tend to be less frequent and of shorter duration than exposure from CWSs. Therefore, overall exposures at NTNCWSs will likely be lower.

3.2 Nature of Health Impacts

Exposure to radon and its progeny is believed to be associated with increased risks of several kinds of cancer. When radon or its progeny are inhaled, lung cancer accounts for most of the total incremental cancer risk (NAS 1998A). Ingestion of radon in water is suspected of being associated with increased risk of tumors of several internal organs, primarily the stomach (NAS 1998B). As discussed previously, NAS recently estimated the lifetime unit fatal cancer risks associated with exposure to radon from domestic water use for ingestion and inhalation pathways. EPA subsequently calculated the unit risk of inhalation of radon gas to 0.06 percent of the total risk from radon in drinking water, using radiation dosimetry data and risk coefficients provided by the NAS (NAS 1998B). The lifetime unit fatal cancer risk is defined as the lifetime risk associated with exposures to a unit concentration (1 pCi/l) of radon in drinking water. The findings are summarized in Table 3-4.

TABLE 3-4.—ESTIMATED RADON UNIT LIFETIME FATAL CANCER RISKS IN COMMUNITY WATER SYSTEMS

Exposure pathway	Cancer unit risk per pCi/l in water	Proportion of total risk (percent)
Inhalation of radon progeny <sup>1</sup> .....	$5.55 \times 10^{-7}$	89
Ingestion of radon <sup>1</sup> .....	$7.00 \times 10^{-8}$	11
Inhalation of radon gas <sup>2</sup> .....	$3.50 \times 10^{-10}$	0.06
Total .....	$6.25 \times 10^{-7}$	100

<sup>1</sup> Source: NAS 1998B.

<sup>2</sup> Source: Calculated by EPA from radiation dosimetry data and risk coefficients provided by NAS (NAS 1998B).

These updated risk estimates indicate that inhalation of radon progeny accounts for most (approximately 89 percent) of the individual risk associated with domestic water use, with almost all of the remainder (11 percent) resulting from ingestion of radon gas. Inhalation of radon progeny is associated primarily with increased risk of lung cancer, while ingestion

exposure is associated primarily with elevated risk of stomach cancer. Ingestion of radon also results in slightly increased risk cancer of the colon, liver, and other tissues. Inhalation of radon gas is estimated to account for approximately 0.06 percent of the total risk from household radon exposures, and the major target organ is again believed to be the lung. In the

following sections, methods and parameter values developed by the NAS are applied to the estimation of baseline population risks and the levels of risk reduction associated with the different radon levels.

Radon, a noble gas, exhibits no other known toxic effects besides carcinogenesis. The 1998 NAS report indicates that there is no scientific

evidence to show that exposure to radon is associated with reproductive or genetic toxicity. Therefore, the endpoints characterized in the risk assessment for radon exposure are primarily increased risk of lung and stomach cancers.

For the purposes of this Health Risk Reduction and Cost Analysis, EPA is using the best estimates of radon inhalation and ingestion risks provided by the NAS Report. In order to finalize the Agency's estimate of lung cancer deaths arising from indoor air exposure, EPA's Office of Radiation and Indoor Air is currently assessing various factors integral to the approach for estimating the lung cancer risks of inhaling radon progeny in indoor air provided in the NAS 1998 report "The Health Effects of Exposure to Radon-BEIR VI" (BEIR VI Report). This assessment will be reviewed by the Agency's SAB and may result in some adjustment to the estimated unit risk, and its associated uncertainty, for inhalation of radon progeny used in this HRRCA

3.3 Impacts on Sensitive Subpopulations

Populations that might experience disproportional risk as a result of radon exposure fall into two general classes: those who might receive higher exposures per unit radon in water supplies and those who are more sensitive to the exposures they receive. The former group includes persons whose domestic water supplies have high radon levels, and whose physiological characteristics or behaviors (high metabolic rate, high water consumption, large amounts of time spent indoors) result in high exposures per unit of exposure concentration. As noted above, a portion of the population could be exposed to radon from more than one source. For example, a student or worker might be exposed to radon from the CWS in the household setting and also from a NTNCWS (or from the same or different CWS) at school or work.

Different age and gender groups may also experience exposure dosimetric differences. These differences in radiation dose per unit exposure have been taken into account in the BEIR VI Report addressing radon in indoor air (NAS 1998A), the NAS Report addressing radon in drinking water (NAS 1998B), and the EPA Federal Guidance Report 13 (US EPA 1998F).

The NAS Report concluded that there is insufficient scientific information to permit separate cancer risk estimates for subpopulations such as pregnant women, the elderly, children, and seriously ill persons. The report did

note, however, that according to the NAS risk model for the cancer risk from ingested radon, which accounts for 11% of the total lifetime fatal cancer risk from radon in drinking water, approximately 30% of this fatal lifetime cancer risk is attributed to exposure between ages 0 to 10.

The NAS did identify smokers as the only group that is more susceptible to inhalation exposure to radon progeny. Inhalation to cigarette smoke and radon progeny result in a greater increased risk than if the two exposures act independently to induce lung cancer.

3.4 Risk Reduction Model for Radon in Drinking Water

Risk and risk reduction were estimated using a Monte Carlo model that simulated the initial and post-regulatory distributions of radon activity levels and population cancer risks. Each iteration of the model selected a size stratum of community water systems. The system sizes were stratified according to the following populations served: <100; 101-500; 501-3,300; 3,301-10,000; and > 10,000 served. For each size category, a lognormal distribution of uncontrolled radon levels had been defined based on the updated occurrence analysis (USEPA 1998L). The model sampled randomly from the radon distribution for the selected CWS size category to determine if the radon level was above the selected maximum exposure level. The proportion of iterations choosing each size stratum were determined by the relative national populations served by each size stratum of systems. Thus, over a large number of iterations (generally, benefit calculations were carried out using 20,000 to 50,000 iterations), the model produced a population-weighted distribution of radon levels.

In each iteration of the model, the simulated influent radon activity level was compared to the maximum radon levels under consideration (100, 300, 500, 700, 1000, 2000, and 4000 pCi/l). When the simulated influent radon level was less than the target level, the simulated level was passed directly to the risk calculation equations. The equations calculated population fatal cancer risks from ingestion of radon gas, inhalation of radon gas, and inhalation of radon progeny using standard exposure factors and unit risk values derived by the NAS.

When the simulated influent radon level in a given iteration exceeded a target radon level, the model reduced the value by a proportion equivalent to the performance of selected mitigation technologies. The degrees of reduction are presented in Table 3-5:

TABLE 3-5.—RADON TREATMENT ASSUMPTIONS TO CALCULATE RESIDUAL FATAL CANCER RISKS

If the radon level is	Then the treated level is
Less than the target level.	None; Influent = Effluent.
Above but less than two times the target level.	Influent = 0.5 × Effluent.
Above two times but less than five times the target level.	Influent = 0.2 × Effluent.
Greater than five times the target level.	Influent = 0.01 Effluent.

Using this approach implies that a greater level of control is achieved than if all the systems were simply assumed to reduce exposures to the maximum exposure level. For example, a system with an initial uncontrolled concentration of 400 pCi/l would need to employ a mitigation technology with a 50 percent removal efficiency to comply with a maximum exposure limit of 300 pCi/l, resulting in a final radon level of 200 pCi/l. Limited sensitivity analysis suggests that this approach does not provide very much in the way of extra risk reduction. The preponderance of population risk reduction is achieved by reducing radon levels in the relatively few systems that have initial uncontrolled values far above the maximum exposure limits, not by the relatively small incremental reductions below the target radon levels.

3.5 Risks From Existing Radon Exposures

In support of the regulatory development process for the revised radon rule, EPA has updated its risk assessment for radon exposures in drinking water. Previously, EPA developed estimates of risk from total population exposure to radon in drinking water in support of the proposed rule for radon in 1991 (US EPA 1991). In response to comments from the SAB, EPA updated the risk assessment to include an analysis of uncertainty in 1993 (US EPA 1993B). The assessment was further revised to include revisions to risk factors and other variable values. The latest uncertainty analysis was completed in 1995 (US EPA 1995).

EPA's revised risk analysis in support of this HRRCA takes into account new data on radon distributions and exposed populations developed in the updated occurrence analysis, as well as new information on dose-response relationships developed by the NAS (NAS 1998B). For the HRRCA,

population risks are estimated using single-value "nominal" estimates of the various exposure factors which determine individual risk, and Monte Carlo simulation techniques are used to estimate risks associated with the distributions of radon exposures from the various size categories of CWSs. The risk equations and parameter values used in the revised risk assessment are summarized in Appendix A. EPA is currently conducting a comprehensive uncertainty analysis of radon risks using two-dimensional Monte Carlo methods to better judge the level of uncertainty associated with the radon risk estimates.

Table 3-6 summarizes the results of EPA's revised baseline risk assessment. Because the NAS and EPA-derived dose-response and exposure parameters factors discussed above were used in the

risk assessment, the proportions of risk associated with the various pathways were the same as shown in Table 3-4. The total estimated population risks associated with the current distribution of radon in CWSs was 160 fatal cancers per year, 142 of which were associated with progeny inhalation. Approximately 18 fatal cancers per year were associated with ingestion of radon. These totals are similar to, but somewhat lower than, EPA's 1991 and 1993 baseline risk estimates (US EPA 1994C). In comparison, there are an estimated 15,400 to 21,800 fatal lung cancers per year due to inhalation of indoor air contaminated with radon emanating from soil and bedrock (NAS 1998A).

The risks summarized in Table 3-5 do not include any contribution from NTNCWSs. Thus, the potential baseline

risks and benefits of a radon rule may be somewhat underestimated. The limited available data concerning radon levels in NTNCWSs suggest that levels may be considerably higher (perhaps by 60 percent, on average) than those in CWSs of similar size (US EPA 1998L). However, it appears that the average exposure per unit activity in NTNCWSs is likely to be lower than that for CWSs. Because of the expected lower inhalation exposures, water ingestion rates, and frequencies and durations of exposure, the individual fatal cancer risk associated with a NTNCWS is expected to be lower compared to a CWS with similar radon levels. EPA is currently conducting additional analyses of NTNCWS exposures from radon in an attempt to refine the current approximate risk estimates.

TABLE 3-6.—ANNUAL FATAL CANCER RISKS FOR EXPOSURES TO RADON FROM COMMUNITY WATER SYSTEMS

Pathway	Annual unit risk (fatal cancers per person per year per pCi/l in water) <sup>1</sup>	Annual population risk (fatal cancers per year) <sup>2</sup>	Proportion of total annual risk (percent)
Inhalation of progeny .....	$7.44 \times 10^{-9}$	142	89
Ingestion of radon gas .....	$9.30 \times 10^{-10}$	17.8	11
Inhalation of radon gas .....	$4.7 \times 10^{-12}$	0.1	0.06
Total .....	$8.37 \times 10^{-9}$	160	100

<sup>1</sup> Derived using NAS lifetime unit fatal cancer risks.

<sup>2</sup> Estimated through simulation analysis described in Section 3.4; the risk equations and parameter values used in the simulation analysis are summarized in Appendix A.

**3.6 Potential for Risk Reductions Associated With Removal of Co-Occurring Contaminants**

Because radon is a naturally occurring ground water contaminant, its occurrence patterns are not highly correlated with those of industrial pollutants. Similarly, the Agency's re-evaluation of radon occurrence has revealed that the geographic patterns of radon occurrence are not significantly correlated with naturally occurring inorganic contaminants that may pose health risks. Thus, it is not likely that a relationship exists between the need to install radon treatment technologies and treatments to remove other contaminants.

On the other hand, technologies used to reduce radon levels in drinking water have the potential to reduce concentrations of other pollutants as well. All of the aeration technologies discussed remove volatile organic contaminants, as well as radon, from contaminated ground water. Similarly, GAC treatment for radon removal effectively reduces the concentrations of organic (both volatile and nonvolatile) chemicals and some inorganic

contaminants. Aeration also tends to oxidize dissolved arsenic (a known carcinogen) to a less soluble form that is more easily removed from water. The frequency with which radon treatment would also reduce risks from other contaminants, and the extent of risk reduction that would be achieved, has not been evaluated quantitatively in the HRRCA.

**3.7 Potential for Risk Increases From Other Contaminants Associated With Radon Removal**

As discussed in Section 5.1, the need to install radon treatment technologies may require some systems that currently do not disinfect to do so. While case studies (US EPA 1998D) of twenty-nine small to medium water systems that installed treatment (24 aeration, 5 GAC) to remove radon from drinking water revealed only two systems that reported adding disinfection (both aeration) with radon treatment (the systems either had disinfection already in place or did not add it), in practice the tendency to add disinfection may be much more significant than these case studies indicate. EPA also realizes that the

addition of chlorination for disinfection may result in risk-risk tradeoffs, since, for example, the disinfection technology reduces potential for infectious disease risk, but at the same time can result in increased exposures to disinfection by-products (DBPs). This risk-risk trade-off is addressed by the recently promulgated Disinfectants and Disinfection By-Products NPDWR (US EPA 1998I). This rule identified MCLs for the major DBPs, with which all CWSs and NTNCWSs will have to comply. These MCLs set a risk ceiling from DBPs that water systems adding disinfection in conjunction with treatment for radon removal could face. The formation of DBPs is proportional to the concentration of organic precursor contaminants, which tend to be much lower in ground water than in surface water.

The NAS Report addressed several important potential risk-risk tradeoffs associated with reducing radon levels in drinking water, including the trade-off between risk reduction from radon treatment that includes post-disinfection with the increased potential for DBP formation (NAS 1998B). The

report concluded that, based upon median and average total trihalomethane (THM) levels from EPA's 1981 Community Water System Survey, a typical ground water CWS will face an incremental individual lifetime cancer risk due to chlorination byproducts of  $5 \times 10^{-5}$ . It should be emphasized that this risk is based on average and median THM occurrence information that does not segregate systems that disinfect from those that do. Further, the NAS Report points out that this average DBP risk is smaller than the average individual lifetime fatal cancer risk associated with baseline radon exposures from ground water (untreated for radon), which is estimated at  $1.2 \times 10^{-4}$  using a mean radon concentration of 213 pCi/l.

A more meaningful comparison is to look at the trade-off between risk reduction from radon treatment in cases where disinfection is added with the added risks from DBP formation. This trade-off will affect only a minority of systems since a majority of ground water systems already have disinfection in place. For the smallest systems size category, approximately half of all CWSs already have disinfection in place. The proportions of systems having disinfection in place increases as the size categories increase, up to >95% for large systems (Table 5-2). In addition, although EPA is using the conservative costing assumption that all systems adding aeration or GAC would disinfect, not all systems adding aeration or GAC would have to add

post-disinfection or, if disinfecting, may use a disinfection technology that does not form DBPs. For those ground water systems adding treatment with disinfection, this trade-off tends to be favorable since the combined risk reduction from radon removal and microbial risk reduction outweigh the added risk from DBP formation.

An estimate of the risk reduction due to treatment of radon in water for various removal percentages and finished water concentrations is provided in Table 3.7. As noted by the NAS Report, these risk reductions outweigh the increased risk from DBP exposure for those systems that chlorinate as a result of adding radon treatment.

TABLE 3-7.—RADON RISK REDUCTIONS ACROSS VARIOUS EFFLUENT LEVELS AND PERCENT REMOVALS

% Removal <sup>1</sup>	Risk reduction @ 50 pCi/L	Risk reduction @ 100 pCi/L	Risk reduction @ 200 pCi/L	Risk reduction @ 300 pCi/L
60 .....	<sup>2</sup> NA	NA	1.9E-04	2.8E-04
80 .....	NA	2.5E-04	5.0E-04	7.6E-04
90 .....	2.8E-04	5.7E-04	1.1E-03	1.7E-03
99 .....	3.1E-03	6.2E-03	1.2E-02	1.9E-02

<sup>1</sup> Influent levels used in risk reduction calculations are determined by the relationship, Effluent Level = Influent Level\*(1-%Removal/100).  
<sup>2</sup> NA = Not applicable since associated influent level would be outside the range of realistic values.

Comparing the risk reductions in Table 3.7 to the risks from THMs at their MCL values (the maximum risk allowable under the DBP rule), the ratios between risk reduction from radon removal and the conservative assumption that DBPs are present at their MCL values are shown in Table 3.8.

TABLE 3-8.—RADON RISK REDUCTION FROM TREATMENT COMPARED TO DBP RISKS

% Removal <sup>1</sup>	Estimated risk ratios (risk reduction from radon removal/risk from THMs at 0.080 mg/L)			
	Ratio @ 50 pCi/L	Ratio @ 100 pCi/L	Ratio @ 200 pCi/L	Ratio @ 300 pCi/L
60 .....	<sup>2</sup> NA	NA	1.6	2.4
80 .....	NA	2.1	4.2	6.3
90 .....	2.4	4.7	9.5	14.2
99 .....	26.0	52.0	104.0	155.9

Notes: <sup>1</sup> Influent levels used in risk reduction calculations are determined by the relationship, Effluent Level = Influent Level\*(1-%Removal/100).  
<sup>2</sup> NA = Not applicable since associated influent level would be outside the range of realistic values.

As can be seen in Table 3.8, the risk ratios are favorable for treatment with disinfection, ignoring microbial risk reduction, even assuming the worst case scenario that ground water systems have THM levels at the MCL. There is the possibility that accounting quantitatively for the increased risk from DBP exposure for systems adding chlorination in conjunction with treatment for radon may somewhat decrease the monetized benefits estimates.

**3.8 Risk for Ever-Smokers and Never-Smokers**

As noted previously, cancer risks from inhalation of radon progeny are believed to be greater for current and former smokers than for "never smokers". The NAS defines a "never smoker" as someone who has smoked less than 100 cigarettes in their lifetime. Therefore, "ever smokers" include current and former smokers. EPA and NAS have developed estimates of unit risk values (estimates of cancer risks per unit of exposure) for radon progeny for "ever-smokers" and "never-smokers" as shown in Table 3-9 (US EPA 1999A). The estimated unit risk values for

inhalation of radon progeny for ever-smokers (and therefore the individual and population risk) is approximately 5.5 times greater than that for never smokers.

Because of estimated higher individual risks for smokers, this group accounts for a large proportion of the overall population risk associated with radon progeny inhalation. The last two columns of the table show that, given the current assumptions about smoking prevalence and the relative impact of radon progeny on ever smokers and never smokers, about 85 percent of the cancer cases from water exposures to

progeny will occur in the ever-smoker population.

TABLE 3-9.—ANNUAL LUNG CANCER DEATH RISK ESTIMATES FROM RADON PROGENY FOR EVER-SMOKERS, NEVER-SMOKERS, AND THE GENERAL POPULATION

Smoking status	Annual unit risk (fatal cancer cases per year per pCi/l in water)	Average annual individual risk per year of exposure	Annual population risk (fatal cancers per year)	Proportion of total annual population risk
Ever .....	1.31X10-8	2.8X10-6	120	85
Never .....	2.44X10-9	5.1X10-7	22	15
Combined .....	7.44X10-9	1.6X10-6	142	100

Source: EPA analyses derived from NAS (1998) estimates.

NOTE: Ever-smoking prevalence was assumed to be 58 percent in males and 42 percent in females, and these rates were assumed to be age independent.

**4. Benefits of Reduced Radon Exposures**

*4.1 Nature of Regulatory Benefits*

**4.1.1 Quantifiable Benefits**

The benefits of controlling exposures to radon in drinking water take the form of avoided cancers resulting from reduced exposures. Cancer risks (both fatal and non-fatal cancers per year) are calculated using the risk model described in Section 3 for the baseline case (current conditions) and each of the radon levels. The health benefits of controls are estimated as the baseline risks minus the residual risks associated with each radon level. The more

stringent the radon level, the lower the residual risks, and the higher the benefits.

The primary measures of regulatory benefits that are used in this analysis are the annual numbers of fatal and non-fatal cancers prevented by reduced exposures. Due to a lack of knowledge about how to account for the latency period for radon-induced cancers, it has been assumed that risk reduction begins to accrue immediately after the reduction of exposures.

Exposures to radon and its progeny are associated with increases in lung cancer risks. Ingestion of radon in drinking water is suspected of being associated primarily with increased

risks of tumors of the stomach, and with lesser risks to the colon, lung, and other organs. The first column of Table 4-1 summarizes the estimates of the distribution of cancers by organ system for inhalation and ingestion exposures given. For purposes of the risk assessment, inhalation of progeny and radon gas are assumed to be associated exclusively with lung cancer risk. In the case of radon ingestion, stomach cancer accounts for the bulk (approximately 87 percent) of the total risk by this pathway. Cancers of several other organ systems account for far smaller proportions of the cancer risk from radon ingestion, and are not included in this analysis.

TABLE 4-1.—PROPORTION OF FATAL CANCERS BY EXPOSURE PATHWAY AND ESTIMATED MORTALITY

Exposure pathway	Organ affected	Proportion of fatal cancers by organ and exposure pathway (percent) <sup>1</sup>	Mortality (percent) <sup>2</sup>
Inhalation of progeny, radon gas .....	Lung .....	89	95
	Stomach .....	9.5	90
Ingestion of radon gas .....	Colon .....	0.4	550
	Liver .....	0.3	95
	Lung .....	0.2	95
	General Tissue .....	0.5	—

<sup>1</sup> Source: US EPA analysis of dosimetry data and organ-specific risk coefficients (NAS 1998).

<sup>2</sup> Source: US EPA analysis of National Cancer Institute mortality data.

The last column of Table 4-1 provides estimates of the mortality rate associated with the various types of radon-associated cancers. These values are used in this analysis to estimate the proportion of fatal and non-fatal cancers by organ system and exposure pathway. Both of the cancers that account for the bulk of the risk from radon and progeny exposures (lung and stomach) have high mortality rates.

**4.1.2 Non-Quantifiable Benefits**

Reductions in radon exposures might also be associated with non-quantifiable benefits. EPA has identified several potential non-quantifiable benefits associated with regulating radon in drinking water. These include any peace of mind benefits specific to reduction of radon exposure that may not be adequately captured in the VSL estimate. In addition, treating radon in drinking water with aeration oxidizes arsenic into a less soluble form that is easier to remove with conventional

arsenic removal technologies. In terms of reducing radon exposures in indoor air, it has also been suggested that provision of information to households on the risks of radon in indoor air and available options to reduce exposure is a non-quantifiable benefit that can be attributed to some components of a MMM program. Providing such information might allow households to make informed choices about the appropriate level of risk reduction given their specific circumstances and concerns. These potential benefits are

difficult to quantify due to the uncertainty surrounding their estimation. However, they are likely to be somewhat less in magnitude relative to the monetized benefits estimates.

4.2 Monetization of Benefits

4.2.1 Estimation of Fatal and Non-Fatal Cancer Risk Reduction

The "direct" health benefits of the regulation, as discussed above, are the reduced streams of cancer cases associated with reduced radon exposures. In this analysis, the data in Table 3-6 were used to estimate the numbers of fatal cancers of each organ system associated with inhalation and ingestion pathway from the risk model described in Section 3.1. (These proportions, by the nature of the risk model that is used, stay constant for all radon levels.) Subsequently, the total number of cancers of each organ system was estimated. This is necessary because the output of the risk model is fatal cancers, and the cost of illness and willingness to pay for non-fatal cancers are only applied to individuals who survive the disease. The total number of cancers per year of exposure, and the number of non-fatal cancers were estimated from the fatal cancer numbers using the mortality data in Table 4-1. Thus, for example, a benefit of 100 cases of fatal lung cancer avoided implies approximately 105 total lung cancers avoided, five of which are non-fatal. This calculation omits rounding error, and the total number of cases is equal to the fatal cases divided by the mortality rate.

Fatal and non-fatal population cancer risks under baseline conditions were estimated first. Then, the residual cancer risks were estimated for each of the radon levels. Consistent with the assumptions made in the cost analysis, residual water radon levels were calculated using a similar range of technology efficiencies. Radon levels were assumed to be reduced below baseline levels by either 50, 80, or 99 percent, using the least stringent reduction which could comply with the radon level under evaluation. Benefits took the form of the reductions in the numbers of fatal and non-fatal cancers associated with each final level compared to the baseline risks.

4.2.2 Value of Statistical Life for Fatal Cancers Avoided

As one measure of potential benefits, this analysis assigns the monetary value of a statistical life saved to each fatal cancer avoided. The estimation of the value of a statistical life involves inferring individuals' implicit tradeoffs between small changes in mortality risk and monetary compensation (US EPA 1998E). A central tendency value of \$5.8 million (1997\$) is used in the monetary benefits calculations, with low- and high-end values of \$700,000 (1997\$) and \$16.3 million (1997\$), respectively, used for the purposes of sensitivity analysis. These figures span the range of value of statistical life (VSL) estimates from 26 studies reviewed in EPA's recent guidance on benefits assessment (US EPA 1998E) which is currently being reviewed by EPA's SAB and the Office of Management and Budget (OMB). It is important to recognize the limitations of existing VSL estimates and to consider whether factors such as differences in the demographic characteristics of the populations and differences in the nature of the risks being valued have a significant impact on the value of mortality risk reduction benefits. As noted above, no separate medical care or lost-time costs are included in the benefits estimate for fatal cancers because it is assumed that these costs are captured in the VSL for fatal cancers.

4.2.3 Costs of Illness and Lost Time for Non-Fatal Cancers

Two important elements in the estimation of the economic impacts of reduced cancer risks for non-fatal cancers are the reductions in medical care costs and the costs of lost time. The costs of medical care represent a net loss of resources to society (not considering the economic hardship on the cancer patient and family). The cost of lost time represents the value of activities that the individual must abandon (e.g., productive employment or leisure) as a result of radon-induced cancer. Together, these two elements are often referred to as the costs of illness (COI).

Medical care and lost-time costs have been estimated for lung and stomach cancers, which are the two most common types of tumors associated with radon exposures, and which

account for 99 percent of the total radon-associated cancers. Table 4-2 summarizes the Agency's latest medical care and lost-time cost estimates for lung cancer (US EPA 1998B, 1998C). Medical care costs have been estimated from survey data for ten years after initial diagnosis. The medical costs in the first year correspond to the costs of initial treatment, while medical costs in subsequent years correspond to the average medical costs associated with monitoring and treatment of recurrences among individuals who survive to that year. These out-year costs are weighted by the proportion of patients surviving to the given year.

The lost time due to the radon-induced tumors is assumed to be concentrated in the first year after diagnosis. This is why the out-year estimates for the costs of lost time in Table 2-8 are all zero. The dollar costs of lost time given in the table are derived by assigning values lost productive (work) and leisure (non-productive) hours. The costs given in the top row of Table 4-2 correspond to 776 lost productive hours and 1,493 lost leisure hours per patient. The estimates of lost hours are relatively low for lung cancer primarily because the average age at diagnosis is advanced (fewer than 34 percent of lung cancer patients are diagnosed before age 65).

Using a discount rate of seven percent, the estimated discounted present value in 1997 dollars of combined medical care and lost-time costs for a cancer survivor is approximately \$108,000. The estimated value varies with different discount rates. Using a discount rate of three percent, combined costs are \$121,600; at ten percent, combined costs are approximately \$100,200.

Table 4-3 summarizes the estimation of medical and lost-time costs for survivors of stomach cancer. The combined discounted costs for stomach cancer are similar to those for lung cancer, but slightly higher. At a seven percent discount rate, combined discounted costs for stomach cancer are approximately \$114,000 (1997\$). At three percent, they are about \$126,300 (1997\$). Discounted at ten percent, the average combined cost is \$106,400 (1997\$).

TABLE 4-2.—ESTIMATED MEDICAL CARE AND LOST-TIME COSTS PER CASE FOR SURVIVORS OF LUNG CANCER

Year after diagnosis	Medical care costs (undiscounted 1997 dollars) <sup>1</sup>	Cost of lost leisure (undiscounted 1997 dollars) <sup>2</sup>	Cost of lost productive time (undiscounted 1997 dollars) <sup>2</sup>
1 .....	\$34,677	\$9,886	\$14,393

TABLE 4-2.—ESTIMATED MEDICAL CARE AND LOST-TIME COSTS PER CASE FOR SURVIVORS OF LUNG CANCER—Continued

Year after diagnosis	Medical care costs (undiscounted 1997 dollars) <sup>1</sup>	Cost of lost leisure (undiscounted 1997 dollars) <sup>2</sup>	Cost of lost productive time (undiscounted 1997 dollars) <sup>2</sup>
2	9,936	0	0
3	9,383	0	0
4	8,969	0	0
5	8,604	0	0
6	8,262	0	0
7	7,934	0	0
8	7,609	0	0
9	7,287	0	0
10	6,974	0	0
Discounted Present Value at 7 Percent	85,225	9,390	13,671
Total Discounted Value (1997 dollars)	108,287		

<sup>1</sup> Medical care cost estimates derived from US EPA 1998B.

<sup>2</sup> Lost productive and leisure hours estimates from US EPA 1998B; value of productive time estimated at \$12.47/hr, value of leisure hour estimated at \$9.64/hour (from US EPA 1998J).

TABLE 4-3.—ESTIMATED MEDICAL CARE AND LOST-TIME COSTS PER CASE FOR SURVIVORS OF STOMACH CANCER

Year after diagnosis	Medical care costs (Undiscounted 1997 dollars) <sup>1</sup>	Cost of lost leisure (undiscounted 1997 dollars) <sup>2</sup>	Cost of lost productive time (undiscounted 1997 dollars) <sup>2</sup>
1	\$37,507.28	\$19,337.84	13,288
2	9,328.23	0	0
3	8,749.24	0	0
4	8,265.39	0	0
5	7,829.62	0	0
6	7,423.51	0	0
7	7,035.81	0	0
8	6,663.46	0	0
9	6,300.32	0	0
10	5,946.38	0	0
Discounted Present Value at 7 Percent	82,997.35	18,368	12,621
Total Discounted Value (1997 dollars)	113,987		

<sup>1</sup> Medical care cost estimates derived from US EPA 1998C.

<sup>2</sup> Lost productive and leisure hours estimates from US EPA 1998C; value of productive time estimated at \$12.47/hr, value of leisure hour estimated at \$9.64/hour (from US EPA 1998J).

4.2.4 Willingness to Pay to Avoid Non-Fatal Cancers

As was the case for fatal cancers, willingness to pay (WTP) measures of the values of avoiding serious non-fatal illness have also been developed. These WTP measures were developed because the cost of illness estimates may be seen as understating total willingness to pay to avoid non-fatal cancers. The main reason that the cost of illness understates total WTP is the failure to account for many effects of disease—it ignores pain and suffering, defensive expenditures, lost leisure time, and any potential altruistic benefits (US EPA 1998E). Recently, EPA applied one such study to evaluate the benefits of avoiding non-fatal cancers in the Regulatory Impact Analysis for the Stage I Disinfection By-Products Rule (US EPA 1998M). That study estimated a range of WTP to avoid chronic bronchitis ranging from 168,600 to 1,050,000 with a central tendency

(mean) estimate of 536,000 (Viscusi et al. 1991). In the benefits assessment, EPA uses the central tendency measure as a surrogate for the cost of avoiding non-fatal cancers and an alternative to the cost of illness measures discussed above. The high and low ends of the range are used in sensitivity analysis of the monetized benefit estimates.

4.3 Treatment of Monetized Benefits Over Time

The primary measures of regulatory benefits that are used in this analysis are the annual numbers of expected fatal and non-fatal cancers prevented by reduced exposures to radon in drinking water. The monetary valuation of fatal cancer risks used is a result of a benefits transfer exercise from the risk of immediate accidental death to the risk of fatal cancer. No adjustments to the benefits calculations have been made to reflect the time between the reduction in exposure and the diagnosis and

illness or possible death from cancer. Also, no adjustments have been made for any other factors which might affect the valuation. Cancer valuations could be adjusted for how they differ from accidental death valuations with respect to timing (latency) and with respect to other factors that may affect individuals' willingness-to-pay for cancer risk reduction, including dread, pain and suffering, the degree to which the risk is voluntary or involuntary, and the amount by which life spans are shortened. Such adjustments have been under debate in the academic literature. In the absence of quantitative evidence on the relative impact of each factor, EPA has not adjusted the benefits estimates in this HRRCA to account for the factors discussed here. The Agency is currently reviewing the various issues raised; at this time no Agency policy regarding any such adjustments is in place.

## 5. Costs of Radon Treatment Measures

This section describes how the costs and economic impacts of reductions in radon exposures were estimated. The most commonly used and cost-effective technologies for mitigating radon are described, along with the degree of radon removal that can be achieved. Costs of achieving specified radon removal levels for specific flow rates are discussed, along with the need for pre- and post-treatment technologies. The methods used to estimate treatment costs for single systems and aggregate national costs are explained, and the approach for translating the costs into economic impacts on affected entities is also described.

### 5.1 Drinking Water Treatment Technologies and Costs

The two most commonly employed methods for removing radon from water supplies are aeration and granular activated carbon (GAC) absorption. These treatment approaches can be technically feasible and cost-effective over a wide range of removal efficiencies and flow rates. In addition to the radon treatment technologies themselves, specific pre- or post-treatment technologies may also be required. When influent iron and manganese levels are above certain levels, pre-treatment may be required to remove or sequester these metals and avoid fouling the radon removal equipment. Also, aeration and GAC absorption may introduce possible infectious particulates into the treated water. Thus, disinfection is generally required as a post-treatment when radon reduction technologies are installed.

When only low removal efficiency is required, and sufficient capacity is available, simple storage may in some cases be sufficient to reduce radon levels in water below specified radon levels. Radon levels rapidly decrease through natural radioactive decay, and if storage is in contact with air, through volatilization. Therefore, storage has also been included in the cost analysis.

In some cases, water systems will choose to seek other sources of water rather than employ expensive treatment technologies. Systems may choose a number of strategies, such as shutting down sources with high radon levels and pumping more from sources with low levels, or converting from ground water to surface water. In the cost analysis, however, it has been assumed that such options will not be available to most systems, and they will need to obtain water from other systems. This option is referred to as "regionalization" in the following discussions.

These general families of technologies, along with the specific variants used in the cost analysis, are described.

#### 5.1.1 Aeration

Because of radon's volatility, when water containing radon comes into contact with air, the radon rapidly diffuses into the gas phase. Several aeration technologies are available. As will be discussed in more detail below, the specific technology adopted in response to the rule will depend on the system's influent radon level, size, and the degree of radon removal that is required. The following common aeration technologies have been included in this analysis. Other aeration technologies are available (spray aeration, tray aeration, etc.) that can potentially be used by water systems to remove radon. These technologies have not been included in the analysis either because they have technical characteristics that limit their use in public water systems, or because their removal efficiencies are lower, and/or their unit costs are higher than the three aeration technologies included in the analysis.

*Packed Tower Aeration (PTA).* During PTA treatment, the water flows downward by gravity and air is forced upward through a packing material that is designed to promote intimate air-water contact. The untreated water is usually distributed on the top of the packing with sprays or distribution trays and the air is blown up a column by forced or induced draft. This design results in continuous and thorough contact of the liquid with air (US EPA 1998O). In terms of radon removal, PTA is the most effective aeration technology. Radon removal efficiencies of up to 99.9 percent are technically feasible and not prohibitively expensive for most applications. In this analysis, two different PTA treatments are used to estimate radon removal cost. The costs are dependant on the degree of reduction required to achieve compliance with the allowable radon level. The first design is capable of reducing radon levels by 80 percent; the second and more costly version reduces radon in drinking water by 99 percent.

*Diffused Bubble Aeration (DA).* Aeration is accomplished in the diffused-air type equipment by injecting bubbles of air into the water by means of submerged diffusers or porous plates. The untreated water enters the top of the basin and exits from the bottom [having been] treated, while the fresh air is blown from the bottom and is exhausted from the top (US EPA 1998O). Diffused bubble aeration can

achieve radon removal efficiencies greater than 90 percent. In this analysis, a DA system with a removal efficiency of 80 percent is used as the basis for estimating compliance costs.

*Multiple Stage Bubble Aeration (MSBA).* MSBA is a variant of DA developed for small to medium water supply systems (US EPA 1998O). MSBA units consist of shallow, partitioned trays. Water passes through multiple stages of bubble aeration of relatively shallow depth. In this analysis, an MSBA radon removal efficiency of 80 percent is assumed.

All of the aeration technologies discussed above are assumed to be "central" treatments in the cost analysis. That is, a single large installation is used to treat water from a given source, prior to the water entering the distribution system to serve many users. It is also technically feasible to apply some of these technologies at the point of entry (e.g. just before water from the distribution system enters the household where it is to be used). However, most aeration technologies are only cost-effective at minimum flows far above that corresponding to the water usage rate of a typical household, and thus would not likely be selected as the treatment of choice.

Also, in all of the aeration systems just discussed, the radon removed from water is released to ambient (outdoor) air. In this analysis, it has been assumed that the air released from aeration systems will not itself require treatment, result in appreciable risks to public health, or result in increased permitting costs for water systems. For the 1991 proposed rule, EPA conducted analyses on radon emissions and potential risks associated with radon and its progeny as they disperse from a water treatment facility (US EPA 1988, 1989). In summary, these analyses concluded that the annual risk of fatal cancer from radon and its progeny in off-gas emissions was 2,700 times smaller (108 cases/0.04 cases) than the annual risk of fatal cancer from radon and its progeny from tap water after all ground water systems were at or below the 1991 target level of 300 pCi/L. Using the occurrence estimates at that time, the off-gas risk was estimated to be 4800 times smaller (192 cases/0.04 cases) than the radon in tap water risk if no water mitigation was done (US EPA 1994C). The EPA's SAB reviewed the Agency's report and concluded that: (1) while the uncertainty analysis could be upgraded to lend greater scientific credibility, the results of modeling would not likely change, i.e., the risk posed by release of radon through treatment would be less

than that posed by drinking untreated water; and (2) it is likely that the conservative assumptions adopted by EPA in its air emissions modeling resulted in overestimates of risk (US EPA 1994C).

#### 5.1.2 Granular Activated Carbon (GAC)

The second major category of radon removal technology is treatment with granular activated carbon. GAC adsorption removes contaminants from water by the attraction and accumulation of the contaminant on the surface of carbon. The magnitude of the available surface area for adsorption to occur is of primary importance, while other chemical and electrochemical forces are of secondary significance. Therefore, high surface area is an important factor in the adsorption process (US EPA 1998O). GAC systems are commonly used in water supply systems to remove pesticides or other low-volatility organic chemicals that cannot be removed by aeration. Radon can also be captured by GAC filtration, but the amounts of carbon and the contact times needed to produce a high degree of radon removal are generally much greater than those required to remove common organic contaminants. For most system sizes and design configurations evaluated in this study, aeration can achieve the same degree of radon reduction at lower cost than GAC. However, in the cost analysis for the radon rule, it has been assumed that a small minority of systems will nonetheless choose GAC technology over aeration alternatives, due to system-specific needs (e.g., land availability). Also, POE GAC (see below) may be cost-effective for systems serving only a few households. Depending on the specific design and operating characteristics, GAC can remove up to 99.9 percent of influent radon, but high removal efficiencies require large amounts of carbon and long contact times.

Two types of GAC systems have been evaluated: Central GAC and Point of Entry GAC (POE GAC). Central GAC refers to a design configuration in which the activated carbon treatment takes place at a central treatment facility, prior to entry into the distribution system. GAC may be combined with other treatments and may be used to remove contaminants other than radon in large, centralized facilities. In this analysis, costs are estimated for central GAC systems with removal rates of 50, 80, and 99 percent. POE GAC generally refers to small- to medium-sized carbon filtration units placed in the water distribution system just before use occurs (e.g., before water enters a

residence from the distribution system.) System maintenance involves periodic replacement of the filter units. As noted previously, POE GAC may be the most cost-effective treatment for very small systems serving few households. Costs are estimated for POE GAC with removal rates of 99%.

#### 5.1.3 Storage

Another technology that may be practical when only a relatively slight reductions in radon levels are needed is the storage of water for a period of time necessary for radioactive decay and volatilization to reduce radon to acceptable levels. Depending on the configuration of the vessel, storage for 24 to 48 hours may be sufficient to reduce radon levels by 50 percent or more. The mode of removal is a combination of radon decay and transfer of the radon from the water to the storage tank headspace, which is refreshed through ventilation (US EPA, 1998D). It has been assumed that a proportion of the smallest CWSs (serving 500 people or fewer) with relatively low influent radon levels and sufficient storage capacity may choose storage as the preferred radon treatment technology. In estimating costs for the storage option, it is assumed that the entire capital and O&M costs of the storage system is attributable to the need to reduce radon levels. In fact, the majority of CWSs choosing storage are likely to already have at least some storage capacity available (ten percent of small systems have atmospheric storage in place (US EPA 1997A)). These systems may be able to add ventilation and/or other mechanisms to increase air/water contact with a small capital investment, which supports the conclusion that the present assumption of no storage in place is a conservative assumption.

#### 5.1.4 Regionalization

The last technology whose costs are included in the HRRCA is regionalization. In this analysis, regionalization is defined as the construction of new mains to the nearest system with water below the required radon level. This cost is estimated to be \$280,000 per system (1997S). The cost of actually purchasing water is not included in regionalization costs, for several reasons. In the first case, regionalization may involve the actual consolidation of water systems, and thus there may be no charge to the system which is "regionalized". In addition, the system which supplies the water to the regionalized system will still incur the same (or nearly the same) costs for radon treatment as before

regionalization and could be expected to pass them on to the regionalized system. This assumes that the water production cost (\$/kgal) for the CWS before it regionalizes is equal to the unit price (\$/kgal) it will pay to the water system from which it purchases water. In reality, this will over-estimate costs in some cases and under-estimate in others. Including a water purchase price in the cost estimate for regionalization without correcting it for the removal of water production costs would lead to an over-estimate in the costs of regionalization.

#### 5.1.5 Radon Removal Efficiencies

The amount of radon that the various technologies can remove from water varies according to their specific design and operating characteristics. At the most costly extreme, both aeration and GAC technologies can remove 99 percent or more of the radon in water. Less costly alternative designs remove less radon. In this analysis, one or more cost estimates have been developed for the technologies discussed above, corresponding to one or more radon removal levels. Approximate cost ranges for achieving specified radon reduction efficiencies using the various technologies are shown in Table 5-1. These costs are estimated based on flow rates for a single installation, which may treat water for an entire system or from a single source. For the aeration and GAC technologies, costs have also been derived for combined radon removal and post-treatment technologies, as discussed below. The basis for the derivation of these cost estimates is described in more detail in Section 5.4.

The procedures used to decide what proportion of CWSs will adopt the various radon removal technologies is described in more detail in Section 5.5. In general, however, the large majority of the systems are assumed to select the least-cost technology required to achieve a target radon level. Other systems, for reasons of technical feasibility, may need to choose more costly treatment technologies.

#### 5.1.6 Pre-Treatment to Reduce Iron and Manganese Levels

Pre-treatment technologies may also need to be part of radon reduction systems. Aeration and GAC technologies can be fouled by high concentrations of iron and manganese (Fe/Mn). EPA believes that Fe/Mn concentrations greater than 0.3 mg/l would generally require pretreatment to protect aeration/GAC systems from fouling. However, since this level is near to the secondary MCL, it is believed that essentially all systems with iron and manganese levels

above 0.3 are likely to already be treating to remove or sequester these metals. Therefore, costs of adding Fe/Mn treatment to radon removal systems are not included in the HRRCA.

Preliminary EPA estimates suggest that inclusion of Fe/Mn treatment costs will not significantly effect overall cost estimates for radon removal. More detailed analysis will be presented

when the proposed NPDWR is published.

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**Table 5-1. Unit Treatment Costs by Removal Efficiency and System Size**

Treatment Technology Train for Radon in Water <sup>1</sup>	Radon Removal Efficiency (% radon removed)	Annual Operations and Maintenance Cost (\$/kgal)						Annualized Capital Cost (Debt cost @ 7% over 20 years) (\$/kgal)						Total Annual Costs (\$/kgal)					
		25-100	101-500	500-3.3 K	3.3 K - 10K	>10 K	(€/kgal)	25-100	101-500	500-3.3 K	3.3 K - 10K	>10K	(€/kgal)	25-100	101-500	500-3.3 K	3.3 K - 10K	>10K	(€/kgal)
PTA/MSBA/STA	80	0.76	0.22	0.07	0.04	2-4	1.51	0.64	0.21	0.08	4-8	2.27	0.87	0.28	0.12	6-12	0.28	0.12	6-12
	99	0.85	0.26	0.09	0.05	4-5	1.91	0.81	0.27	0.14	6-14	2.75	1.07	0.36	0.19	11-19	0.36	0.19	11-19
PTA/MSBA/STA + chlorination	80	2.17	0.61	0.24	0.10	3-10	1.89	0.74	0.28	0.10	4-10	4.07	1.35	0.52	0.20	7-20	0.52	0.20	7-20
	99	2.26	0.64	0.26	0.12	5-12	2.29	0.91	0.34	0.16	7-16	4.55	1.55	0.60	0.27	12-27	0.60	0.27	12-27
DA	80	0.66	0.32	0.22	0.19	NA <sup>2</sup>	0.71	0.40	0.26	0.23	NA	1.37	0.72	0.48	0.42	NA	0.48	0.42	NA
DA + chlorination	80	2.08	0.71	0.39	0.26	NA	1.09	0.49	0.34	0.24	NA	3.17	1.20	0.72	0.50	NA	0.72	0.50	NA
Central GAC	50	7.36	2.39	0.54	NA	NA	14.48	6.11	2.17	NA	NA	21.83	8.50	2.71	NA	NA	2.71	NA	NA
	80	7.52	2.54	0.65			18.64	7.65	2.98			26.15	10.19	3.63			3.63		
	99	98.39	51.26	24.77			23.81	10.44	6.64			122	61.72	31.40			31.40		
Central GAC + chlorination	50	8.77	2.78	0.71	NA	NA	14.86	6.21	2.24	NA	NA	23.63	8.98	2.95	NA	NA	2.95	NA	NA
	80	8.93	2.92	0.82			19.02	7.74	3.05			27.95	10.67	3.87			3.87		
	99	99.80	51.67	24.94			24.20	10.54	6.71			124	62.20	31.65			31.65		
Ventilated Storage <sup>3</sup>	50	1.41	0.38	0.17	NA	NA	1.90	0.84	0.43	NA	NA	3.31	1.22	0.60	NA	NA	0.60	NA	NA
POE GAC	99	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	10.00	10.00	9.00	NA	NA	9.00	NA	NA

<sup>1</sup> PTA = packed tower aeration, STA = shallow tray aeration, MSBA = multi-stage bubble aeration, DA = diffused aeration, GAC = granular activated carbon, POE = point-of-entry.

<sup>2</sup> If "NA" appears in a column, it signifies that this technology was not used in the decision tree for that size category.

<sup>3</sup> O&M Costs for storage are assumed to be identical to chlorination O&M costs.

5.1.7 Post-Treatment—Disinfection

In addition to pre-treatment requirements, the installation of some radon reduction technology may also require post-treatment, primarily to reduce microbial contamination. Both aeration and GAC treatment may introduce potentially infectious particulate contamination, which must be addressed before the water can enter the distribution system. The treatment of water for other contaminants may also introduce microbial contamination. This is one reason why the majority of systems already use disinfection technologies. As will be discussed in more detail below, a substantial proportion of ground water systems (ranging from 50 percent in the smallest size category, to about 68 percent of the largest systems) already disinfect. Costs of disinfection are only attributed to the radon rule only for that proportion of systems not already having disinfection systems in place. For systems that do not already disinfect, chlorination is assumed to be the treatment of choice. Alternative technologies are available, for example UV disinfection, but chlorination is widely used in all size classes of water supply systems, and the chlorination is considered to provide a reasonable basis for estimating disinfection costs.

5.2 Monitoring Costs

While not strictly speaking a water treatment technology, ground water monitoring will play an important role in any strategy to reduce radon exposures. Therefore, monitoring costs have been included as a cost element in the cost analysis. Although EPA has not yet defined a monitoring strategy for the proposed NPDWR, it is clear that systems will, first, have to sample influent water to determine the need for treatment, and second, continue to monitor after treatment (or after a decision is made not to mitigate). For the purpose of developing national cost estimates, it has been assumed that all

systems will have to conduct initial quarterly monitoring of all sources, and continue to conduct radon monitoring and analysis indefinitely after the rule is implemented. This is a conservative assumption (likely to overstate monitoring costs) because in reality a large proportion of systems with radon levels below the MCL will probably be allowed to monitor less frequently after the initial monitoring period.

Monitoring costs are simply the unit costs of radon analyses times the number of samples analyzed. The number of intake sites per system is estimated from SDWIS data, as discussed in Section 5.7. The cost of analyzing each sample is estimated to be between \$40 and \$75, with an representative cost of \$50 per sample used for the national cost estimate (US EPA 1998K).

5.3 Water Treatment Technologies Currently In Use

EPA has conducted an extensive analysis of water treatment technologies currently in use by ground water supply systems (Table 5-2). This table shows the proportions of ground water systems with specific technologies already in place broken down by system size (population served). Many ground water systems currently employ disinfection, aeration, or Fe/Mn removal technologies. This distribution of pre-existing technologies serves as the baseline against which water treatment costs are measured. For example, costs of disinfection are attributed to the radon rule only for the estimated proportion of systems that would have to install disinfection as a post-treatment because they do not already disinfect.

Within current EPA cost models, the estimate of the number of sites (entry points into the distribution system) is ideally broken down into three parts: estimates of the average national occurrence of the contaminant in drinking water systems, the intra-system variability of the contaminant

concentration, and the typical number of sites within system size categories. In prior RIAs, EPA modeled all drinking water systems requiring treatment as installing centralized treatment, which assumes that there is one point of treatment within a system. A more accurate estimate of treatment would be to calculate costs according to treatment installed at each well site that is predicted to be above the target radon level within a water system. This intra-system variability analysis accounts for the fact that, in reality, multi-site water systems do not necessarily have the same radon level at each site. However, because the analysis of intra-system variability for radon occurrence is not yet complete, it is not possible to use this approach to calculate treatment costs. For future rules, including the proposed rule for radon, EPA will calculate national cost estimates based on the number of sites rather than by the system as a whole. These estimates will more accurately reflect the percentage of the population receiving drinking water that has been treated in some way and will result in more accurate national compliance cost estimates.

The cost analysis assumes that any system affected by the rule will continue to employ pre-existing radon treatment technology and pre-and post-treatments in their efforts to comply with the rule. Where pre-or post-treatments are already in place, but radon treatment is currently not taking place, it is assumed that compliance with the radon rule will not require any upgrade or change in the pre-or post-treatments. Therefore, no incremental cost is attributed to pre-or post-treatment technologies. This may underestimate costs if pre-or post-treatments need to be changed (e.g., a need for additional chlorination after the installation of packed tower aeration). The potential magnitude of this cost underestimation is not known, but is likely to be a very small fraction of total treatment costs.

TABLE 5-2.—ESTIMATED PROPORTIONS OF GROUND WATER SYSTEMS WITH WATER TREATMENT TECHNOLOGIES ALREADY IN PLACE (PERCENT) <sup>1</sup>

Water treatment technologies in place	System size (population served)							
	25-100	101-500	501-1K	1K-3.3K	3.3K-10K	10K-50K	50K-100K	100K-1M
Fe/Mn Removal & Aeration & Disinfection .....	0.4	0.2	1.2	0.6	2.9	2.2	3.1	2.0
Fe/Mn Removal & Aeration .....	0.0	0.1	0.2	0.1	0.4	0.1	0.4	0.1
Fe/Mn Removal & Disinfection .....	2.1	5.1	8.3	3.0	7.8	7.4	9.7	6.8
Fe/Mn Removal .....	1.9	1.5	1.5	1.0	1.1	0.4	1.1	0.2
Aeration & Disinfection Only .....	0.9	3.2	9.8	13.7	20.9	19.7	18.6	19.9
Aeration Only .....	0.8	1.0	1.8	2.9	2.9	1.0	2.1	0.6
Disinfection Only .....	49.6	68.2	65.0	65.0	56.3	66.0	58.3	68.3

TABLE 5-2.—ESTIMATED PROPORTIONS OF GROUND WATER SYSTEMS WITH WATER TREATMENT TECHNOLOGIES ALREADY IN PLACE (PERCENT) <sup>1</sup>—Continued

Water treatment technologies in place	System size (population served)							
	25-100	101-500	501-1K	1K-3.3K	3.3K-10K	10K-50K	50K-100K	100K-1M
None .....	44.3	20.7	12.2	13.7	7.7	3.2	6.7	2.1

<sup>1</sup> Source: EPA analysis of data from the Community Water System Survey (CWSS), 1997, and Safe Drinking Water Information System (SDWIS), 1998.

**5.4 Cost of Technologies as a Function of Flow Rates and Radon Removal Efficiency**

EPA has developed a set of cost curves that describe the relationships between the capital and operating and maintenance costs of the various treatment technologies, flow rates, and the degree of radon removal that is required (US EPA 1998A, 1998O). Cost curves were developed using the most recent available data and standard cost estimation methodologies. Separate functions for capital and operation and maintenance (O&M) costs have been developed for each technology and radon removal rate. For all of the technologies except regionalization, both the capital and O&M cost curves are functions of flow rates. Capital costs are estimated as a function of the design flow (DF) of the technology. The DF for a technology is equal to a technology's maximum flow capacity, or the largest amount of water that can be processed per unit time. The DF is typically two to three times greater than the average amount of water treated by a given system. O&M costs are functions of the average flow (AF) through the system. Labor, treatment chemicals and materials, periodic structure maintenance, and water stewardship expenses are estimated based on daily average flows. The cost curves developed by OGWDW for the various radon removal technologies are provided in Appendix B.

**5.5 Choice of Treatment Responses**

The Agency has developed a set of assumptions regarding the choices that

CWSs will make in deciding how to mitigate water radon levels to meet specific exposure reduction requirements. These assumptions have been developed taking into account the expected influent radon levels, the degree of radon removal needed to reach specified levels, the types of technologies that would be technically feasible and cost-effective for systems of a given size, and the distribution of pre-existing technologies shown in Table 5-2. Generally, it is assumed that a system will choose the least-cost alternative technology to achieve a given radon level. For example, to achieve a radon level of 100 pCi/l, all systems with average influent levels below 100 would not need to mitigate, systems with influent radon levels between 100 and 200 pCi/l would need to employ technologies that achieve 50 percent reduction, systems with influent levels between 200 and 500 pCi/l would employ technologies capable of 80 percent radon removal, and systems with influent radon above 500 pCi would employ technologies with removal efficiencies of 99 percent. In actuality, removal efficiencies would be more variable; e.g., a removal efficiency of 90 percent, rather than 99 percent, could be employed for radon levels between 500 and 1,000 pCi/l. However, this cost analysis has been limited to three removal efficiencies to simplify the analysis. EPA does not believe that this has introduced any significant bias into the assessment.

Table 5-3 presents the estimated proportions of systems of given sizes that are expected to choose specified

radon reduction technologies for given degrees of radon removal. Most systems in most size classes are assumed to choose aeration as the preferred radon reduction technology with or without disinfection, depending on the proportion of systems in that size stratum already disinfecting. This is because some form of aeration is generally the most cost-effective option for a given degree of radon reduction. For small systems and low required removal efficiencies, multistage fixed-bed (MSBA) and diffused bubble aeration (DA) tend to be the most cost-effective. For large systems and high removal efficiencies, packed tower aeration (PTA) is the only feasible aeration technology.

Small proportions of the smallest system size categories (less than 5 percent in all cases) are assumed to choose central GAC with or without disinfection. A few percent of the smallest systems are also assumed to choose POE GAC. Storage is assumed to be a viable option for two percent of small systems where radon reduction of 50 percent or less is required, and regionalization is assumed to be feasible for one percent of the smallest systems. EPA has assumed in this HRRCA that no systems would choose spray aeration or alternative source technologies. It is believed that these technologies would be chosen only rarely, and their omission has not biased the compliance cost estimates. This issue will be addressed in more detail in the proposed NPDWR.

TABLE 5-3.—DECISION MATRIX FOR SELECTION OF TREATMENT TECHNOLOGY OPTIONS: UP TO 50 PERCENT REMOVAL

Treatment technology option	Percent of system size category (population served) choosing treatment technology							
	<100	101-500	501-1000	1001-3.3K	3301-10K	10-50K	50-100K	100-1000K
PTA (80) .....	2.6	7.8	16.8	31.9	60.8	86.9	86.3	96.4
PTA (80) + disinfection .....	2.4	2.2	3.2	8.1	9.2	3.2	13.7	3.6
MSBA/STA (80) .....	13.2	21.8	22.7	15.9	8.7	0.0	0.0	0.0
MSBA/STA (80) + disinfection .....	11.8	6.2	4.3	4.1	1.3	0.0	0.0	0.0
DA (80) .....	31.7	43.4	42.7	31.9	17.4	9.7	0.0	0.0
DA (80) + disinfection .....	28.3	12.6	8.3	8.1	2.6	0.4	0.0	0.0
Retrofit Spray .....	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
GAC (50) .....	2.6	2.3	0.8	0.0	0.0	0.0	0.0	0.0

TABLE 5-3.—DECISION MATRIX FOR SELECTION OF TREATMENT TECHNOLOGY OPTIONS: UP TO 50 PERCENT REMOVAL—Continued

Treatment technology option	Percent of system size category (population served) choosing treatment technology							
	<100	101-500	501-1000	1001-3.3K	3301-10K	10-50K	50-100K	100-1000K
GAC (50) + disinfection	2.4	0.7	0.2	0.0	0.0	0.0	0.0	0.0
POE GAC (99)	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Storage (50)	2.0	2.0	1.0	0.0	0.0	0.0	0.0	0.0
Regionalization (99)	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Alternate source (99)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
All Systems	100	100	100	100	100	100	100	100
PTA (80)	4.2	10.9	20.2	31.9	60.8	96.5	86.3	96.4
PTA (80) + disinfection	3.8	3.1	3.8	8.1	9.2	3.5	13.7	3.6
MSBA/STA (80)	14.8	21.0	21.0	15.9	8.7	0.0	0.0	0.0
MSBA/STA (80) + disinfection	13.2	6.0	4.0	4.1	1.3	0.0	0.0	0.0
DA (80)	29.6	42.8	42.0	31.9	17.4	0.0	0.0	0.0
DA (80) + disinfection	26.4	12.2	8.0	8.1	2.6	0.0	0.0	0.0
Retrofit Spray	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
GAC (80)	2.6	2.3	0.8	0.0	0.0	0.0	0.0	0.0
GAC (80) + disinfection	2.4	0.7	0.2	0.0	0.0	0.0	0.0	0.0
POE GAC (99)	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Regionalization (99)	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Alternate source (99)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
All Systems	100	100	100	100	100	100	100	100
PTA (99)	15.3	26.5	35.3	47.8	69.4	96.5	86.3	96.4
PTA (99) + disinfection	13.7	7.5	6.7	12.2	10.6	3.5	13.7	3.6
MSBA/STA (99)	34.3	49.1	48.7	31.9	17.4	0.0	0.0	0.0
MSBA/STA (99) + disinfection	30.7	13.9	9.3	8.1	2.6	0.0	0.0	0.0
GAC (99)	1.6	1.6	0.0	0.0	0.0	0.0	0.0	0.0
GAC (99) + disinfection	1.4	0.4	0.0	0.0	0.0	0.0	0.0	0.0
POE GAC (99)	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Regionalization (99)	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Alternate source (99)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Totals	100	100	100	100	100	100	100	100

Notes:

1. Technology abbreviations: PTA = packed tower aeration, MSBA/STA = multi-stage bubble aeration, GAC = granular activated carbon, POE GAC = point of entry granular activated carbon. Numbers in parentheses indicate removal efficiencies.
2. Capital costs for small systems include land costs. For large systems, it is assumed that additional land is not required.
3. Sequestration costs are included in PTA and MSBA/STA capital costs.
4. Additional housing costs are included in PTA, MSBA/STA, and GAC capital costs and are weighted under the assumption that 50% of small systems will require additional housing, 100% of large systems will require additional housing.
5. Permitting costs are included and are assumed to be 3% of capital costs, with a minimum of \$2500.
6. Pump and blower redundancies are included in capital costs.

5.6 Cost Estimation

5.6.1 Site and System Costs

The costs of reducing radon in ground water to specific radon levels was calculated using the cost curves discussed in Section 5.4 and the matrix of treatment options presented in Section 5.5. For each radon level and system size stratum, the number of systems required to reduce radon levels by up to 50 percent, 80 percent and 99 percent were calculated. Then, the cost curves for the distributions of technologies dictated by the treatment matrix were applied to the appropriate proportions of the systems. Capital and O&M costs were then calculated for each system, based on typical estimated design and average flow rates. These flow rates were calculated on spreadsheets using equations from EPA's Safe Drinking Water Suite Model (US EPA 1998N). The equations and

parameter values relating system size to flow rates are presented in Appendix C.

The distributions of influent radon levels in the various system size categories were calculated using the results of EPA's updated radon occurrence analysis (exceedance proportions calculated from data in US EPA 1998L).

Capital and O&M costs were estimated separately for each "site" (a separate water source, usually a well) within systems. Where systems obtained water from only one site, costs are calculated by applying the entire system flow rate to the appropriate cost curves. Where systems consisted of more than one site, the total system flow rate was divided by the number of sites, capital and O&M costs were then calculated for the resulting flow rate, and the total system cost was obtained by multiplying this result by the number of sites in the system. This approach provides conservative cost estimates,

because it assumes that separate treatment systems would be built at each site. This approach also obscures some of the effects of variability in system sizes on costs, because each system in a given size category is assumed to have the same flow rate.

Table 5-4 summarizes the numbers of sites per system for the various size categories of combined public and private community ground water systems. The average ranges from 1.1 site per system serving less than 100 people to almost nine sites per system serving greater than 100,000 people. The distributions of the numbers of sites per systems are very skewed, with ninetieth-percentile values ranging from 2 to 20 sites per system for the smallest and largest size categories, respectively. A large proportion of the systems serving 10,000 people or less obtain water from only one site. Public and private water systems differ with regard to system design and average flows. For

this reason, separate cost estimates have been developed for the public and private community ground water systems.

TABLE 5-4.—NUMBERS OF SITES PER GROUND WATER SYSTEM BY SYSTEM SIZE

System size (population served)	Average sites per system	90th percentile sites per system
25-100 .....	1.1	2
101-500 .....	1.2	2
501-1,000 .....	1.4	3
1,001-3,300 .....	1.7	4
3,301-10,000 .....	2.3	4
10,001-50,000 .....	3.9	10
50,000-100,000 .....	8.7	20
>100,000 .....	8.8	20

Source: EPA analysis of CWSS data, 1998.

In addition to the costs of radon treatment and disinfection, monitoring costs were also calculated for each system. As noted previously, the average cost of monitoring was estimated to be \$50 per sample, and it was assumed that each site in a system would need to be monitored quarterly. Monitoring costs were added as an ongoing cost stream to the O&M costs.

#### 5.6.2 Aggregated National Costs

The estimated costs of reducing radon levels to meet different radon levels were estimated by summing the costs for the individual sites and systems in each size category and influent range. Separate totals were compiled for capital and O&M costs. Capital costs were annualized (over 20 years at a seven per cent discount rate) and added to the annual O&M costs to provide single aggregate estimates of national costs for each radon level. This approach implicitly assumes that treatment devices have useful lives that are identical to the period of financing. In reality, the useful life and period of financing are not necessarily the same. The aggregate cost estimates are presented in Section 6. As will be discussed in more detail below, separate cost estimates were developed for implementation options involving MMM programs and are presented in Section 7. Summary outputs of the spreadsheet models used to estimate costs are provided in Appendix D.

#### 5.6.3 Costs to Community Water Supply Systems

As noted above, costs were estimated separately for public and private ground water systems. Costs per system were calculated by dividing total costs for a given size category of public or private system by the total number of systems

needing to mitigate radon. The results of these assessments are presented in Section 6.

#### 5.6.4 Costs to Consumers/Households

Costs to households have also been calculated for public and private ground water systems. Costs are calculated by multiplying the average annual treatment costs per thousand gallons by the estimated average household consumption (83,000 gal/year). This approach assumes that all water systems pass incremental costs attributable to the radon rule on to system's residential customers and that the residential customers will pay the same proportion of costs as other users. Average household costs are calculated separately for public and private community water systems across various system-size categories. Per household costs are then compared to median household income data (US EPA 1998H) for the same system-size categories. These impacts are discussed in Section 6.

#### 5.6.5 Costs of Radon Treatment by Non-Transient Non-Community Systems

Very little data are available that will support the development of detailed estimates of radon treatment costs for the NTNCWS that could be affected by a radon NPDWR. EPA is currently conducting a more detailed evaluation of the characteristics of NTNCWSs that will be completed in time for the proposed rule.

#### 5.7 Application of Radon Related Costs to Other Rules

The baseline for the radon rule compliance cost estimates presented in this draft HRRCA consists of the pre-existing treatment technology distribution shown in Table 5-2. As the radon rule is implemented, however, other rules may also require additional systems to install new technologies (e.g., disinfection). Thus, attributing all costs of increased use of disinfection at systems with high radon levels to the radon rule would overstate its cost. At the present time, EPA has not quantified the potential degree to which the costs of the radon rule may be overstated.

### 6. Results: Costs and Benefits of Reducing Radon in Drinking Water

This section presents benefit, cost, and impact estimates for the various radon levels. Section 6.1 provides an overview of the analytical approach. Sections 6.2 and 6.3 present the monetized benefit and cost estimates for the various radon levels evaluated. Section 6.3 summarizes the economic

impacts on the various affected entities. Section 6.5 compares the costs and benefits of the radon levels evaluated. Section 6.6 presents a brief summary of the major uncertainties in the cost, benefit, and impact estimates.

The presentation of costs and benefits in this Section is based on analysis of radon levels of 100, 300, 500, 700, 1,000, 2,000, and 4,000 pCi/l in CWSs served by ground water.

#### 6.1 Overview of Analytical Approach

The analysis of benefits quantifies the reduction in health risks/impacts to the general population and considers the risks to potentially sensitive subpopulations (qualitatively). The evaluated health benefits of the rule consist of reduced fatal and non-fatal cancer risks, and the monetary surrogates for these benefits have been estimated, as described in Section 4.0. The national cost estimates developed include the capital and O&M costs to reduce radon, along with pre- and post-treatment costs where appropriate, as well as monitoring costs. Record keeping and reporting costs and implementation costs to States and government entities will be addressed in the RIA prepared for the proposed rule.

The costs and benefits of a radon NPDWR will result in economic impacts on affected individuals, corporate entities, and government entities. In this analysis, the impacts on water systems and households have been evaluated. These include: (1) the cost to systems of different sizes and ownership types, and (2) changes in water costs to households as a proportion of income. Public systems include those owned by government entities. Private systems consist of investor-owned entities that provide drinking water as their primary line of business. Ancillary systems include drinking water systems that are operated incidentally to another business. The vast majority of ancillary systems are mobile home parks, but some are schools, hospitals, and other entities. The economic impacts of the MMM programs on systems or households have not been calculated, because there is no information at present as to how these programs would be funded or upon whom the costs would fall.

#### 6.2 Health Risk Reduction and Monetized Health Benefits

The probabilistic risk model was used to calculate the cancer risk reduction benefits of the various levels. Risk reduction benefits were calculated by subtracting the estimated population risk (number of fatal cancers per year at a particular radon level) from the

baseline (pre-regulation) population cancer risk due to radon exposure. Estimates of the number of non-fatal cancers avoided were developed as described in Section 4.2.1. The results of this analysis are summarized in Table 6-1. Under the baseline scenario, the estimated number of fatal cancers per

year caused by radon exposures in domestic water supplies is 160, and the number of non-fatal cancers is 9.2. As radon levels decrease, residual risks decrease, and the risk reduction benefits increase. Since very few people are exposed at levels above 2,000 pCi/l, the benefit of controls in this range is

relatively small (fewer than 7 cancers prevented per year). The health risk reduction benefits then increase rapidly as radon levels decrease because progressively larger populations are affected as more and more systems are required to mitigate exposures.

TABLE 6-1.—RESIDUAL CANCER RISK AND RISK REDUCTION FROM REDUCING RADON IN DRINKING WATER

Radon level (pCi/l in water)	Residual fatal cancer risk (cases per year)	Residual non-fatal cancer risk (cases per year)	Risk reduction (fatal cancers avoided per year) <sup>1</sup>	Risk reduction (non-fatal cancers avoided per year) <sup>1</sup>
(Baseline) .....	160	9.2	0	0
4,000 <sup>2</sup> .....	158	9.1	2.2	0.1
2,000 .....	153	8.8	6.5	0.4
1,000 .....	143	8.2	16	0.9
700 .....	135	7.8	25	1.4
500 .....	124	7.1	36	2.1
300 .....	101	5.8	58	3.4
100 .....	44.8	2.6	115	6.6

<sup>1</sup> Risk reductions and residual risk estimates are slightly inconsistent due to rounding.

<sup>2</sup> 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA provisions of Section 1412(b)(13).

At the lowest level (100 pCi/l) analyzed, the residual cancer risk (the cancer risk occurring after controls are installed) is approximately 45 fatal cancers per year. The risk reduction from this radon level is 115 fatalities per year, a reduction of approximately 72 percent from the baseline of 160 per year. A similar proportional reduction in non-fatal cancers is seen with decreasing radon levels.

The monetary valuation methods discussed in Section 4 were applied to these risk reductions, as shown in Table 6-2. The central tendency benefits estimates are based on a VSL of \$5.8 million (1997\$) and a WTP to avoid fatal cancers of \$536,00 (1997\$). The ranges of benefits estimated using the upper and lower bound estimates of the VSL and WTP to avoid non-fatal cancers are also provided in the table.

TABLE 6-2.—ESTIMATED MONETIZED HEALTH BENEFITS FROM REDUCING RADON IN DRINKING WATER

Radon Level (pCi/l)	Monetized health benefits, central tendency (annualized, \$millions, 1997) <sup>1</sup>	Range of monetized health benefits (annualized, \$millions, 1997) <sup>2</sup>
4,000 <sup>3</sup> .....	13	2-35
2,000 .....	38	5-106
1,000 .....	96	12-268
700 .....	145	18-403
500 .....	212	26-591
300 .....	343	43-955
100 .....	673	84-1875

<sup>1</sup> Includes contributions from fatal and non-fatal cancers, estimated using central tendency estimates of the VSL of \$5.8 million (1997\$), and a WTP to avoid non-fatal cancers of \$536,000 (1997\$).

<sup>2</sup> Estimates the range of VSL between \$0.7 and \$16.3 million (1997\$), and a range of WTP to avoid non-fatal cancers between \$169,000 (1997\$) and \$1.05 million (1997\$).

<sup>3</sup> 4,000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA provisions of Section 1412(b)(13).

Using central tendency estimates for each of the monetary equivalents, the baseline health costs of fatal and non-

fatal cancers associated with household radon exposures from CWSs are estimated to be \$933 million per year. Central tendency estimates of monetized benefits range from \$13 million per year for a level of 4,000 pCi/l up to \$673 million for the most stringent level of 100 pCi/l. When different values for the VSL are used, the benefits estimates change significantly. Using a lower bound VSL of \$0.7 million, the benefits estimates are reduced approximately 9-fold compared to the central tendency estimates. Using an upper bound VSL of 16.3 million increases the benefits estimates by approximately 3-fold relative to the central tendency estimate. Variations in the estimated WTP to avoid non-fatal cancers affect benefit total estimates only slightly (i.e., less than 1 percent), since non-fatal cancers represent a very small proportion of estimated radon cancer cases.

A more detailed breakout of the risk reduction, monetized benefits estimates, and the total cost per fatal cancer case avoided for ever-smokers and never-smokers is provided in Tables 6-3 and 6-4.

TABLE 6-3.—RISK REDUCTION AND MONETIZED BENEFITS ESTIMATES FOR EVER-SMOKERS<sup>1</sup>

	Radon level, pCi/l						
	4000 <sup>3</sup>	2000	1000	700	500	300	100
Fatal Cancers Avoided Per Year .....	1.7	5.2	13.2	19.9	29.2	47.1	92.5
Non-Fatal Cancers Avoided Per Year .....	0.1	0.3	0.8	1.1	1.7	2.7	5.2
Annual Monetized Health Benefits (\$Millions, 1997)—Central Tendency .....	10.2	30.6	77.1	115.8	170.0	274.7	539.3

TABLE 6-3.—RISK REDUCTION AND MONETIZED BENEFITS ESTIMATES FOR EVER-SMOKERS<sup>1</sup>—Continued

	Radon level, pCi/l						
	4000 <sup>3</sup>	2000	1000	700	500	300	100
Annual Incremental Health Benefits (\$Millions/year)—Central Tendency .....	10.2	20.4	46.5	38.7	54.2	104.7	264.6
Annual Cost Per Fatal Cancer Avoided (\$Millions, 1997) <sup>2</sup> .....	7.0	4.4	3.7	3.7	3.7	4.0	4.3

<sup>1</sup> Risk reductions for ever- and never-smokers were estimated using the NAS unit risk estimates summarized in Table 3-4, an ever-smoking prevalence of 58% males and 42% females, a central VSL estimate of \$5.8 million (1997\$), and central WTP estimate to avoid non-fatal cancer of \$536,000 (1997\$).

<sup>2</sup> Total cost estimates come from Table 6-5. The cost per fatal cancer case avoided is calculated by dividing the estimates of fatal cancers avoided per year by the annualized mitigation costs for each population. For purposes of this analysis, it was assumed that the mitigation costs (for both water and MMM programs) would be allocated equally to smoking and non-smoking populations.

<sup>3</sup> 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on the SDWA provisions of Section 1412(b)(13).

TABLE 6-4.—RISK REDUCTION AND MONETIZED BENEFITS ESTIMATES FOR NEVER-SMOKERS

	Radon Level, pCi/l						
	4000 *	2000	1000	700	500	300	100
Fatal Cancers Avoided Per Year .....	0.4	1.3	3.2	4.8	7.0	11.4	22.3
Non-Fatal Cancers Avoided Per Year .....	0.03	0.09	0.22	0.33	0.48	0.78	1.54
Annual Monetized Health Benefits (\$Millions, 1997)—Central Tendency .....	2.4	7.4	18.6	27.9	41.0	66.3	130.2
Annual Incremental Health Benefits (\$Millions/year)—Central Tendency .....	2.4	5	11.2	9.3	13.1	25.3	63.9
Annual Cost Per Fatal Cancer Avoided (\$Millions, 1997) ...	29.2	18.3	15.3	15.4	15.5	16.4	17.8

\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

6.3 Costs of Radon Mitigation

This section describes the incremental costs associated with each of the radon levels. Discussion of the cost results includes: the total nationally aggregated cost to all water systems that must comply with the target radon levels. These include capital and O&M costs; the average annualized cost per system exceeding the applicable radon level; the average annualized costs per system and incremental costs per household,

broken out by public and private water system; and costs and impacts to households under each radon level. All costs are incremental costs stated in 1997 dollars. Capital costs were annualized using a seven percent discount rate and a 20-year amortization period.

6.3.1 Aggregate Costs of Water Treatment

The total annual nationally aggregated cost varies significantly by the specific radon level. Total national cost estimates for CWSs are presented in Table 6-5. As demonstrated by the exhibit, water mitigation costs increase substantially from the highest radon level analyzed (\$24 million at 4000 pCi/l) to the lowest level analyzed (\$795 million at 100 pCi/l).

TABLE 6-5.—ESTIMATED ANNUALIZED NATIONAL COSTS OF REDUCING RADON EXPOSURES  
[\$Million, 1997]

Radon level (pCi/l)	Central tendency estimate of annualized costs	Range of annualized costs (+/- 50%)	Cost per fatal cancer case avoided
4000* .....	24	12-36	11.3
2000 .....	46	23-70	7.1
1000 .....	98	49-146	5.9
700 .....	148	75-223	6.0
500 .....	218	109-327	6.0
300 .....	373	187-560	6.4
100 .....	795	398-1193	6.9

\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

The costs borne by water systems are made up of annualized capital, O&M, and monitoring costs. The contributions

of these cost elements are broken out in Table 6-6. As the radon level increases (i.e., is made less stringent), the

proportion of costs due to monitoring increases relative to capital and O&M costs.

TABLE 6-6.—CAPITAL AND O&M COSTS OF MITIGATING RADON IN DRINKING WATER  
[\$Million, 1997]

Radon levels (pCi/l)	Annual capital cost	Annual O&M cost	Annual monitoring costs	Total costs
4000*	8.0	5.2	11.4	25
2000	19.8	15.3	11.4	46
1000	48.9	37.4	11.4	98
700	77.9	58.5	11.4	148
500	119	87.7	11.4	218
300	210	124	11.4	373
100	460.	324	11.4	795

\* 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

6.4 Incremental Costs and Benefits of Radon Removal

Table 6-7 summarizes the central tendency and the upper and lower bound estimates of the incremental costs and benefits of radon exposure

reduction. Both the annual incremental costs and benefits increase as the radon level is incrementally decreased from 2000 pCi/l down to 100 pCi/l. The exhibit also illustrates the wide ranges of potential incremental costs and benefits due to the uncertainty inherent

in the estimates. Incremental costs and benefits are within 10 percent of each other at radon levels of 1000, 700, and 500 pCi/l. There is substantial overlap between the incremental costs and benefits at each radon level.

Table 6-7.—Estimates of the Annual Incremental Costs and Benefits of Reducing Radon in Drinking Water  
[\$Millions, 1997]

	Radon Level, pCi/l						
	4000*	2,000	1,000	700	500	300	100
Annual Incremental Cost	24	46	52	50	70	156	422
Range of Annual Incremental Costs	12-36	11-34	26-76	26-77	34-104	78-233	211-633
Annual Incremental Monetized Benefits	13	25	58	48	67	130	329
Range of Incremental Monetized Benefits	2-35	3-71	7-162	6-135	8-188	17-364	41-920
Incremental Cost Per Fatal Cancer Case Avoided	11.3	5.0	5.2	6.1	6.1	7.0	7.5

\* 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

6.5 Costs to Community Water Systems

This section examines the regulatory costs that will be incurred by individual CWSs at the various radon levels analyzed. Systems above the target radon level will incur monitoring costs

and treatment costs. Systems below the target radon level will incur only monitoring costs. The number of CWSs exceeding the applicable radon level increases considerably with each decrease in the radon level analyzed as shown Table 6-

8. The table also shows that the vast majority (90 percent or more) of affected systems, regardless of radon level, are very, very small (serving 25-500 people) or very small (serving 501-3,300 people).

TABLE 6-8.—NUMBER OF COMMUNITY GROUND WATER SYSTEMS EXCEEDING VARIOUS RADON LEVELS

Exposure level (pCi/l)	VVSVS		VS (501-3,000)	S (3,301-10,000)	M (10,000-100,000)	L (>100K)	Total
	(25-100)	(101-500)					
4000 <sup>1</sup>	364	759	60	5	1	0	1,190
2000	949	1448	205	19	8	0	2,630
1000	2149	2613	668	75	44	2	5,552
700	3090	3459	1,153	151	94	5	7,951
500	4201	4434	1,796	287	177	9	10,904
300	6302	6233	3,059	657	387	19	16,657
100	10,922	10,349	6,077	1,707	995	48	30,098

<sup>1</sup> 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13). Source: (USEPA 19989L).

For CWSs that have radon in excess of a given level within each size category, the average cost per system to reach the target level varies little as the radon levels decrease. This is shown in

Table 6-9, which presents the average annualized cost per public and private CWS by system size category. This pattern is due in large part to the limited number of treatment options assumed to

be available to systems that may (in aggregate) be encountering a relatively wide range of radon levels. In some cases (e.g., for very very small systems), the average cost per system for a given

system size increases as the radon level decreases. In other cases, the average cost per system remains virtually constant as the radon level decreases. These inconsistent patterns are due to two competing effects: (1) The average cost will tend to increase because some systems must select a more costly treatment option; yet (2) the average cost will also tend to decrease with the inclusion of previously unaffected systems (those with lower radon levels) that are most likely to use lower-cost

treatments. The cases where average costs decrease with decreasing radon levels are due to the latter effect.

These results show that changing the radon level affects the number of CWSs that must treat for radon, but generally does not significantly alter the cost per system for those systems above the target level. Moreover, while large systems bear the greatest burden in terms of cost per system, there are relatively few large systems with radon levels above the exposure scenarios

analyzed. The cost per system for CWSs with a radon concentration below a target radon level will be the same because monitoring costs are dependent on system size and not on concentration. Monitoring costs range from less than \$250 for the very very small systems to almost \$2,000 for large systems, again due to the larger number of sites requiring monitoring.

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**Table 6-9. Average Annual Cost Per System (\$Thousands, 1997)**

Radon Level (pCi/l)	Public Systems Exceeding Radon Levels						Private Systems Exceeding Radon Levels					
	VVS (25-100)	VVS (101-500)	VS	S	M	L	VVS (25-100)	VVS (101-500)	VS	S	M	L
4000*	9	12	28	68	184	1050	8	10	22	58	160	1014
2000	9	15	28	68	186	1055	9	12	22	58	162	1019
1000	10	15	28	68	186	1060	9	13	22	58	162	1023
700	10	16	28	68	184	1062	9	13	22	58	160	1026
500	11	16	28	68	185	1067	10	13	22	58	161	1030
300	11	16	28	68	184	1084	10	13	22	58	160	1047
100	12	18	28	68	184	1151	11	15	22	58	160	1110
<b>Annual Per System Cost for those Systems BELOW each level: Monitoring Costs Only</b>												
	0.22	0.24	0.32	0.46	0.88	1.76	0.22	0.24	0.31	0.46	0.87	1.76

\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements at Section 1412(b)(13).

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**6.6 Costs and Impacts to Households**

This section reports incremental household costs and impacts associated with each radon level, assuming that costs incurred by systems above the target radon levels are passed on to the systems' customers (i.e., households). Costs per household reflects only monitoring and treatment costs to CWSs above the target level. In addition, households served by CWSs falling under the target radon level also will incur monitoring costs, but no treatment costs. Costs for these CWSs are relatively low, however, and are not evaluated at the household level. As

with per system costs, the results are presented separately for public and for private CWSs. This is important in considering impacts on households not only because the costs per system are different for public versus private systems, but also because the smallest private systems tend to serve fewer households than do the smallest public systems. Therefore, the average household served by a private system must bear a greater percentage of the CWS's cost than does the average household served by a public CWS. This is particularly important where capital costs make up a large portion of total radon mitigation costs.

The annual cost per household is presented in Table 6-10 for households served by public and private CWSs. As expected, costs per household increase as system size decreases. Costs per household is higher for households served by smaller systems than larger systems for two reasons. First, smaller systems serve far fewer households than larger systems and, consequently, each household must bear a greater percentage share of the CWS's costs. Second, smaller systems tend to have higher influent radon concentrations that, on a per-capita or per-household basis, require more expensive treatment methods (e.g., one that has an 85 percent removal efficiency rather than

50 percent) to achieve the target radon level.

Another significant finding regarding annual cost per household is that, like the per-system costs, household costs (which are a function of per system costs) are relatively constant across different radon levels within each system size category. For example, there is less than \$1 dollar per year variation in cost per household, regardless of the radon level being considered for households served by large public or private systems (between \$6 and \$7 per year), by medium public or private systems (between \$10 and \$11 per year, and by small public or private systems (between \$19 and \$20 per year).

Similarly, for very small systems, the costs per household is consistently about \$34 per year for public systems and consistently about \$40 per year for private systems, varying little across radon level. Only for very very small systems is there a modest variation in household costs. The range for per household costs for public systems serving 25–500 people is \$87 per year (at 4000 pCi/l) to \$135 per year (at 100 pCi/l). The corresponding range for private systems is \$139 to \$238 per year. For households served by the smallest public system (25–100 people), the range of cost per household ranges from \$292 per year at 4000 pCi/l to \$398 per

year at 100 pCi/l. For private systems, the range is \$364 to \$489 per year, respectively. Costs per household for very very small systems differ more than do household costs for other system size categories because very very small systems serve only between 25 and 500 people and, consequently, serve fewer households. Therefore, even though per system costs show little difference for any system size category, all system size categories (other than for very very small systems) spread the small difference out among many more households such that the difference is indistinguishable.

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**Table 6-10. Annual Costs per Household for Community Water Systems (\$, 1997 )**

Radon level (pCi/l)	Households Served by PUBLIC Systems Above Radon level						Households Served by PRIVATE Systems Above Radon level					
	VVS (25-100)	VVS (101-500)	VS	S	M	L	VVS (25-100)	VVS (101-500)	VS	S	M	L
4000*	292	82	34	19	10	6	364	105	39	20	11	6
2000	311	98	34	19	11	6	387	127	40	20	11	6
1000	325	102	34	19	11	6	403	132	40	20	11	6
700	333	103	34	19	10	6	412	134	40	20	11	6
500	340	105	34	19	10	6	421	136	40	20	11	6
300	355	108	34	19	10	6	439	141	40	20	11	7
100	398	119	34	19	10	7	489	155	40	20	11	7

\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

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To further evaluate the impacts of these household costs on the households that must bear them, the costs per household were compared to median household income data for households in each system-size category. The result of this calculation indicates a household's likely share of incremental costs in terms of its household income. The analysis considers only households served by

CWSs with influent radon levels that are above the target radon level. Households served by CWSs with lower radon levels may incur incremental costs due to new monitoring requirements, but these costs are not significant at the household level.

Results are presented in Table 6-11 for public and private CWSs, respectively. For all system sizes but one (very very small private systems), household costs as a percentage of

median household income are less than one percent. Impacts exceed one percent only for households served by very very small private systems, which are expected to face impacts of just under 1.1 percent. Similar to the cost per household results on which they are based, household impacts exhibit little variability across radon levels.

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**Table 6-11. Per Household Impact by Community Ground Water Systems as a Percentage of Median Household Income**

Radon level (pCi/l)	Household Impact for Public Systems Above Radon Level (percent of median household income)						Household Impact for Private Systems Above Radon Level (percent of median household income)					
	VVS	VVS	VS	S	M	L	VVS	VVS	VS	S	M	L
	25-100	101-500					25-100	101-500				
4000*	0.86	0.30	0.13	0.06	0.03	0.02	1.12	0.35	0.16	0.07	0.04	0.02
2000	0.92	0.36	0.13	0.06	0.03	0.02	1.19	0.42	0.16	0.07	0.04	0.02
1000	0.96	0.38	0.13	0.06	0.03	0.02	1.24	0.44	0.16	0.07	0.04	0.02
700	0.98	0.38	0.13	0.06	0.03	0.02	1.27	0.45	0.16	0.07	0.04	0.02
500	1.00	0.39	0.13	0.06	0.03	0.02	1.30	0.45	0.16	0.07	0.04	0.02
300	1.05	0.40	0.13	0.06	0.03	0.02	1.35	0.47	0.16	0.07	0.04	0.02
100	1.17	0.44	0.13	0.06	0.03	0.02	1.51	0.51	0.16	0.07	0.04	0.02

\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

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6.7 Summary of Costs and Benefits

Table 6-12 summarizes the central tendency estimates of annual monetized benefits and annualized costs of the various regulatory alternatives. The

central tendency national cost estimates are greater than the monetized benefits estimates for all radon levels evaluated, although they are within 10 percent at levels of 1000, 700, 500, and 300 pCi/l. Mitigation costs increase more rapidly than the monetized benefits as radon

levels decrease. However, it is important to recognize that due to the uncertainty in the costs and benefits estimates, there is a very broad possible range of potential costs and benefits that overlap across all of the radon levels evaluated.

**TABLE 6-12.—ESTIMATED NATIONAL ANNUAL COSTS AND BENEFITS OF REDUCING RADON EXPOSURES—CENTRAL TENDENCY ESTIMATE**  
[\$Millions, 1997]

Radon level (pCi/l)	Annualized costs	Cost per fatal cancer avoided	Annual monetized benefits
4000 <sup>3</sup>	25	11.3	13
2000	46	7.1	38
1000	98	5.9	96
700	148	6.0	145
500	218	6.0	212
300	373	6.4	343
100	795	6.9	673

Notes: 1. Benefits are calculated for stomach and lung cancer assuming that risk reduction begins immediately. Estimates assume a \$5.8 million value of a statistical life and willingness to pay of \$536,000 for non-fatal cancers.

2. Costs are annualized over twenty years using a discount rate of seven percent.

3. 4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

The total annualized cost per fatal cancer case avoided is \$11.3 million at a radon level of 4,000 pCi/l, drops to

around \$6.0 million for radon levels in the range of 1,000 to 500 pCi/l, and increase again back to \$6.9 million per

life saved at the lowest level of 100 pCi/l.

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**Table 6-13. Total Annual Costs and Fatal Cancers Avoided by System Size (\$Millions, 1997)\***

Radon Level (pCi/l)	Total Fatal Cancers Avoided		Very Very Small		Very Small	Small	Medium	Large
	25-100	101-500	501-3300	3300-10,000				
4000**	5.87 [0.02]	11.2 [0.10]	4.46 [0.34]	1.39 [0.35]	1.42 [0.89]	0.18 [0.45]		
2000	11.1 [0.06]	21.5 [0.30]	8.24 [1.0]	2.34 [1.1]	2.65 [2.7]	0.52 [1.4]		
1000	22.3 [0.16]	37.5 [0.76]	20.3 [2.6]	5.97 [2.7]	9.15 [6.8]	2.34 [3.4]		
700	31.4 [0.24]	49.4 [1.1]	33.0 [3.9]	11.0 [4.0]	18.0 [10.2]	4.88 [5.2]		
500	42.5 [0.35]	63.4 [1.7]	49.7 [5.7]	19.9 [5.9]	33.0 [15.0]	9.11 [7.6]		
300	65.0 [0.56]	90.7 [2.7]	82.78 [9.3]	44.3 [9.5]	70.5 [24.2]	20.1 [12.3]		
100	123 [1.1]	163 [5.3]	161 [18.2]	113 [18.6]	179 [47.5]	54.8 [24.1]		

\* [ ] =fatal cancers avoided

\*\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

**Table 6-14. Annual Monetized Health Benefits By System Size (\$Millions, 1997)**

Radon Level, pCi/l	Total Monetized Health Benefit*	Monetized Health Benefit by System Size					
		25-100	101-500	501-3,300	3,301-10,000	10,001-100,000	> 100,000
4,000**	13 [2.2]	0.12	0.59	2.01	2.07	5.24	2.66
2,000	38 [6.5]	0.37	1.78	6.05	6.17	15.80	8.01
1,000	96 [16]	0.93	4.48	15.24	15.56	39.82	20.18
700	144 [25]	1.39	6.73	22.89	23.37	59.79	30.30
500	212 [36]	2.05	9.88	33.59	34.30	87.77	44.48
300	343 [58]	3.31	15.96	54.28	55.43	141.82	71.87
100	673 [115]	6.49	31.35	106.59	108.84	278.48	141.12

\* [ ] = fatal cancers avoided

\*\*4000 pCi/l is equivalent to the AMCL estimated by the NAS based on SDWA requirements of Section 1412(b)(13).

## 6.8 Sensitivities and Uncertainties

### 6.8.1 Uncertainties in Risk Reduction and Health Benefits Calculations

The estimates of risk and risk reduction are derived based on models which incorporate a number of parameters whose values are both uncertain and highly variable. Thus, the estimates of health risks and risk reduction are uncertain. In addition, to the extent that age-specific smoking prevalence rates change, the risk from radon in drinking water will change.

The cost of fatal cancers tend to dominate the monetized benefits estimates. Approximately 94 percent of the cancers associated with radon exposure and prevented by exposure reduction are fatal cancers of the lung and stomach. In addition, the estimated value of statistical life (\$0.7 to 16.3 million dollars, with a central tendency estimate of \$5.8 million, 1997\$) is much greater than the estimated willingness-to-pay to avoid non-fatal cancers (\$169,000 to \$1.05 million, with a central tendency estimate of \$536,000, 1997\$). If the COI measures are used, non-fatal cancers account for an even smaller proportion of the total monetized costs of cancers, since the medical care and lost-times costs for lung and stomach cancer are on the order of \$108,000 and \$114,000, respectively (1997\$).

Unless the VSL is assumed to be near the lower end of its range, the assumptions made regarding the monetary value of non-fatal cancers are not a major source of uncertainty in the estimates of total monetary benefits. For most reasonable combinations of values, the VSL is the major contributor to the overall uncertainty in monetized values of health benefits. As shown in Table 6-2, the upper and lower estimates of the monetary benefits for a given radon level vary by a factor of approximately 23, corresponding to the ratios of the lower- and upper-bound estimates of the VSL.

### 6.8.2 Uncertainty in Cost and Impact Calculations

The results of the cost and impact analysis are subject to a variety of qualifications. As discussed in Section 5, the analysis is subject to a variety of uncertainties in the models and assumptions made in developing cost estimates. One important assumption is that for all CWSs for which the estimated average radon level exceeds a given level, treatment will be necessary at all sites. This is a very important assumption, because if systems in reality have only a portion of sites above the target level, then mitigation costs could be much lower. EPA is currently evaluating intra-system variability in radon levels, and will address this issue in more detail in the proposal.

In addition, CWSs are assumed to select from only a relatively small number of treatment methods, and to do so in known, constant, proportions. In actuality, systems could select technologies that best fit their needs and optimize operating conditions to reduce costs. The analysis also relies on various cost-related input data that are both uncertain and variable. Some of these variables are entered as constants, others as deterministic functions. For example: treatment technology cost functions are based on EPA cost curves derived for generic systems; households are assumed to use a uniform quantity of 83,000 gallons/year of drinking water, regardless of geographical location, system size, or other factors; MMM program costs are assumed to cost \$700,000 per fatal cancer case avoided, regardless of the specific types or efficiencies of activities undertaken by the mitigation programs. One factor that may contribute significantly to the overall uncertainty in cost estimates is the set of the nonlinear equations (Appendix C) used to convert population served data to estimates of average and design flow rates for ground water systems. Relatively small errors in the specification of this model could

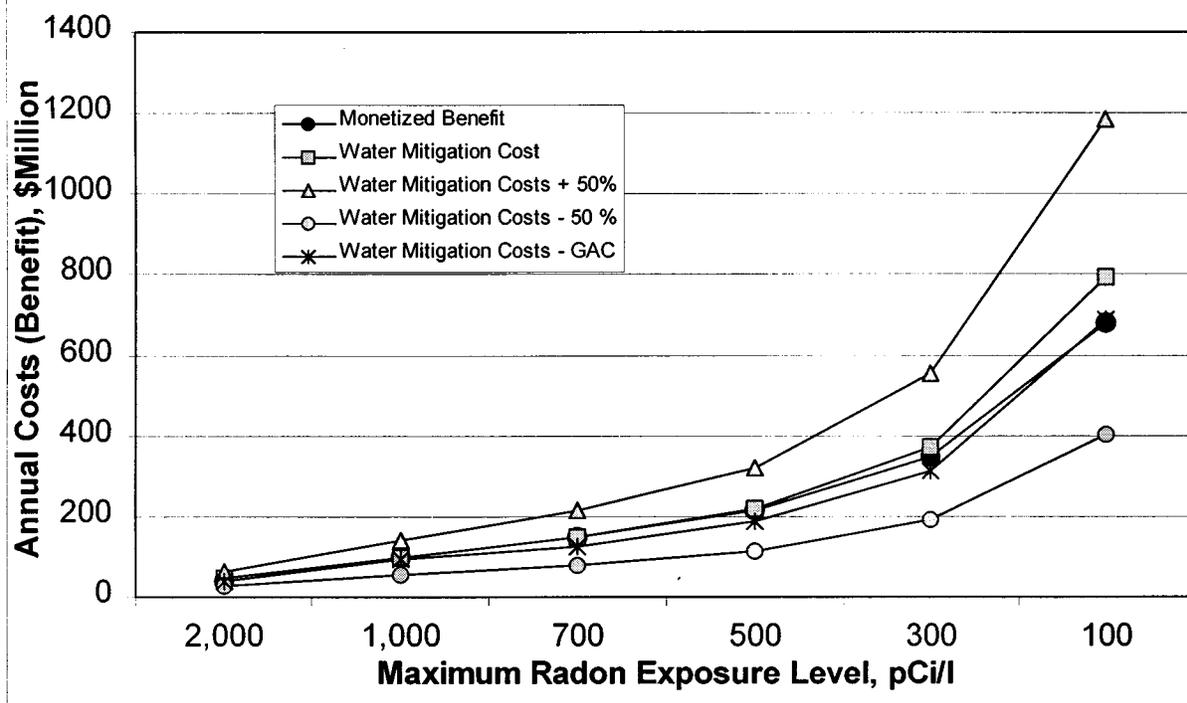
result in disproportionately large impacts on the cost estimates. Similarly, the cost curves for some of the technologies are highly nonlinear function of flow, adding another level of uncertainty to the cost estimates.

Because of the complexity of the various cost models, EPA has not conducted a detailed analysis of the uncertainty associated with the various models and parameter values. Limited uncertainty analyses have been performed, however, to estimate the impact of a few major assumptions and models on the overall estimates of mitigation costs. First, EPA has analyzed the impacts of errors of plus or minus 50 percent in the cost curves for the various radon treatment technologies. The results of this analysis are shown in Figure 6-1. Since water mitigation costs make up the bulk of the total costs of meeting radon levels in the absence of MMM programs, the effect of these changes is generally to increase or decrease the costs of achieving the various levels by slightly less than 50 percent. It can be seen from these results that the assumptions regarding costs can affect the relationship between costs and monetized benefits. A relatively small systematic change in water mitigation costs could result in benefit estimates that either exceed, or are less than, a wide range of radon levels.

In addition to assuming across-the-board changes in radon mitigation costs, EPA also examined the extreme situation in which none of the water systems would adopt GAC treatment. Since the GAC technologies are the most expensive treatments evaluated, the costs of meeting the various radon levels are reduced if GAC is eliminated and systems are assumed to employ aeration instead (Figure 6-1). Since, however, so few systems are assumed to elect GAC in the first place (five percent or less of the smallest systems) the cost decrease of eliminating GAC is quite small.

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**Figure 6.1 Sensitivity Analysis of Water Mitigation Costs**



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### 7. Implementation Scenarios— Multimedia Mitigation Programs Option

This Section presents a preliminary analysis of the likely costs and benefits under two different implementation scenarios in which States choose to develop and implement multimedia mitigation (MMM) programs to comply with the radon NPDWR.

#### 7.1 Multimedia Mitigation Programs

The SDWA, as amended, provides for development of an Alternative Maximum Contaminant Level (AMCL), which public water systems may comply with if their State has an EPA approved MMM program to reduce radon in indoor air. The idea behind the AMCL and MMM option is to reduce radon health risks by addressing the larger source of exposure (air levels in homes) compared to drinking water. If a State chooses to employ a MMM program to reduce radon risk, it would implement a State program to reduce indoor air levels and require public water systems to control water radon levels to the AMCL, which is anticipated to be set at 4000 pCi/l based on NAS's re-evaluation of the radon water to air transfer factor. If a State

does not choose a MMM program option, a public water system may propose a MMM program for EPA approval.

The Agency is currently developing guidelines for MMM programs, which will be published for public comment along with the proposed NPDWR for radon in August 1999. For the purpose of this analysis, the MMM implementation scenarios are assumed to generate the same degree of risk reduction as achieved by mitigating water alone. For example, a MMM scenario which includes the AMCL of 4,000 pCi/l and a target water level of 100 pCi/l is assumed to generate the same degree of risk reduction as the 100 pCi/l level alone. Thus, the HRRCA estimates the health risk reduction benefits of MMM implementation options to be the same as the benefit that would be achieved reducing radon in drinking water supplies alone.

#### 7.2 Implementation Scenarios Evaluated

EPA has evaluated the annual costs and benefits of two MMM implementation assuming (1) all States (and all water systems) would adopt MMM programs and comply with the AMCL, and (2) half of the States (and

half of the water systems) adopt the MMM/AMCL option. These scenarios were analyzed in the absence of specific data on States' intentions to develop MMM programs. The two scenarios, along with the case where the MMM option is not selected by any States or water systems (presented in Section 6), span the range of participation in MMM programs that might occur when a radon NPDWR is implemented. At this point, however, it is not possible to estimate the actual degree of State participation. The economic impacts of the MMM programs at the system or household level have not been calculated, because there is no information at present as to how these programs would be funded or upon who the costs would fall.

The presentation of costs and benefits is based on analysis of radon levels of 100, 300, 500, 700, 1,000, 2,000, and 4,000 pCi/l in public domestic water supplies, supplemented by States (50 or 100 percent participation) implementing MMM programs and complying with an AMCL of 4,000 pCi/l.

For the scenario evaluated in which one-half of the States (estimated to include 50 percent of all CWSs) were assumed to implement a MMM program and comply with an AMCL of 4000 pCi/l option, while the other half mitigated

radon in water to the target radon levels without MMM programs. In the other scenario, all of the States (and 100 percent of the CWSs) were assumed to adopt MMM programs and comply with the AMCL.

**7.3 Multimedia Mitigation Cost and Benefit Assumptions**

For the HRRCA, a simplified approach to estimating the costs of mitigating indoor air radon risks was used. Based on analyses conducted by EPA (US EPA 1992B, 1994C) a point estimate of the average cost per life saved of the current national voluntary radon mitigation program was used as the basis for the cost estimate of risk reduction for the MMM option. In the previous analysis, the Agency estimated that the average cost per fatal lung cancer avoided from testing all existing homes in the United States and mitigating all those homes at or above EPA's voluntary action level of 4 pCi/l is approximately \$700,000 (US EPA 1992B). This value was originally estimated by EPA in 1991. The same nominal value is used in the HRRCA based on anecdotal evidence from EPA's Office of Radiation and Indoor Air that there has been an equivalent offset between a decrease in testing and mitigation costs since 1992 and the expected increase due to inflation in the years 1992-1997. This dollar amount reflects that real testing and mitigation costs have decreased, while nominal costs have remained relatively constant. The estimated cost per fatal cancer case avoided by building new homes radon-

resistant is far lower (Marcinowski 1993). For the purposes of this analysis, only the cost per fatal cancer case avoided from mitigation of existing homes is used.

To estimate the national cost of the MMM program's air mitigation component, MMM costs were estimated by multiplying the cost per fatal cancer case avoided by the number of fatal cases avoided in going from a water radon level equal to the AMCL (4,000 pCi/l) to a water level equal to various radon levels analyzed in the HRRCA. The number of fatal cancer cases avoided was estimated using the risk reduction model described in Section 3.

**7.4 Annual Costs and Benefits of Multimedia Mitigation Program Implementation**

The total annual cost of the radon levels analyzed varies significantly depending on assumptions regarding the number of States implementing MMM programs. This variation can be seen in Tables 7-1 and 7-2. Under an assumption that 50 percent of States choose to implement MMM programs, the cost of the rule varies from about \$38 million per year to achieve a radon level in water of 2,000 pCi/l to about \$450 million per year to achieve an level of 100 pCi/l. Assuming that 100 percent of States implement MMM programs, the cost of the rule varies from about \$29 million per year to achieve a radon level of 2,000 pCi/l to about \$106 million per year to achieve an level of 100 pCi/l.

The monetized benefits of both MMM implementation scenarios exceed the

estimated mitigation costs across all radon levels. When the 50 percent MMM participation scenario is evaluated, the mitigation costs at 2,000 pCi/l are just less than the estimated benefits (\$38 million versus \$39.6 million, respectively). In the case of 100 percent multimedia participation, mitigation costs begin at about 65 percent of the benefits at a radon level of 2,000 pCi/l, and decrease rapidly so that at 100 pCi/l the monetized benefits of radon reduction exceed the mitigation costs by almost 7-fold.

Assuming 50 percent MMM participation, the total cost per fatal cancer case avoided is \$5.8 million at a radon level of 2,000 pCi/l, dropping to around \$3.7 million at a level of 500 pCi/l, and increasing slightly to about \$3.9 at 100, pCi/l (Table 7-1). As expected, the cost per fatal cancer case avoided is lowest for the 100 percent MMM participation option, ranging from from \$4.5 at a radon level of 2,000 pCi/l to about \$900,000 at a level of 100 pCi/l.

For the 50 percent MMM participation, the incremental cost per fatal cancer case avoided decreases from 2000 pCi/l to 500 pCi/l (\$8.7 million to \$3.4 million, respectively), then increases to \$4.1 million at 100 pCi/l. In the case of the 100 percent MMM participation, the incremental cost per life saved starts at about \$4.3 million for the maximum target levels of 2,000 pCi/l, and then drops sharply to about 700,000 per life saved for the other radon.

TABLE 7-1.—CENTRAL TENDENCY ESTIMATES OF ANNUALIZED COSTS AND BENEFITS OF REDUCING RADON EXPOSURES WITH 50% OF STATES SELECTING THE MMM/AMCL OPTION  
[\$million, 1997]

Radon level (pCi/l)	Water mitigation component				Multimedia mitigation component			
	Annual costs <sup>2</sup>	Annual benefits	Fatal cancer cases avoided	Cost per fatal cancer case avoided	Annual costs	Annual benefits	Fatal cancer cases avoided	Cost per fatal cancer case avoided
Baseline .....	0	0	0	.....	0	0	0	0
4000 .....	25	13	2.2	11.3	0	0	0	0
2000 .....	35	25	4.3	8.2	2.3	13	2.2	1.1
1000 .....	61	54	9.0	6.6	5.8	42	7.1	0.81
700 .....	86	78	13	6.4	8.6	66	11	0.77
500 .....	121	112	19	6.3	12.7	99	17	0.74
300 .....	199	177	30	6.6	20	164	28	0.73
100 .....	410	341	58	7.0	40	328	56	0.71

<sup>1</sup> Equivalent to the cost of complying with an AMCL of 4000 pCi/l.

TABLE 7-2.—CENTRAL TENDENCY ESTIMATES OF ANNUALIZED COSTS AND BENEFITS OF REDUCING RADON EXPOSURES WITH 100% OF STATES SELECTING THE MMM/AMCL OPTION  
[\$million, 1997]

Radon level (pCi/l)	Water mitigation component				Multimedia mitigation component			
	Annual costs <sup>1</sup>	Annual benefits	Fatal cancer cases avoided	Cost per fatal cancer case avoided	Annual costs	Annual benefits	Fatal cancer cases avoided	Cost per fatal cancer case avoided
Baseline .....	0	0	0.0	.....	0.0	0.0	0.0	0.0
4000 .....	25	13	2.2	11.3	0.0	0.0	0.0	0.0
2000 .....	25	13	2.2	11.3	4.6	25	4.4	1.1
1000 .....	25	13	2.2	11.3	12	83	14	0.81
700 .....	25	13	2.2	11.3	17	131	23	0.77
500 .....	25	13	2.2	11.3	25	198	34	0.74
300 .....	25	13	2.2	11.3	41	328	56	0.73
100 .....	25	13	2.2	11.3	80	654	112	0.71

<sup>1</sup> Equivalent to the cost of complying with an AMCL of 4000 pCi/l.

7.6 Sensitivities and Uncertainties

EPA conducted a sensitivity analysis associated with potential uncertainty in the cost-effectiveness of MMM programs. Since the value used is a point estimate (\$700,000 per life saved), and since the ability to employ MMM programs results in substantial decreases in estimated costs, it might be expected that changes in the cost-effectiveness value would affect the cost estimates for these options substantially. Figure 7-1 summarizes the impact of different estimates of the cost of MMM

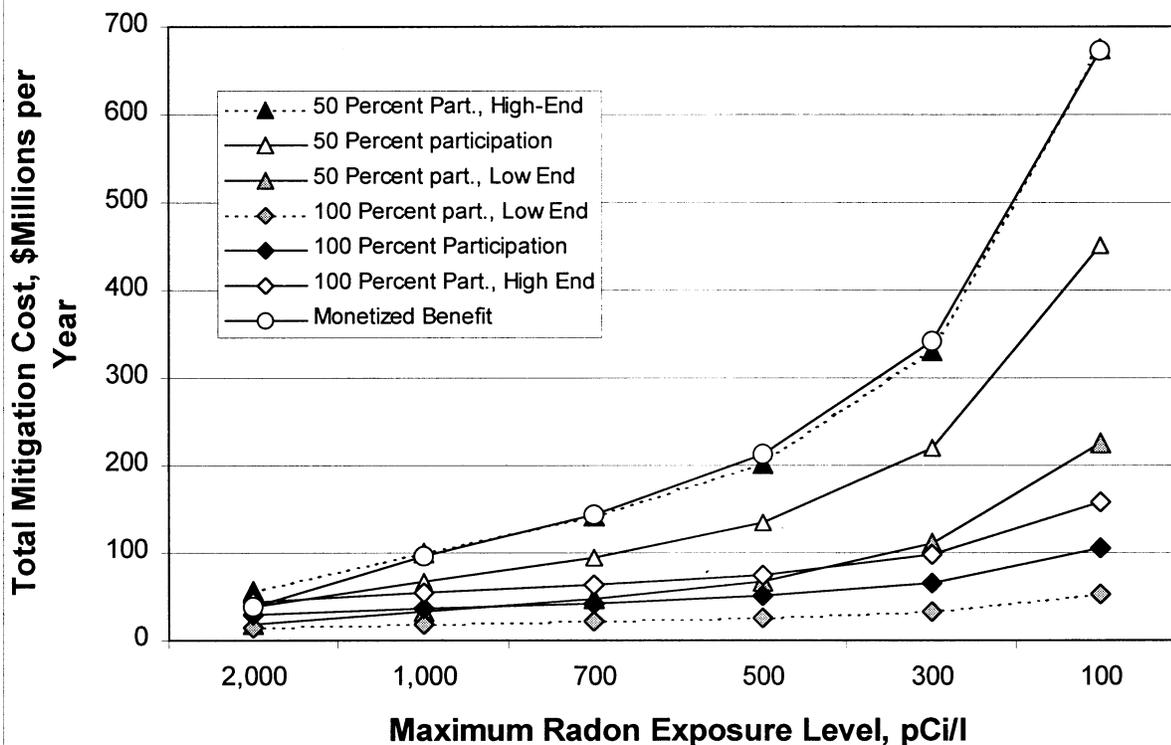
programs on the total cost of radon mitigation. Costs are graphed for the 50 percent and 100 percent participation options for radon level. Costs were estimated for a high-end case (assuming a MMM cost 50 percent above the central tendency value), a low-end case (50 percent below the central tendency), and for a central tendency case that assumes the current \$700,000 per life saved as the MMM cost.

The relative impacts of changing MMM costs on the total costs of reducing radon exposure can also be

seen in Figure 7-1. The figure illustrates that the central tendency estimate of monetized benefits is well above the estimated costs for all ranges except for the high-end estimate of the 50 percent MMM participation scenario. This is due to the greater impact of water mitigation costs relative to the MMM cost component to total costs compared to the 100 MMM scenario, where the MMM component contributes the largest share to total costs.

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**Figure 7-1. Sensitivity Analysis to Changes in Multimedia Cost Estimates**



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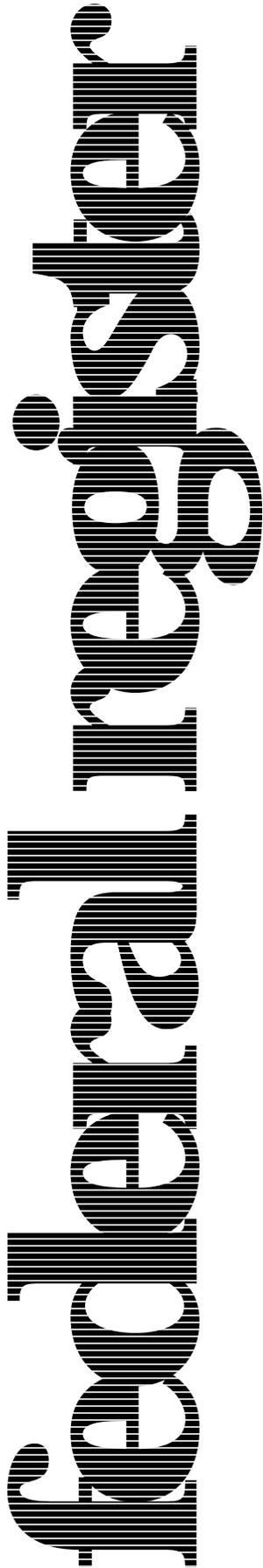
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Friday  
February 26, 1999

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**Part III**

**Department of  
Housing and Urban  
Development**

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**Office of the Assistant Secretary for  
Community Planning and Development,  
Federal Property Suitable as Facilities to  
Assist the Homeless; Notice**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4432-N-08]

**Federal Property Suitable as Facilities  
to Assist the Homeless**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1226; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (12 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless

assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Energy: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM-20, Room 6H-058, Washington, DC 20585; (202) 586-0426; DOT: Mr. Rugene Spruill, Space Management, SVC-140, Transportation Administration Service Center, Department of Transportation, 400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366-4246; Interior: Ms.

Lola Kane, Department of the Interior, 1849 C Street, NW, Mail Stop 5512-MIB, Washington, DC 20240; (202) 208-4080; Navy: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374-5065; (202) 685-9200; VA: Mr. George L. Szwarcman, Director, Land Management Service, Department of Veterans Affairs, 811 Vermont Avenue, NW, Room 414, Lafayette Bldg., Washington, DC 20420; (202) 565-5941; (These are not toll-free numbers).

Dated: February 18, 1999.

**Fred Karnas, Jr.,**

*Deputy Assistant Secretary for Economic Development*

**TITLE V, FEDERAL SURPLUS PROPERTY  
PROGRAM FEDERAL REGISTER REPORT  
FOR 2/26/99**

**Suitable/Available Properties**

*Building (by State)*

California

3 Bachelor Enlisted Quarters

U.S. Coast Guard Section

Humboldt Bay

Samoa CA 95564-9999

Landholding Agency: DOT

Property Number: 87199810001

Status: Unutilized

Comment: 2550 sq. ft. each, 2-story, wood, most recent use—residential, needs rehab, off-site use only.

Indiana

Bldg. 105, VAMC

East 38th Street

Marion Co: Grant IN 46952-

Landholding Agency: VA

Property Number: 97199230006

Status: Excess

Comment: 310 sq. ft., 1 story stone structure, no sanitary or heating facilities, Natl Register of Historic Places.

Bldg. 140, VAMC

East 38th Street

Marion Co: Grant IN 46952-

Landholding Agency: VA

Property Number: 97199230007

Status: Excess

Comment: 60 sq. ft., concrete block bldg., most recent use—trash house.

Bldg. 7

VA Northern Indiana Health Care System

Marion Campust, 1700 East 38th Street

Marion Co: Grant IN 46953-

Landholding Agency: 97199810001

Status: Underutilized

Comment: 16,864 sq. ft. presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

Bldg. 10

VA Northern Indiana Health Care system

Marion Campus, 1700 East 38th Street

Marion Co: Grant IN 46953-

Landholding Agency: VA

Property Number: 97199810002

Status: Underutilized

Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

## Bldg. 11

VA Northern Indiana Health Care System  
Marion Campus, 1700 East 38th Street  
Marion Co: Grant IN 46953—  
Landholding Agency: VA  
Property Number: 97199810003  
Status: Underutilized

Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

## Bldg. 18

VA Northern Indiana Health Care System  
Marion Campus, 1700 East 38th Street  
Marion Co: Grant IN 46953—  
Landholding Agency: VA  
Property Number: 97199810004  
Status: Underutilized

Comment: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places.

## Bldg. 25

VA Northern Indiana Health Care System  
Marion Campus, 1700 East 38th Street  
Marion Co: Grant IN 46953—  
Landholding Agency: VA  
Property Number: 97199810005  
Status: Underutilized

Comment: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

## New Hampshire

## Bldg. H-2

Portsmouth Naval Shipyard  
Portsmouth Co: NH 03804-5000  
Landholding Agency: Navy  
Property Number: 77199910044  
Status: Unutilized

Comment: 1103 sq. ft., possible asbestos, off-site use only.

## Bldg. IY44

Portsmouth Naval Shipyard  
Portsmouth Co: NH 03804-5000  
Landholding Agency: Navy  
Property Number: 77199910045  
Status: Unutilized

Comment: 1100 sq. ft., possible asbestos, most recent use—small arms magazine, off-site use only.

## Bldg. 160

Portsmouth Naval Shipyard  
Portsmouth Co: NH 03804-5000  
Landholding Agency: Navy  
Property Number: 77199910046  
Status: Unutilized

Comment: 6080 sq. ft., possible asbestos, most recent use—storage, off-site use only.

## Pennsylvania

Bldg. 25—VA Medical Center  
Delafield Road  
Pittsburgh Co: Allegheny PA 15215—  
Landholding Agency: VA  
Property Number: 97199210001  
Status: Unutilized

Comment: 133 sq. ft., one story brick guard house, needs rehab.

## Bldg. 3, VAMC

1700 South Lincoln Avenue  
Lebanon Co: Lebanon PA 17042—  
Landholding Agency: VA  
Property Number: 97199230012  
Status: Underutilized

Comment: portion of bldg. (3850 and 4360 sq. ft.), most recent use—storage, second floor—lacks elevator access.

## Texas

Tract 105-79  
9047 Espada Rd,  
San Antonio Co: Bexar TX 78214—  
Landholding Agency: Interior  
Property Number: 61199910013  
Status: Unutilized

Comment: 712 sq. ft., most recent use—residence, off-site use only.

## Wisconsin

## Bldg. 8

VA Medical Center  
County Highway E  
Tomah Co: Monroe WI 54660—  
Landholding Agency: VA  
Property Number: 97199010056  
Status: Underutilized

Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

**Suitable/Available Properties***LAND (by State)*

## Alabama

VA Medical Center  
VAMC  
Tuskegee Co: Macon AL 36083—  
Landholding Agency: VA  
Property Number: 97199010053  
Status: Underutilized

Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

## Arizona

Harry B. Christman Property  
N. of Missile Base Road  
Case No. 91-012  
Marana Co: Pinal AZ 85245—  
Landholding Agency: Interior  
Property Number: 61199910012  
Status: Unutilized

Comment: 2.97 acres of vacant desert.

## California

Land  
4150 Clement Street  
San Francisco Co: San Francisco CA 94121—  
Landholding Agency: VA  
Property Number: 97199240001  
Status: Underutilized

Comment: 4 acres; landslide area.

## Iowa

40.66 acres  
VA Medical Center  
1515 West Pleasant St.  
Knoxville Co: Marion IA 50138—  
Landholding Agency: VA

Property Number: 97199740002  
Status: Unutilized  
Comment: golf course, easement requirements.

## Maryland

VA Medical Center  
9500 North Point Road  
Fort Howard Co: Baltimore MD 21052—  
Landholding Agency: VA  
Property Number: 97199010020  
Status: Underutilized

Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

## Texas

## Land

Olin E. Teague Veterans Center  
1901 South 1st Street  
Temple Co: Bell TX 76504—  
Landholding Agency: VA  
Property Number: 97199010079  
Status: Underutilized

Comment: 13 acres, portion formerly landfill, portion near flammable materials; railroad crosses property, potential utilities.

## Wisconsin

VA Medical Center  
County Highway E  
Tomah Co: Monroe WI 54660—  
Landholding Agency: VA  
Property Number: 97199010054  
Status: Underutilized

Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

**Suitable/Unavailable Properties***BUILDINGS (by State)*

## Alaska

Bldgs. 001A&B  
Spruce Cape Loran Station  
Kodiak Co: Kodiak Is. Bor. AK 99615—  
Landholding Agency: DOT  
Property Number: 87199720001  
Status: Excess

Comment: 12492 sq. ft. steel frame, most recent use—barracks and shops, needs extensive repairs, in Tsunami evacuation area.

## California

Visitor Motel—Upper Kaweah  
Sequoia National Park  
Three Rivers CA 93271—  
Landholding Agency: Interior  
Property Number 61199720007  
Status: Unutilized

Comment: 39403 sq. ft., wood, 2-story, needs repair, presence of asbestos/lead paint, off-site use only.

## Idaho

Bldg. CFA-613  
Central Facilities Area  
Idaho National Engineering Lab  
Scoville Co: Butte ID 83415—  
Landholding Agency: Energy  
Property Number: 41199630001  
Status: Unutilized

Comment: 1219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only.

## Indiana

Bldg. 24, VAMC  
East 38th Street  
Marion Co: Grant IN 46952—  
Landholding Agency: VA  
Property Number: 97199230005  
Status: Underutilized

Comment: 4135 sq. ft. 2-story wood structure, needs minor rehab, no sanitary or heating facilities, presence of asbestos, Natl Register of Historic Places.

## Bldg. 122

VA Northern Indiana Health  
Care System  
Marion Campus, 1700 East  
38th Street

Marion Co: Grant IN 46953–  
Landholding Agency: VA  
Property Number: 97199810006  
Status: Unutilized

Comment: 37,135 sq. ft., presence of asbestos,  
most recent use—former dietetics bldg.,  
National Register of Historic Places.

#### Maine

Mount Desert Rock Light  
U.S. Coast Guard

Southwest Harbor Co: Hancock ME 04679–  
Landholding Agency: DOT  
Property Number: 87199240023  
Status: Unutilized

Comment: 1600 sq. ft., 2-story wood frame  
dwelling, needs rehab, limited utilities,  
limited access, property is subject to severe  
storms.

#### Maine

Little River Light  
U.S. Coast Guard

Cutler Co: Washington ME  
Landholding Agency: DOT  
Property Number: 87199240026  
Status: Unutilized

Comment: 1100 sq. ft., 2-story wood frame  
dwelling, well is contaminated, limited  
utilities.

Burnt Island Light  
U.S. Coast Guard

Southport Co: Lincoln ME 04576–  
Landholding Agency: DOT  
Property Number: 87199240027  
Status: Unutilized

Comment: 750 sq. ft., 2-story wood frame  
dwelling.

#### Maryland

Former Physics Property  
NPS Tract 402–29

Jugtown Co: Washington MD 21713–  
Landholding Agency; Interior  
Property Number: 61199820005  
Status: Excess

Comment: 227 sq. ft. stone cabin, off-site use  
only.

#### Massachusetts

Ziegler House

National Park, Virginia Road  
Lincoln Co: Middlesex MA 10773–  
Landholding Agency; Interior  
Property Number: 61199830001  
Status: Unutilized

Comment: 1661 sq. ft., residential.

Keepers Dwelling

Cape Ann Light, Thachers  
Island

U.S. Coast Guard  
Rockport Co: Essex MA 01966–  
Landholding Agency; DOT  
Property Number: 87199240024  
Status: Unutilized

Comment: 1000 sq. ft., 2-story brick dwelling,  
large wave action with severe ocean  
storms.

Assistant Keepers Dwelling

Cape Ann Light, Thackers  
Island

U.S. Coast Guard  
Rockport Co: Essex MA 01966–  
Landholding Agency: DOT  
Property Number: 87199240025  
Status: Unutilized

Comment: 1100 sq. ft., 2-story wood frame  
dwelling, large wave action with severe  
ocean storms.

#### South Carolina

Bldg. 10

Veterans Affairs Medical Center  
6439 Garners Ferry Road  
Columbia Co: Richland SC 29209–1639

Landholding Agency: VA  
Property Number: 97199830001

Status: Underutilized

Comment: 19,928 sq. ft. admin. bldg., under  
renovation, historical significance, located  
within medical facility.

#### Wisconsin

Bldg. 2

VA Medical Center  
5000 West National Ave.  
Milwaukee WI 53295–  
Landholding Agency: VA  
Property Number: 971999830002  
Status: Underutilized

Comment: 133,730 sq. ft., needs rehab,  
presence of asbestos/lead paint, most  
recent use—storage.

#### LAND (by State)

##### Georgia

Land—St. Simons Boathouse  
St. Simons Island Co: Glynn GA 31522–0577

Landholding Agency: DOT  
Property Number: 87199540003

Status: Unutilized

Comment: .08 acres, most recent use—pier  
and dockage for Coast Guard boats.

##### Illinois

VA Medical Center  
3001 Green Bay Road  
North Chicago Co: Lake IL 60064–  
Landholding Agency: VA  
Property Number: 97199010082  
Status: Underutilized

Comment: 2.5 acres, currently being used as  
a construction staging area for the next 6–  
8 years, potential utilities.

##### Iowa

38 acres  
VA Medical Center  
1515 West Pleasant St.  
Knoxville Co: Marion IA 50138–  
Landholding Agency: VA  
Property Number: 97199740001  
Status: Unutilized

Comment: golf course.

Michigan

VA Medical Center  
5500 Armstrong Road  
Battle Creek Co: Calhoun MI 49016–  
Landholding Agency: VA  
Property Number: 97199010015  
Status: Underutilized

Comment: 20 acres, used as exercise trails  
and storage areas, potential utilities.

##### New York

VA Medical Center  
Fort Hill Avenue  
Canandaigua Co: Ontario NY 14424–  
Landholding Agency: VA  
Property Number: 97199010017  
Status: Underutilized

Comment: 27.5 acres, used for school  
ballfield and parking, existing utilities  
easements, portion leased.

##### Pennsylvania

VA Medical Center  
New Castle Road  
Butler Co: Butler PA 16001–  
Landholding Agency: VA  
Property Number: 97199010016  
Status: Underutilized

Comment: Approx. 9.29 acres, used for  
patient recreation, potential utilities.

Land No. 645

VA Medical Center  
Highland Drive  
Pittsburg Co: Allegheny PA 15206–  
Location: Between Campana and Wiltsie  
Streets

Landholding Agency: VA  
Property Number: 97199010080  
Status: Unutilized

Comment: 90.3 acres, heavily wooded,  
property includes dump area and  
numerous site storm drain outfalls.

Land—34.16 acres

VA Medical Center  
1400 Black Horse Hill Road  
Coatesville Co: Chester PA 19320–  
Landholding Agency: VA  
Property Number: 97199340001  
Status: Underutilized

Comment: 34.16 acres, open field, most  
recent use—recreation/buffer.

##### Tennessee

44 acres

VA Medical Center  
3400 Lebanon Rd.  
Murfreesboro Co: Rutherford TN 37129–  
Landholding Agency: VA  
Property Number: 97199740003  
Status: Underutilized

Comment: intermittent use, partially  
landlocked, flooding.

#### Suitable/To Be Excessed

##### BUILDINGS (by State)

##### Massachusetts

Cuttyhunk Boathouse  
South Shore of Cuttyhunk Pond  
Gosnold Co: Dukes MA 02713–  
Landholding Agency: DOT  
Property Number: 87199310001  
Status: Unutilized

Comment: 2700 sq. ft., wood frame, one  
story, needs rehab, limited utilities, off-site  
use only.

Nauset Beach Light

Nauset Beach Co: Barnstable MA  
Landholding Agency: DOT  
Property Number: 87199420001  
Status: Unutilized

Comment: 48 foot tower, cylindrical cast  
iron, most recent use—aid to navigation.

Plymouth Light

Co: Plymouth MA  
Landholding Agency: DOT  
Property Number: 87199420003  
Status: Unutilized

Comment: 250 sq. ft. tower, and 2096 sq. ft.  
dwelling, wood frame, most recent use—  
aid to navigation/housing.

Light Tower, Highland Light  
Near Rt. 6, 9 miles south of Race Point  
North Truro Co: Barnstable MA 02652–  
Landholding Agency: DOT  
Property Number: 87199430005

Status: Excess  
 Comment: 66 ft. tower, 14' 9" diameter, brick structure, scheduled to be vacated 9/94.

**Keepers Dwelling**

Highland Light  
 Near Rt. 6, 9 miles south of Race Point  
 North Truro Co: Barnstable MA 02652-  
 Landholding Agency: DOT  
 Property Number: 87199430006  
 Status: Excess  
 Comment: 1160 sq. ft., 2-story wood frame, attached to light tower, scheduled to be vacated 9/94.

**Duplex Housing Unit**

Highland Light  
 Near Rt. 6, 9 miles south of Race Point  
 North Truro Co: Barnstable MA 02652-  
 Landholding Agency: DOT  
 Property Number: 87199430007  
 Status: Excess  
 Comment: 2 living units, 930 sq. ft., each, 1-story each, located on eroding ocean bluff, scheduled to be vacated 9/94.

**Nahant Towers**

Nahant Co: Essex MA  
 Landholding Agency: DOT  
 Property Number: 87199530001  
 Status: Unutilized  
 Comment: 196 sq. ft., 8-story observation tower.

**LAND (by State)**

**California**

Excess Land at Eureka Housing  
 Eureka Co: Humboldt CA 95501-  
 Landholding Agency: DOT  
 Property Number: 8799540001  
 Status: Unutilized

Comment: .5 acres, encroachment by adjoining land owners, easement.

**Minnesota**

Land around Bldg. 240-249, 253  
 VA Medical Center  
 Fort Snelling  
 St. Paul Co: Hennepin MN 55111-  
 Landholding Agency: VA  
 Property Number: 97199010007  
 Status: Unutilized  
 Comment: 3.76 acres, potential utilities.

**Unsuitable Properties**

**BUILDINGS (by State)**

**Alabama**

Dwelling A  
 USCG Mobile Pt. Station  
 Ft. Morgan  
 Gulfshores Co: Baldwin AL 36542-  
 Landholding Agency: DOT  
 Property Number: 87199120001  
 Status: Excess  
 Reason: Floodway.

Dwelling B  
 USCG Mobile Pt. Station  
 Ft. Morgan  
 Gulfshores Co: Baldwin AL 36542-  
 Landholding Agency: DOT  
 Property Number: 87199120002  
 Status: Excess  
 Reason: Floodway.

Oil House  
 USCG Mobile Pt. Station  
 Ft. Morgan  
 Gulfshores Co: Baldwin AL 36542-

Landholding Agency: DOT  
 Property Number: 87199120003  
 Status: Excess  
 Reason: Floodway.

**Alabama**

Garage  
 USCG Mobile Pt. Station  
 Ft. Morgan  
 Gulfshores Co: Baldwin AL 36542-  
 Landholding Agency: DOT  
 Property Number: 87199120004  
 Status: Excess  
 Reason: Floodway.

Shop Building  
 USCG Mobile Pt. Station  
 Ft. Morgan  
 Gulfshores Co: Baldwin AL 36542-  
 Landholding Agency: DOT  
 Property Number: 87199120005  
 Status: Excess  
 Reason: Floodway.

**Bldg. 7**

VA Medical Center  
 Tuskegee Co: Macon AL 36083-  
 Landholding Agency: VA  
 Property Number: 97199730001  
 Status: Underutilized  
 Reason: Secured Area.

**Bldg. 8**

VA Medical Center  
 Tuskegee Co: Macon AL 36083-  
 Landholding Agency: VA  
 Property Number: 97199730002  
 Status: Underutilized  
 Reason: Secured Area.

**Alaska**

Bldg. 28  
 USCG Support Center  
 Kodiak Co: Kodiak Island AK 99619-5000  
 Landholding Agency: DOT  
 Property Number: 87199210126  
 Status: Excess  
 Reasons: Within airport runway clear zone, Secured Area.

**Bldg. 19**

USCG Support Center  
 Kodiak Co: Kodiak Island AK 99619-5000  
 Landholding Agency: DOT  
 Property Number: 87199210128  
 Status: Excess  
 Reasons: Within airport runway clear zone, Extensive deterioration, Secured Area.

**Bldg. 18**

USCG Support Center  
 Kodiak Co: Kodiak Island AK 99619-5000  
 Landholding Agency: DOT  
 Property Number: 87199210132  
 Status: Excess  
 Reasons: Within airport runway clear zone, Secured Area  
 GSA Number: U-ALAS-655A.

**Bldg. A512**

USCG Support Center  
 Kodiak Co: Kodiak Island AK 99619-5000  
 Landholding Agency: DOT  
 Property Number: 87199210133  
 Status: Excess  
 Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area.

Bldg. R1, Holiday Beach  
 U.S. Coast Guard Support Center  
 Kodiak Co: Kodiak Island AK 99619-5014

Landholding Agency: DOT  
 Property Number: 87199310014  
 Status: Unutilized  
 Reason: Secured Area.  
 Bldg. S-3  
 U.S. Coast Guard Support Center  
 Kodiak Co: Kodiak Island AK 99619-5014  
 Landholding Agency: DOT  
 Property Number: 87199310015  
 Status: Unutilized  
 Reason: Secured Area.

Bldg. S-16  
 U.S. Coast Guard Support Center  
 Kodiak Co: Kodiak Island AK 99619-5014  
 Landholding Agency: DOT  
 Property Number: 87199310016  
 Status: Unutilized  
 Reason: Secured Area.

Bldg. 624  
 U.S. Coast Guard Support Center  
 Kodiak Co: Kodiak Island AK 99619-5014  
 Landholding Agency: DOT  
 Property Number: 87199310021  
 Status: Unutilized  
 Reasons: Within airport runway clear zone Secured Area.

Housing Ketchikan (Naushon UPH  
 3615 Baranof Avenue  
 Ketchikan Co: Ketchikan AK 99801-  
 Landholding Agency: DOT  
 Property Number: 87199320005  
 Status: Unutilized  
 Reason: Extensive deterioration.

**Bldg. 456**

Coast Guard-ISC Kodiak  
 Kodiak Co: Kodiak Borough AK 99615-  
 Landholding Agency: DOT  
 Property Number: 87199710002  
 Status: Excess  
 Reasons: Within airport runway clear zone Secured Area Extensive deterioration.

**Bldg. 524A**

USCG ISC Kodiak  
 Kodiak Co: Kodiak Is. Bor. AK 99619-  
 Landholding Agency: DOT  
 Property Number: 87199710004  
 Status: Excess  
 Reasons: Floodway Secured Area.

Bldg. R13, USCG ISC Kodiak  
 Holiday Beach  
 Kodiak Co: Kodiak Is Bor AK 99619-  
 Landholding Agency: DOT  
 Property Number: 87199720003  
 Status: Excess  
 Reason: Secured Area.

Bldg. 172, USCG ISC Kodiak  
 Nyman's Peninsula  
 Kodiak Co: Kodiak Is Bor AK 99619-  
 Landholding Agency: DOT  
 Property Number: 87199720004  
 Status: Excess  
 Reason: Secured Area.

Bldg. 160, USCG ISC Kodiak  
 Comsta/Buskin Lake  
 Kodiak Co: Kodiak Is Bor AK 99619-  
 Landholding Agency: DOT  
 Property Number: 87199720005  
 Status: Excess  
 Reasons: Secured Area Extensive deterioration.

California  
Bldg. 913  
Sandia National Laboratories  
Livermore Co: Alameda CA 94550-  
Landholding Agency: Energy  
Property Number: 41199830007  
Status: Excess  
Reason: Secured Area.

Castle Area Shops  
Sequoia National Park  
Three Rivers CA 93271-  
Landholding Agency: Interior  
Property Number: 61199720004  
Status: Unutilized  
Reason: Extensive deterioration.

Giant Forest Village  
Sequoia National Park  
Three Rivers CA 93271-  
Landholding Agency: Interior  
Property Number: 61199720006  
Status: Unutilized  
Reason: Extensive deterioration.

Cabins 90-92, 100V-146  
Sequoia National Park  
Three Rivers CA 93271-  
Landholding Agency: Interior  
Property Number: 61199720008  
Status: Unutilized  
Reason: Extensive deterioration.

Lower Kaweah 514-549, 594  
Sequoia National Park  
Three Rivers CA 93271-  
Landholding Agency: Interior  
Property Number: 61199720009  
Status: Unutilized  
Reason: Extensive deterioration.

Lower Kaweah Cabins—various  
Sequoia National Park  
Three Rivers CA 93271-  
Landholding Agency: Interior  
Property Number: 61199720010  
Status: Unutilized  
Reason: Extensive deterioration.

10 Bldg.  
USCG Station Humboldt Bay  
Samoa Co: Humboldt CA 95564-9999  
Landholding Agency: DOT  
Property Number: 87199440027  
Status: Excess  
Reason: Extensive deterioration  
Comment: Land to be relinquished to BLM  
(Public Domain Land).

Bldg. T102  
U.S.C.G. Training Center  
Petaluma Co: Sonoma CA 94952-  
Landholding Agency: DOT  
Property Number: 87199830001  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

Colorado  
Bldg. 34  
Grand Junction Projects Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199540001  
Status: Underutilized  
Reasons: Contamination, Secured Area.

Bldg. 35  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199540002  
Status: Underutilized  
Reasons: Contamination Secured Area.

Bldg. 36  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199540003  
Status: Underutilized  
Reasons: Contamination Secured Area.

Bldg. 2  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199610039  
Status: Unutilized  
Reasons: Contamination Secured Area.

Bldg. 7  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199610040  
Status: Unutilized  
Reasons: Contamination Secured Area.

Bldg. 31-A  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199610041  
Status: Unutilized  
Reasons: Contamination Secured Area.

Bldg. 33  
Grand Junction Projects  
Office  
Grand Junction Co: Mesa CO 81503-  
Landholding Agency: Energy  
Property Number: 41199610042  
Status: Unutilized  
Reasons: Contamination Secured Area.

Alemeda Facility  
350 S. Santa Fe Drive  
Denver Co: Denver CO 80223-  
Landholding Agency: DOT  
Property Number: 87199010014  
Status: Unutilized  
Reason: Other environmental  
Comment: contamination.

Connecticut  
Bldgs. 25 and 26  
Prospect Hill Road  
Windsor Co: Hartford CT 06095-  
Landholding Agency: Energy  
Property Number: 41199440003  
Status: Excess  
Reason: Secured Area.

9 Bldgs.  
Knolls Atomic Power Lab,  
Windsor Site  
Windsor Co: Hartford CT 06095-  
Landholding Agency: Energy  
Property Number: 41199540004  
Status: Excess  
Reason: Secured Area.

Bldg. 8, Windsor Site  
Knolls Atomic Power Lab  
Windsor Co: Hartford CT 06095-  
Landholding Agency: Energy  
Property Number: 41199830006  
Status: Unutilized  
Reason: Extensive deterioration.

Falkner Island Light  
U.S. Coast Guard  
Guilford Co: New Haven CT 06512-  
Landholding Agency: DOT  
Property Number: 87199240031  
Status: Unutilized  
Reason: Floodway.

Florida  
Bldg. #3, Recreation Cottage  
USCG Station  
Marathon Co: Monroe FL 33050-  
Landholding Agency: DOT  
Property Number: 87199210008  
Status: Unutilized  
Reasons: Floodway, Secured Area.

Bldg. 103, Trumbo Point  
Key West Co: Monroe FL 33040-  
Landholding Agency: DOT  
Property Number: 87199230001  
Status: Unutilized  
Reasons: Floodway, Secured Area.

Exchange Building  
St. Petersburg Co: Pinellas FL 33701-  
Landholding Agency: DOT  
Property Number: 87199410004  
Status: Unutilized  
Reasons: Floodway.

9988 Keepers Quarters A  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440009  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9989 Keepers Quarters B  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440010  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9990 Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440011  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9991 Plant Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440012  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9992 Shop Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440013  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9993 Admin. Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440014  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9994 Water Pump Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440015  
Status: Underutilized

Reasons: Floodway, Secured Area.  
Storage Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440016  
Status: Underutilized  
Reasons: Floodway, Secured Area.

9999 Storage Bldg.  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440017  
Status: Underutilized  
Reasons: Floodway, Secured Area.

3 Bldgs. and Land  
Peanut Island Station  
Riveria Beach Co: Palm Beach FL 33419-0909

Landholding Agency: DOT  
Property Number: 87199510009  
Status: Unutilized  
Reasons: Floodway, Secured Area.

Cape St. George Lighthouse  
Co: Franklin FL 32328-  
Landholding Agency: DOT  
Property Number: 87199640002  
Status: Unutilized  
Reason: Extensive deterioration.

Georgia

Coast Guard Station  
St. Simons Island  
Co: Glynn GA 31522-0577  
Landholding Agency: DOT  
Property Number: 87199540002  
Status: Unutilized  
Reason: Extensive deterioration.

Hawaii

Bldg. 710  
Naval Station  
Pearl Harbor Co: Honolulu HI 96860-  
Landholding Agency: Navy  
Property Number: 77199910034  
Status: Excess  
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Idaho

Bldg. PBF-621  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610001  
Status: Unutilized  
Comment: Secured Area.

Bldg. CPP-1609  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610002  
Status: Unutilized  
Comment: Secured Area.

Bldg. CPP-691  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610003  
Status: Unutilized  
Comment: Secured Area.

Bldg. CPP-625  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610004

Status: Unutilized  
Comment: Secured Area.  
Bldg. CPP-650  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610005  
Status: Unutilized  
Comment: Secured Area.

Bldg. CPP-608  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610006  
Status: Unutilized  
Comment: Secured Area.

Bldg. TAN-660  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 411996100073  
Status: Unutilized  
Comment: Secured Area.

Bldg. TAN-636  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610008  
Status: Unutilized  
Comment: Secured Area.

Bldg. TAN-609  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610009  
Status: Unutilized  
Comment: Secured Area.

Bldg. TAN-670  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610010  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-661  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610011  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-657  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610012  
Status: Unutilized  
Reason: Secured Area.

Bldg. TRA-669  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610013  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-637  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610014  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-635  
Idaho National Engineering Laboratory

Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610015  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-638  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610016  
Status: Unutilized  
Reason: Secured Area.

Bldg. TAN-651  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610017  
Status: Unutilized  
Reason: Secured Area.

Bldg. TRA-673  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610018  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-620  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610019  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-616  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610020  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-617  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610021  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-619  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610022  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-624  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610023  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-625  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610024  
Status: Unutilized  
Reason: Secured Area.

Bldg. PBF-629  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610025  
Status: Unutilized

Reason: Secured Area.  
Bldg. PBF-604  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610026  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-673  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610027  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-664  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610029  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-643  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610030  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-652  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610032  
Status: Unutilized  
Reason: Secured Area.  
Bldg. TRA-641  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610034  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-691  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610036  
Status: Unutilized  
Reason: Secured Area.  
Bldg. CF-606  
Idaho National Engineering Laboratory  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199610037  
Status: Unutilized  
Reason: Secured Area.  
ARA 626  
Idaho National Engineering Lab  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199710003  
Status: Excess  
Reason: Secured Area.  
CF657/CF716  
Idaho National Engineering Lab  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199710005  
Status: Excess  
Reason: Secured Area.  
CPP709  
Idaho National Engineering Lab  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199710007  
Status: Excess  
Reason: Secured Area, Extensive  
deterioration.  
STF Area, Natl Eng & Env Lab  
#601, 607, 612, 501, 502, ARA-628  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199740003  
Status: Excess  
Reason: Extensive deterioration.  
TAN 602, 631, 663, 702, 724  
Idaho Natl Engineering & Environmental Lab  
Test Area North  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199830002  
Status: Excess  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area,  
Extensive deterioration.  
8 Bldgs.  
Idaho Natl Engineering & Environmental Lab  
Test Reactor North  
Scoville Co: Butte ID 83415-  
Location: TRA 643, 644, 655, 660, 704-706,  
755  
Landholding Agency: Energy  
Property Number: 41199830003  
Status: Excess  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area.  
5 Bldgs.  
Idaho Natl Engineering & Environmental Lab  
CPP601, CPP603/648, CPP627, CPP633,  
CPP640  
Scoville Co: Butte ID 83415-  
Landholding Agency: Energy  
Property Number: 41199840002  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area.  
Illinois  
Calumet Harbor Station  
U.S. Coast Guard  
Chicago Co: Cook IL  
Landholding Agency: DOT  
Property Number: 87199310005  
Status: Excess  
Reason: Secured Area.  
Indiana  
Bldg. 21, VA Medical Center  
East 38th Street  
Marion Co: Grant IN 46952-  
Landholding Agency: VA  
Property Number: 97199230001  
Status: Excess  
Reason: Extensive deterioration.  
Bldg. 22, VA Medical Center  
East 38th Street  
Marion Co: Grant IN 46952-  
Landholding Agency: VA  
Property Number: 97199230002  
Status: Excess  
Reason: Extensive deterioration.  
Bldg. 62, VA Medical Center  
East 38th Street  
Marion Co: Grant IN 46952-  
Landholding Agency: VA  
Property Number: 97199230003  
Status: Excess  
Reason: Extensive deterioration.  
Louisiana  
Weeks Island Facility  
New Iberia Co: Iberia Parish LA 70560-  
Landholding Agency: Energy  
Property Number: 41199610038  
Status: Underutilized  
Reason: Secured Area.  
Maine  
Supply Bldg., Coast Guard  
Southwest Harbor  
Southwest Harbor Co: Hancock ME 04679-  
5000  
Landholding Agency: DOT  
Property Number: 87199240005  
Status: Unutilized  
Reason: Floodway.  
Base Exchange, Coast Guard  
Southwest Harbor  
Southwest Harbor Co: Hancock ME 04679-  
5000  
Landholding Agency: DOT  
Property Number: 87199240006  
Status: Unutilized  
Reason: Floodway.  
Engineering Shop, Coast Guard  
Southwest Harbor  
Southwest Harbor Co: Hancock ME 04679-  
5000  
Landholding Agency: DOT  
Property Number: 87199240007  
Status: Unutilized  
Reason: Floodway.  
Storage Bldg., Coast Guard  
Southwest Harbor  
Southwest Harbor Co: Hancock ME 04679-  
5000  
Landholding Agency: DOT  
Property Number: 87199240008  
Status: Unutilized  
Reason: Floodway.  
Squirrel Point Light  
U.S. Coast Guard  
Phippsburg Co: Sayadahoc ME 04530-  
Landholding Agency: DOT  
Property Number: 87199240032  
Status: Unutilized  
Reason: Floodway.  
Keepers Dwelling  
Heron Neck Light, U.S. Coast Guard  
Vinalhaven Co: Knox ME 04841-  
Landholding Agency: DOT  
Property Number: 87199240035  
Status: Unutilized  
Reason: Extensive deterioration.  
Fort Popham Light  
Phippsburg Co: Sagadahoc ME 04562-  
Landholding Agency: DOT  
Property Number: 87199320024  
Status: Unutilized  
Reason: Extensive deterioration.  
Nash Island Light  
U.S. Coast Guard  
Addison Co: Washington ME 04606-  
Landholding Agency: DOT  
Property Number: 87199420005  
Status: Unutilized  
Reason: Inaccessible.

Bldg.—South Portland Base  
U.S. Coast Guard  
S. Portland Co: Cumberland ME 04106—  
Landholding Agency: DOT  
Property Number: 87199420006  
Status: Unutilized  
Reason: Secured Area.

Garage—Boothbay Harbor Stat.  
Boothbay Harbor Co: Lincoln ME 04538—  
Landholding Agency: DOT  
Property Number: 87199430001  
Status: Unutilized  
Reason: Secured Area.

#### Maryland

Bldgs. 38–39, 41, 43–46, 56  
U.S. Coast Guard Yard  
Baltimore MD 21226—  
Landholding Agency: DOT  
Property Number: 87199540005  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material, Secured Area,  
Extensive deterioration.

#### Bldg. 53

U.S. Coast Guard Yard  
Baltimore MD 21226—  
Landholding Agency: DOT  
Property Number: 87199540006  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material, Secured Area,  
Extensive deterioration.

#### Bldg. 6

U.S. Coast Guard Yard  
2401 Hawkins Point Rd.  
Baltimore MD 21226–1797  
Landholding Agency: DOT  
Property Number: 87199620001  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material, Secured Area.

#### Bldg. 59

U.S. Coast Guard Yard  
2401 Hawkins Point Rd.  
Baltimore MD 21226–1797  
Landholding Agency: DOT  
Property Number: 87199620002  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material, Secured Area.

#### Massachusetts

Bldg. 4, USCG Support Center  
Commercial Street  
Boston Co: Suffolk MA 02203—  
Landholding Agency: DOT  
Property Number: 87199240001  
Status: Underutilized  
Reason: Secured Area.

#### Eastern Point Light

U.S. Coast Guard  
Gloucester Co: Essex MA 01930—  
Landholding Agency: DOT  
Property Number: 87199240029  
Status: Unutilized  
Reason: Secured Area.

#### Storage Shed

Highland Light  
N. Truro Co: Barnstable MA 02652—  
Location: DeSoto Johnson  
Landholding Agency: DOT  
Property Number: 87199430004  
Status: Unutilized  
Reason: Extensive deterioration.

#### Michigan

Quarters B  
U.S. Coast Guard  
Marquette MI 49855—  
Landholding Agency: DOT  
Property Number: 87199740001  
Status: Unutilized  
Reason: Secured Area.

#### Mississippi

Bldg. 157  
Naval Construction Battalion Center  
Gulfport Co: Harrison MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910035  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### Bldg. 217

Naval Construction Battalion Center  
Gulfport Co: Harrison MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910036  
Status: Unutilized  
Reasons: Secured Area, Extensive  
Deterioration.

#### Bldg. 371

Naval Construction Battalion Center  
Gulfport Co: Harrison MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910037  
Status: Unutilized  
Reasons: Secured Area, Extensive  
Deterioration.

#### Bldg. C

Naval Station  
Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910038  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### Bldg. L

Naval Station  
Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910039  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### Bldg. M

Naval Station  
Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910040  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### Bldg. N

Naval Station  
Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910041  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### Bldg. V

Naval Station  
Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910042  
Status: Unutilized  
Reasons: Secured Area Extensive  
deterioration.

#### Bldg. X

#### Naval Station

Pascagoula Co: Jackson MS 39501—  
Landholding Agency: Navy  
Property Number: 77199910043  
Status: Unutilized  
Reasons: Secured Area Extensive  
deterioration.

#### Natchez Moorings

82 L.E. Berry Road  
Natchez Co: Adams MS 39121—  
Landholding Agency: DOT  
Property Number: 87199340002  
Status: Unutilized  
Reason: Extensive deterioration.

#### Bldg. 6, Boiler Plant

Biloxi VA Medical Center  
Biloxi Co: Harrison MS 39531—  
Landholding Agency: VA  
Property Number: 97199410001  
Status: Unutilized  
Reason: Floodway.

#### Bldg. 67

Biloxi VA Medical Center  
Biloxi Co: Harrison MS 39531—  
Landholding Agency: VA  
Property Number: 97199410008  
Status: Unutilized  
Reason: Extensive deterioration.

#### Bldg. 68

Biloxi VA Medical Center  
Biloxi Co: Harrison MS 39531—  
Landholding Agency: VA  
Property Number: 97199410009  
Status: Unutilized  
Reason: Extensive deterioration.

#### Montana

Barn/Garage  
316 N. 26th Street  
Billings Co: Yellowstone MT  
Landholding Agency: Interior  
Property Number: 61199520022  
Status: Excess  
Reason: Extensive deterioration.

#### New Jersey

Piers and Wharf  
Station Sandy Hook  
Highlands Co: Monmouth NJ 07732–5000  
Landholding Agency: DOT  
Property Number: 87199240009  
Status: Unutilized  
Reasons: Secured Area Extensive  
deterioration.

#### Chapel Hill Front Range

Light Tower  
Middletown Co: Monmouth NJ 07748—  
Landholding Agency: DOT  
Property Number: 87199440002  
Status: Unutilized  
Reason: Skeletal Tower.

#### Bldg. 103

U.S. Coast Guard Station  
Sandy Hook  
Middletown Co: Monmouth NJ 07737—  
Landholding Agency: DOT  
Property Number: 87199610002  
Status: Unutilized  
Reason: Secured Area.

#### New Mexico

Bldgs. 9252, 9268  
Kirtland Air Force Base  
Albuquerque Co: Bernalillo NM 87185—  
Landholding Agency: Energy  
Property Number: 41199430002



Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810011  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 21, TA-21  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810012  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 116, TA-21  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810013  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 212, TA-21  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810014  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 228, TA-21  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810015  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 286, TA-21  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810016  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 10, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810017  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area,  
Extensive deterioration.  
Bldg. 27, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810018  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area,  
Extensive deterioration.  
Bldg. 63, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810019  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Extensive deterioration.  
Bldg. 515, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810020  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 516, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810021  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 517, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810022  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 518, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810023  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 519, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810024  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 520, TA-16  
Los Alamos National Laboratory  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199810025  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material; Secured Area;  
Extensive deterioration.  
Bldg. 18, TA-16  
Los Alamos National Lab  
Los Alamos NM 87545-  
Landholding Agency: Energy  
Property Number: 41199840001  
Status: Unutilized  
Reasons: Secured Area; Extensive  
deterioration.

New York  
2 Buildings  
Ant Saugerties  
Saugerties Co: Ulster NY 12477-  
Landholding Agency: DOT  
Property Number: 87199230005  
Status: Unutilized  
Reason: Extensive deterioration.  
Bldg. 606, Fort Totten  
New York Co: Queens NY 11359-  
Landholding Agency: DOT  
Property Number: 87199240020  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 607, Fort Totten  
New York Co: Queens NY 11359-  
Landholding Agency: DOT  
Property Number: 87199240021

Status: Unutilized  
Reasons: Extensive deterioration; Secured  
Area.  
Bldg. 605, Fort Totten  
New York Co: Queens NY 11359-  
Landholding Agency: DOT  
Property Number: 87199240022  
Status: Unutilized  
Reasons: Extensive deterioration; Secured  
Area.  
Eatons Neck Station  
U.S. Coast Guard  
Huntington Co: Suffolk NY 11743-  
Landholding Agency: DOT  
Property Number: 87199310003  
Status: Unutilized  
Reasons: Secured Area; Extensive  
deterioration.  
Bldg. 517, USCG Support Center  
Governors Island Co: Manhattan NY 10004-  
Landholding Agency: DOT  
Property Number: 87199320025  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 138  
U.S. Coast Guard Support  
Center  
Governors Island Co: Manhattan NY 10004-  
Landholding Agency: DOT  
Property Number: 87199410003  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 830  
U.S. Coast Guard  
Governors Island Co: Manhattan NY 10004-  
Landholding Agency: DOT  
Property Number: 87199420004  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 8  
Rosebank—Coast Guard  
Housing  
Staten Island Co: Richmond NY 10301-  
Landholding Agency: DOT  
Property Number: 87199530009  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 7  
Rosebank—Coast Guard  
Housing  
Staten Island Co: Richmond NY 10301-  
Landholding Agency: DOT  
Property Number: 87199530010  
Status: Unutilized  
Reason: Secured Area Extensive  
deterioration.  
Bldg. 222  
Fort Wadsworth  
Staten Island Co: Richmond NY 10305-  
Landholding Agency: DOT  
Property Number: 87199620003  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 223  
Fort Wadsworth  
Staten Island Co: Richmond NY 10305-  
Landholding Agency: DOT  
Property Number: 87199620004  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 205  
Fort Wadsworth  
Staten Island Co: Richmond NY 10305-  
Landholding Agency: DOT

Property Number: 87199620005  
Status: Unutilized  
Reason: Secured Area.

Bldg. 9  
U.S. Coast Guard—Rosebank  
Staten Island Co: Richmond NY 10301—  
Landholding Agency: DOT  
Property Number: 87199630027  
Status: Excess  
Reason: Secured Area.

Bldg. 10  
U.S. Coast Guard—Rosebank  
Staten Island Co: Richmond NY 10301—  
Landholding Agency: DOT  
Property Number: 87199630028  
Status: Excess  
Reason: Secured Area.

Bldg. 206, Rosebank  
Staten Island Co: Richmond NY 10301—  
Landholding Agency: DOT  
Property Number: 87199630029  
Status: Excess  
Reason: Secured Area.

Bldg. 144, VAEC  
Linden Blvd. and 179th St.  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199210004  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 143, VAEC  
Linden Blvd. and 179th St.  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199210005  
Status: Unutilized  
Reason: Extensive deterioration.

Bldgs. 142/146, VAEC  
Linden Blvd. and 179th St.  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199210006  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 72, VAEC  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199720001  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 73, VAEC  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199720002  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 94, VAEC  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199720003  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 158, VAEC  
St. Albans Co: Queens NY 11425—  
Landholding Agency: VA  
Property Number: 97199720004  
Status: Unutilized  
Reason: Extensive deterioration.

North Carolina

Group Cape Hatteras  
Boiler Plant  
Buxton Co: Dare NC 27902-0604  
Landholding Agency: DOT

Property Number: 87199240018  
Status: Unutilized  
Reason: Secured Area.

Group Cape Hatteras  
Bowling Alley  
Buxton Co: Dare NC 27902-0604  
Landholding Agency: DOT  
Property Number: 87199240019  
Status: Unutilized  
Reason: Secured Area.

Bldg. 54  
Group Cape Hatteras  
Buxton Co: Dare NC 27902-0604  
Landholding Agency: DOT  
Property Number: 87199340004  
Status: Unutilized  
Reason: Secured Area.

Bldg. 83  
Group Cape Hatteras  
Buxton Co: Dare NC 27902-0604  
Landholding Agency: DOT  
Property Number: 87199340005  
Status: Unutilized  
Reason: Secured Area.

Water Tanks  
Group Cape Hatteras  
Buxton Co: Dare NC 27902-0604  
Landholding Agency: DOT  
Property Number: 87199340006  
Status: Unutilized  
Reason: Secured Area.

USCG Gentian (WLB 290)  
Fort Macon State Park  
Atlantic Beach Co: Carteret NC 27601—  
Landholding Agency: DOT  
Property Number: 87199420007  
Status: Excess  
Reason: Secured Area.

Unit #71  
Buxton Annex, Cape Kendrick  
Circle  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530011  
Status: Unutilized  
Reason: Floodway.

Unit #72  
Buxton Annex, Cape Kendrick  
Circle  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530012  
Status: Unutilized  
Reason: Floodway.

Unit #73  
Buxton Annex, Cape Kendrick  
Circle  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530013  
Status: Unutilized  
Reason: Floodway.

Unit #74  
Buxton Annex, Cape Kendrick  
Circle  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530014  
Status: Unutilized  
Reason: Floodway.

Unit #75  
Buxton Annex, Cape Kendrick  
Circle  
Buxton Co: Dare NC 27920—

Landholding Agency: DOT  
Property Number: 87199530015  
Status: Unutilized  
Reason: Floodway.

Unit #63  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530016  
Status: Unutilized  
Reason: Floodway.

Unit #64  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530017  
Status: Unutilized  
Reason: Floodway.

Unit #76  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530018  
Status: Unutilized  
Reason: Floodway.

Unit #68  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530019  
Status: Unutilized  
Reason: Floodway.

Unit #69  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530020  
Status: Unutilized  
Reason: Floodway.

Unit #70  
Buxton Annex, Anna May Court  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530021  
Status: Unutilized  
Reason: Floodway.

Unit #77  
Buxton Annex, Old Lighthouse  
Road  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530022  
Status: Unutilized  
Reason: Floodway.

Unit #78  
Buxton Annex, Old Lighthouse  
Road  
Buxton Co: Dare NC 27920—  
Landholding Agency: DOT  
Property Number: 87199530023  
Status: Unutilized  
Reason: Floodway.

Bldg. 45  
Coast Guard Support Center  
Elizabeth City Co: Pasquotank NC 27909—  
5006  
Landholding Agency: DOT  
Property Number: 87199630020  
Status: Unutilized  
Reason: Secured Area.

Bldg. 47  
Coast Guard Support Center  
Elizabeth City Co: Pasquotank NC 27909—  
5006

Landholding Agency: DOT  
Property Number: 87199630021  
Status: Unutilized  
Reason: Secured Area.

Bldg. 9  
VA Medical Center  
1100 Tunnel Road  
Asheville Co: Buncombe NC 28805-  
Landholding Agency: VA  
Property Number: 97199010008  
Status: Unutilized  
Reason: Extensive deterioration.

## Ohio

Bldg. 77  
Fernald Environmental  
Management Project  
Fernald Co: Hamilton OH 45013-  
Landholding Agency: Energy  
Property Number: 41199840003  
Status: Excess  
Reasons: Within 2000 ft. of flammable or  
explosive material Secured Area.

## Oklahoma

Bldgs. 4a, 4b, 6, 8, 9, 11, 12  
NIPER  
Bartlesville Co: Washington OK 74003-  
Landholding Agency: Energy  
Property Number: 41199720003  
Status: Unutilized  
Reason: Extensive deterioration.

## Oregon

Bldg. 8  
USCG Tongue Point Moorings  
Astoria Co: OR 97103-2099  
Landholding Agency: DOT  
Property Number: 87199910001  
Status: Unutilized  
Reason: Extensive deterioration.

## Pennsylvania

Z-Bldg.  
Bettis Atomic Power Lab  
West Mifflin Co: Allegheny PA 15122-0109  
Landholding Agency: Energy  
Property Number: 41199720002  
Status: Excess  
Reason: Extensive deterioration.  
Weiland Prop.—Sound Studio  
Gettysburg Co: Adams PA 17325-  
Landholding Agency: Interior  
Property Number: 61199810013  
Status: Excess  
Reason: Extensive deterioration.

## Puerto Rico

NAFA Warehouse  
U.S. Coast Guard Air Station  
Borinquen  
Aquadilla PR 00604-  
Landholding Agency: DOT  
Property Number: 87199310011  
Status: Unutilized  
Reason: Secured Area.  
Storage Equipment Bldg.  
U.S. Coast Guard Air Station  
Borinquen  
Aquadilla PR 00604-  
Landholding Agency: DOT  
Property Number: 87199330001  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 115  
U.S. Coast Guard Base

San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510001  
Status: Unutilized  
Reason: Secured Area.

Bldg. 117  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510002  
Status: Unutilized  
Reason: Secured Area.

Bldg. 118  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510003  
Status: Unutilized  
Reason: Secured Area.

Bldg. 119  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510004  
Status: Unutilized  
Reason: Secured Area.

Bldg. 120  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510005  
Status: Unutilized  
Reason: Secured Area.

Bldg. 122  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510006  
Status: Unutilized  
Reason: Secured Area.

Bldg. 128  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510007  
Status: Unutilized  
Reason: Secured Area.

Bldg. 129  
U.S. Coast Guard Base  
San Juan PR 00902-2029  
Landholding Agency: DOT  
Property Number: 87199510008  
Status: Unutilized  
Reason: Secured Area.

Bldg. 34  
Naval Station, Gould Island  
Newport Co: RI 02841-  
Landholding Agency: Navy  
Property Number: 77199910047  
Status: Unutilized  
Reason: Inaccessible.

Bldg. 94  
Naval Station, Gould Island  
Newport Co: RI 02841-  
Landholding Agency: Navy  
Property Number: 77199910048  
Status: Unutilized  
Reason: Inaccessible.

Bldg. 61  
Naval Station, Gould Island  
Newport Co: RI 02841-  
Landholding Agency: Navy  
Property Number: 77199910049  
Status: Unutilized

Reason: Inaccessible.  
Station Point Judith Pier  
Narranganset Co: Washington RI 02882-  
Landholding Agency: DOT  
Property Number: 87199310002  
Status: Unutilized  
Reason: Extensive deterioration.

Tennessee  
Bldg. 3004  
Oak Ridge National Lab  
Oak Ridge Co: Roane TN 37831-  
Landholding Agency: Energy  
Property Number: 41199710002  
Status: Unutilized  
Reasons: Secured Area; Extensive  
deterioration.

Bldg. 3004  
Oak Ridge National Lab  
Oak Ridge Co: Roane TN 37831-  
Landholding Agency: Energy  
Property Number: 41199720001  
Status: Excess  
Reason: Extensive deterioration.  
Bldgs. 9714-3, 9714-4, 9983-AY  
Y-12 Pistol Range  
Oak Ridge Co: Anderson TN 37831-  
Landholding Agency: Energy  
Property Number: 41199720004  
Status: Unutilized  
Reason: Secured Area.

5 Bldgs.  
K-724, K-725, K-1031, K-1131, K-1410  
East Tennessee Technology Park  
Oak Ridge Co: Roane TN 37831-  
Landholding Agency: Energy  
Property Number: 41199730001  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 9418-1  
Y-12 Plant  
Oak Ridge Co: Anderson TN 37831-  
Landholding Agency: Energy  
Property Number: 41199810026  
Status: Unutilized  
Reason: Secured Area, Extensive  
deterioration.

Bldg. 9825  
Y-12 Plant  
Oak Ridge Co: Anderson TN 37831-  
Landholding Agency: Energy  
Property Number: 41199810027  
Status: Unutilized  
Reason: Secured Area.

Bldg. 3026  
Oak Ridge Natl Lab  
Oak Ridge Co: Roane TN 37831-  
Landholding Agency: Energy  
Property Number: 41199830001  
Status: Excess  
Reasons: Secured Area, Extensive  
deterioration.

Texas  
Old Exchange Bldg.  
U.S. Coast Guard  
Galveston Co: Galveston TX 77553-3001  
Landholding Agency: DOT  
Property Number: 87199310012  
Status: Unutilized  
Reason: Secured Area.

Texas  
WPB Building  
Station Port Isabel

Coast Guard Station  
South Padre Island Co: Cameron TX 78597-6497

Landholding Agency: DOT  
Property Number: 87199530002  
Status: Unutilized  
Reason: Floodway.

Aton Shops Building  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530003  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

WPB Storage Shed  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530004  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Flammable Storage Building  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530005  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Battery Storage Building  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530006  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Boat House  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530007  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Small Boat Pier  
USCG Station Sabine  
Sabine Co: Jefferson TX 77655-  
Landholding Agency: DOT  
Property Number: 87199530008  
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 108  
Fort Crockett/43rd St. Housing  
Galveston Co: Galveston TX 77553-  
Landholding Agency: DOT  
Property Number: 87199630008  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 24  
Olin E. Teague Veterans Center  
1901 South 1st Street  
Temple Co: Bell TX 76504-  
Landholding Agency: VA  
Property Number: 97199010050  
Status: Unutilized

Reason: Friable asbestos.

Bldg. 25  
Olin E. Teague Veterans Center  
1901 South 1st Street  
Temple Co: Bell TX 76504-

Landholding Agency: VA  
Property Number: 97199010051  
Status: Unutilized  
Reason: Friable asbestos.

Bldg. 26  
Olin E. Teague Veterans Center  
1901 South 1st Street  
Temple Co: Bell TX 76504-  
Landholding Agency: VA  
Property Number: 97199010052  
Status: Unutilized  
Reason: Friable asbestos.

Vermont  
Depot Street  
Downtown at the Waterfront  
Burlington Co: Chittenden VT 05401-5226  
Landholding Agency: DOT

Property Number: 87199220003  
Status: Excess  
Reason: Floodway.

Virginia  
Bldg. 052 & Tennis Court  
USCG Reserve Training Center  
Yorktown Co: York VA 23690-  
Landholding Agency: DOT  
Property Number: 87199230004  
Status: Excess

Reason: Secured Area.

Admin. Bldg.  
Coast Guard, Group Eastern Shores  
Chincoteague Co: Accomack VA 23361-510  
Landholding Agency: DOT  
Property Number: 87199240014  
Status: Unutilized  
Reason: Secured Area.

Little Creek Station  
Navamphib Base, West Annex, U.S. Coast Guard

Norfolk Co: Princess Anne VA 23520-  
Landholding Agency: DOT  
Property Number: 87199310004  
Status: Unutilized  
Reason: Secured Area.

Operations Bldg.  
U.S. Coast Guard Group  
Hampton Roads  
Portsmouth VA 23703-  
Landholding Agency: DOT  
Property Number: 87199710003  
Status: Unutilized  
Reason: Secured Area.

Washington  
Bldgs. 1158, 1159  
Ross Lake Natl Recreation Area  
Co: Whatcom WA  
Landholding Agency: Interior  
Property Number: 61199820001  
Status: Unutilized  
Reason: Extensive deterioration.

N3202, Residence  
Pasco Co: Franklin WA 99301-  
Landholding Agency: Interior  
Property Number: 61199910014  
Status: Excess  
Reason: Extensive deterioration.

Washington  
N3204, Residence  
Pasco Co: Franklin WA 99301-  
Landholding Agency: Interior  
Property Number: 61199910015  
Status: Excess  
Reason: Extensive deterioration.

N3206, Residence  
Pasco Co: Franklin WA 99301-  
Landholding Agency: Interior  
Property Number: 61199910016  
Status: Excess  
Reason: Extensive deterioration.  
Pistol Range Bldg.  
USCG Port Angeles  
Port Angeles Co: Clallam WA 98362-0159  
Landholding Agency: DOT  
Property Number: 87199630030  
Status: Unutilized  
Reasons: Within airport runway clear zone,  
Secured Area, Extensive deterioration.

Floating Boathouse  
Bellingham Co: Whatcom WA 98225-  
Landholding Agency: DOT  
Property Number: 87199820001  
Status: Excess  
Reason: Inaccessible.

Wisconsin  
Rawley Point Light  
Two Rivers Co: Manitowoc WI  
Landholding Agency: DOT  
Property Number: 87199540004  
Status: Unutilized  
Reasons: Secured Area, Extensive deterioration.

Wyoming

Bldg. 95  
Medical Center  
N.W. of town at the end of Fort Road  
Sheridan Co: Sheridan WY 82801-  
Landholding Agency: VA  
Property Number: 97199110004  
Status: Unutilized  
Reason: Sewage digester for disposal plant.

Bldg. 96  
Medical Center  
N.W. of town at end of Fort Road  
Sheridan Co: Sheridan WY 82801-  
Landholding Agency: WA  
Property Number: 97199110005  
Status: Unutilized  
Reason: Pump house for sewage disposal plant.

Structure 99  
Medical Center  
N.W. of town at the end of Fort Road  
Sheridan Co: Sheridan WY 82801-  
Landholding Agency: VA  
Property Number: 97199110006  
Status: Unutilized  
Reason: Mechanical screen for sewage disposal plant.

Structure 100  
Medical Center  
N.W. of town at the end of Fort Road  
Sheridan Co: Sheridan WY 82801-  
Landholding Agency: VA  
Property Number: 97199110007  
Status: Unutilized  
Reason: Dosing tank for sewage disposal plant.

Structure 101  
Medical Center  
N.W. of town at the end of Fort Road  
Sheridan Co: Sheridan WY 82801-  
Landholding Agency: VA  
Property Number: 97199110008  
Status: Unutilized  
Reason: Chlorination chamber for sewage disposal.

Bldg. 97, Medical Center

Sheridan Co: Sheridan WY 82801–  
Landholding Agency: VA  
Property Number: 97199410011  
Status: Unutilized  
Reason: Sewage disposal plant.  
Structure 98, Medical Center  
Sheridan Co: Sheridan WY 82801–  
Landholding Agency: VA  
Property Number: 97199410012  
Status: Unutilized  
Reason: Sludge beb/sewage plant.  
Bldg. 80  
Medical Center  
Sheridan Co: Sheridan WY 82801–  
Landholding Agency: VA  
Property Number: 97199840001  
Status: Unutilized  
Reason: Floodway, Extensive deterioration.

*LAND (by State)*

## Alaska

Russian Creek Aggregate Site  
USCG Support Center Kodiak  
Kodiak Co: Kodiak AK 99619–  
Landholding Agency: DOT  
Property Number: 87199440025  
Status: Excess  
Reason: Floodway.

Sargent Creek Aggregate Site  
USCG Support Center Kodiak  
Kodiak Co: Kodiak AK 99619–  
Landholding Agency: DOT  
Property Number: 87199440026  
Status: Excess  
Reason: Floodway.

Land—Sanak Island  
106 + acres  
Sanak Island Co: Sanak Harbor AK  
Landholding Agency: DOT  
Property Number: 87199640003  
Status: Unutilized  
Reason: Inaccessible.

## Arizona

58 acres  
VA Medical Center  
500 Highway 89 North  
Prescott Co: Yavapai AZ 86313–  
Landholding Agency: VA  
Property Number: 97190630001  
Status: Unutilized  
Reason: Floodway.

20 acres  
VA Medical Center  
500 Highway 89 North  
Prescott Co: Yavapai AZ 86313–  
Landholding Agency: VA

Property Number: 97190630002  
Status: Unutilized  
Reason: Floodway.

## California

DVA Medical Center  
4951 Arroyo Road  
Livermore Co: Alameda CA 94550–  
Landholding Agency: Va  
Property Number: 97199010023  
Status: Unutilized  
Reason: 750,000 gallon water reservoir.

## Florida

Land—approx. 220 acres  
Cape San Blas  
Port St. Joe Co: Gulf FL  
Landholding Agency: DOT  
Property Number: 87199440018  
Status: Underutilized  
Reasons: Floodway, Secured Area.

Wildlife Sanctuary, VAMC  
10,000 Bay Pines Blvd.  
Bay Pines Co: Pinellas FL 33504–  
Landholding Agency: VA  
Property Number: 97199230004  
Status: Underutilized  
Reason: Inaccessible.

## Michigan

Middle Marker Facility  
Ypsilanti Co: Washtenaw MI 48198–  
Location: 549 ft. north of intersection of  
Coolidge and Bradley Ave. on East side of  
street  
Landholding Agency: DOT  
Property Number: 87199120006  
Status: Unutilized  
Reason: Within airport runway clear zone.

## Minnesota

VAMC  
VA Medical Center  
4801 8th Street No.  
St. Cloud Co: Stearns MN 56303–  
Landholding Agency: VA  
Property Number: 97199010049  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

3.85 acres (Area #2)  
VA Medical Center  
4801 8th Street  
St. Cloud Co: Stearns MN 56303–  
Landholding Agency: VA  
Property Number: 97199740004  
Status: Unutilized  
Reason: Landlocked.  
7.48 acres (Area #1)

VA Medical Center  
4801 8th Street  
St. Cloud Co: Stearns MN 56303–  
Landholding Agency: VA  
Property Number: 97199740005  
Status: Underutilized  
Reason: Secured Area.  
New York  
Tract 1  
VA Medical Center  
Bath Co: Steuben NY 14810–  
Location: Exit 38 off New York State Route  
17.

Landholding Agency: VA  
Property Number: 97199010011  
Status: Unutilized  
Reason: Secured Area.

Tract 2  
VA Medical Center  
Bath Co: Steuben NY 14810–  
Location: Exit 38 off New York State Route  
17.

Landholding Agency: VA  
Property Number: 97199010012  
Status: Underutilized  
Reason: Secured Area.

Tract 3  
VA Medical Center  
Bath Co: Steuben NY 14810–  
Location: Exit 38 off New York State Route  
17

Landholding Agency: VA  
Property Number: 97199010013  
Status: Underutilized  
Reason: Secured Area.

Tract 4  
VA Medical Center  
Bath Co: Steuben NY 14810–  
Location: Exit 38 off New York State Route  
17

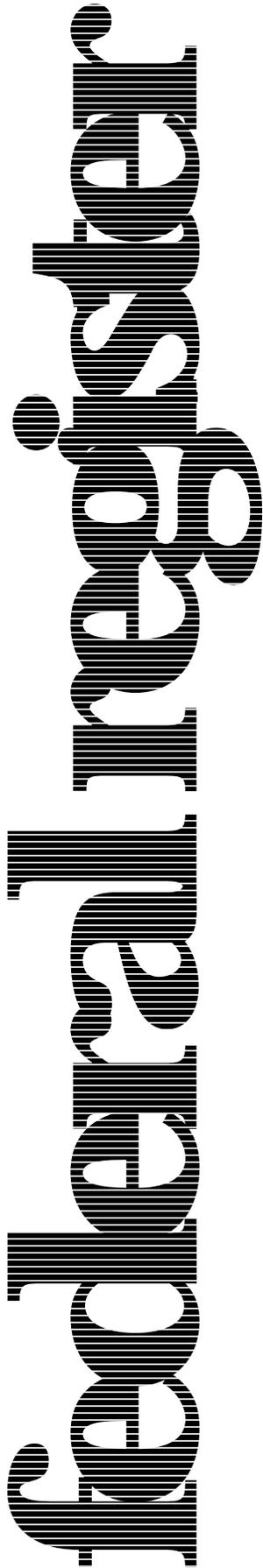
Landholding Agency: VA  
Property Number: 97199010014  
Status: Unutilized  
Reason: Secured Area.

## Puerto Rico

119.3 acres  
Culebra Island PR 00775–  
Landholding Agency: Interior  
Property Number: 61199210001  
Status: Excess  
Reason: Floodway.

[FR Doc. 99–4494 Filed 2–25–99; 8:45 am]

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Friday  
February 26, 1999

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**Part IV**

**Department of  
Housing and Urban  
Development**

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**Super Notice of Funding Availability  
(SuperNOFA) for HUD's Housing,  
Community Development and  
Empowerment Programs; Notice**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4410-N-01]

**Super Notice of Funding Availability  
(SuperNOFA) for HUD's Housing,  
Community Development and  
Empowerment Programs**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Super Notice of Funding Availability (SuperNOFA) for HUD Grant Programs.

**SUMMARY:** This Fiscal Year 1999 Super Notice of Funding Availability (SuperNOFA) announces the availability of approximately \$2.4 billion in HUD program funds covering 32 grant categories within programs operated and administered by the following HUD offices: the Office of Community Planning and Development (CPD); the Office of Housing-Federal Housing Administration (FHA); the Office of Public and Indian Housing; Office of Policy Development and Research; the Office of Fair Housing and Equal Opportunity; and the Office of Lead Hazard Control.

The General Section of this SuperNOFA provides the application procedures and requirements that are applicable to all the programs. The Programs Section of this SuperNOFA provides a description of the specific programs for which funding is made available under this SuperNOFA and describes any additional procedures and requirements that are applicable to a specific program. Please be sure you read both the General Section and the Program Section of this SuperNOFA to ensure you respond to all the requirements for funding.

**APPLICATION DUE DATES:** *The information in this APPLICATION DUE DATES section applies to all programs that are part of this SuperNOFA.* You, the applicant, must submit a completed application to HUD no later than the application due date established for the program for which you are seeking funding. HUD will not accept for review and evaluation any applications sent by facsimile (fax).

**ADDRESSES AND APPLICATION**

**SUBMISSION PROCEDURES:** *Addresses.* You, the applicant, must submit a complete application to the location identified in the Programs Section of this SuperNOFA. When submitting your application, please refer to the name of the program for which you are seeking funding.

*For Applications to HUD Headquarters.* If your application is due to HUD Headquarters, you must send to

the following address: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington DC 20410 (see the Program Chart or Programs Section for Room location and additional information regarding the addresses for application submission). Please make sure that you note the room number. The correct room number is very important to ensure that your application is not misdirected.

*For Applications to HUD Field Offices.* If your application is required to be submitted to a HUD Field Office, please see the Programs Section for the exact office location for submission of your application.

*Applications Procedures. Mailed Applications.* Your application will be considered timely filed if your application is postmarked on or before 12:00 midnight on the application due date and received by the designated HUD Office on or within ten (10) days of the application due date.

*Applications Sent by Overnight/Express Mail Delivery.* If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery service by no later than the application due date.

*Hand Carried Applications.* *Hand-carried to HUD Headquarters.* If your application is required to be submitted to HUD Headquarters, and you arrange for the application to be hand carried, hand carried applications delivered before and on the application due date must be brought to the specified location at HUD Headquarters and room number between the hours of 8:45 am to 5:15 pm, Eastern time. Applications hand carried on the application due date will be accepted in the South Lobby of the HUD Headquarters Building at the above address from 5:15 pm until 12:00 midnight, Eastern time. This deadline date is firm. Please make appropriate arrangements to arrive at the HUD Headquarters Building before 12:00 midnight on the application due date.

*Hand-carried to HUD Field Office.* If your application is required to be submitted to a HUD Field Office, your application must be delivered to the appropriate HUD Field Office in accordance with the instructions specified in the Programs Section of the SuperNOFA. A hand carried application will be accepted at the specified HUD Field Office during normal business hours before the application due date. On the application due date, business hours will be extended to 6:00 p.m.

local time. (Please see Appendix A to this SuperNOFA listing the hours of operations for the HUD Field Offices.) Please be sure to arrive at the HUD Field Office with adequate time to submit the application before the 6:00 pm deadline by the application due date.

**COPIES OF APPLICATIONS TO HUD OFFICES:**

The Programs Section of this SuperNOFA may specify that to facilitate the processing and review of your application, a copy of the application also must be sent to an additional HUD location (for example, a copy to the HUD Field Office if the original application is to be submitted to HUD Headquarters, or a copy to HUD Headquarters, if the original application is to be submitted to a HUD Field Office). Please follow the directions of the Programs Section to ensure that you submit your application to the proper location. For some programs, HUD requests additional copies in order to expeditiously review your application, and to ensure that all reviewers receive complete applications to review. HUD appreciates your assistance in providing the copies. Please note that for those applications for which copies are to be submitted to the Field Offices and HUD Headquarters, timeliness of submission will be based on the time your application is received at HUD Headquarters.

**FOR APPLICATION KITS, FURTHER INFORMATION AND TECHNICAL ASSISTANCE:** The information in this section is applicable to all programs that are part of this SuperNOFA.

*For Application Kits and SuperNOFA User Guide.* HUD is pleased to provide you with the 1999 application kits and/or a guidebook to all HUD programs that are part of this SuperNOFA. These application kits are designed to guide you through the application process and ensure that your application addresses all requirements for the program funding you are seeking. *Please note that if there is a discrepancy between information provided in the application kit and the information provided in the published SuperNOFA, the information in the published SuperNOFA prevails.* Therefore, please be sure to review your application submission against the requirements in the SuperNOFA. When requesting an application kit, please refer to the name of the program of the application kit you are interested in receiving. Please be sure to provide your name, address (including zip code), and telephone number (including area code). To ensure sufficient time to prepare your application, requests for application kits should be made immediately.

The SuperNOFA Information Center (1-800-HUD-8929) can provide you with assistance, application kits, and guidance in determining which HUD Office(s) should receive a copy of your application. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. Additionally, you can obtain information on this SuperNOFA and application kits for this SuperNOFA through the HUD web site on the Internet at <http://www.hud.gov>.

#### *Consolidated Application*

**Submissions.** If you, the applicant, would like to apply for funding under more than one program in this SuperNOFA, you need only submit one originally signed SF-424 and one set of original signatures for the other standard assurances and certifications, accompanied by the matrix that is provided in each application kit. As long as you submit one originally signed set of these documents with an application, you need only submit copies of these documents with any additional application you submit. Your application should identify the program for which you have submitted the original signatures for the standard assurances and certifications. Additionally, the Programs Section may specify additional forms, certifications, assurances, or other information that may be required for a particular program in this SuperNOFA.

**For Further Information.** For answers to your questions about this SuperNOFA, you have several options. You may call, during business hours, the SuperNOFA Information Center at 1-800-HUD-8929, or you may contact the HUD Office or Processing Center serving your area at the telephone number listed in the application kit for the program in which you are interested. If you are a person with a hearing or speech impairment you may call the Center's TTY number at 1-800-HUD-2209. You may also obtain information on this SuperNOFA and application kits for this SuperNOFA through the HUD web site on the Internet at <http://www.hud.gov>.

**For Technical Assistance.** Before the application due date, HUD staff will be available to provide you with general guidance and technical assistance about this SuperNOFA. HUD staff, however, are not permitted to assist in preparing the application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award or Annual Contributions Contract (ACC) by HUD.

#### *Hud's Fiscal Year 1999 SuperNOFA Process*

**Background:** the Introduction of the SuperNOFA—the FY 98 SuperNOFA

In Fiscal Year 1998, HUD introduced its first SuperNOFA. HUD's FY 1998 SuperNOFA represented a marked departure from, and HUD believes a significant improvement over, HUD's past approach to the funding process. Before the FY 1998 SuperNOFA, HUD had issued as many as 40 separate NOFAs. These 40 NOFAs had widely varying rules and application processing requirements, and were published at various times throughout the fiscal year. This individual program approach to funding, with different publication schedules, did not encourage and, at times, unintentionally interfered with local efforts directed at comprehensive planning as well as development of comprehensive local solutions. Additionally, the old approach seemed to require communities to respond to HUD's needs instead of HUD responding to local needs.

In his first year as Secretary of HUD, Secretary Andrew Cuomo immediately sought to change this outdated approach to funding. Secretary Cuomo brought to the leadership of HUD the experience of successfully implementing a consolidated planning process in HUD's community development programs. As Assistant Secretary for Community Planning and Development, Secretary Cuomo consolidated the planning, application, and reporting requirements of several community development programs. The Consolidated Plan rule, published in 1995, established a renewed partnership among HUD, State, and local governments, public and private agencies, tribal governments, and the general citizenry by empowering field staff to work with other entities in fashioning creative solutions to community problems.

HUD's FY 1998 SuperNOFA promoted HUD's objective, under the direction of Secretary Cuomo, of improving customer service and providing the necessary tools for revitalizing communities and improving the lives of people within those communities. The SuperNOFA increased the ability of applicants to consider and apply for funding under a wide variety of HUD programs in response to a single NOFA. In addition to applicants, HUD believes that everyone interested in HUD's grant programs can benefit from having this information made available in one document, and that having the information on available funding one

time will facilitate local planning and coordination.

#### *Changes Made in the SuperNOFA Process for FY 1999*

**One SuperNOFA.** For Fiscal Year 1999, HUD is taking the next step of improving its funding process by issuing one single SuperNOFA. In FY 1998, HUD issued three SuperNOFAs:

- (1) The SuperNOFA for HUD's Housing and Community Development Programs;
- (2) The SuperNOFA for HUD's Economic Development and Empowerment Programs; and
- (3) The SuperNOFA for HUD's Targeted Housing and Homeless Assistance Programs.

HUD's FY 1999 SuperNOFA consolidates the programs in these three SuperNOFAs into one SuperNOFA—the SuperNOFA for HUD's Housing, Community Development and Empowerment Programs. The housing component of this SuperNOFA encompasses many of HUD's housing programs, including targeted housing and homeless assistance. The community development component of this SuperNOFA encompasses HUD's economic development programs, and the empowerment component encompasses HUD's youthbuild and self-help programs.

**Plain Language.** In addition to increased consolidation, HUD strived to make the FY 1999 SuperNOFA simpler and easier to understand. On June 1, 1998, President Clinton issued a memorandum to all Federal agencies that directs agencies to use plain language in all of their documents. HUD prepared its FY 1999 SuperNOFA to comply with the plain language principles. These principles include using common, everyday words (except for necessary technical terms), the active voice and short sentences.

**Earlier Publication and More Time to Prepare Applications.** Finally, HUD is publishing its SuperNOFA earlier than in FY 1998. By publishing earlier in the Federal Fiscal Year, HUD can provide you, the applicant, more time to prepare and submit your SuperNOFA application(s).

**Program Changes to Note:** (1) **HOPWA-TA.** This year technical assistance under the Housing Opportunities for Persons with AIDS (HOPWA) has been consolidated into the Community Development Technical Assistance (CD-TA) Program section of the SuperNOFA. If you are interested in applying for this program, please see the CD-TA Program section.

(2) **Youth Sports Program.** This year, youth sports activities are eligible under

the PIH Drug Elimination Grant Program.

(3) *Possible Formula Funding for Public Housing Drug Elimination Program.* On February 18, 1999, HUD published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPR) announcing HUD's intention to develop, through proposed rulemaking, a formula allocation funding for HUD's Public Housing Drug Elimination Program. The February 18, 1999 ANPR solicits comments in advance of this rulemaking on a method, components of a method, or methods that would result in reliable and equitable funding to public housing agencies with drug elimination programs and ensure that this funding is allocated to agencies meeting certain performance standards. If this rulemaking is completed before the application due date for the Public Housing Drug Elimination grants, HUD will publish a notice in the **Federal Register** advising the public of the withdrawal of the Public Housing Drug Elimination Program sections of this SuperNOFA, and advising that funds will be allocated through a formula.

#### *Similarities Between FY 1998 and FY 1999 SuperNOFAs*

The FY 1999 SuperNOFA, like the FY 1998 SuperNOFA, places heavy emphasis on the coordination of activities to provide:

- (1) Greater flexibility and responsiveness in meeting local housing and community development needs, and
- (2) Greater flexibility to applicants to determine what HUD program resources best fit the community's needs, as identified in local Consolidated Plans and Analysis of Impediments to Fair Housing Choice ("Analysis of Impediments" (AI)).

The FY 1999 SuperNOFA is designed to:

- Simplify the application process;
- Promote effective and coordinated use of program funds in communities;

- Reduce duplication in the delivery of services and economic development and empowerment programs;
- Allow applicants to seek to deliver a wider, more integrated array of services; and
- Improve the system for potential grantees to be aware of, and compete for program funds.

Once again, HUD strongly encourages applicants to work together to coordinate and, to the maximum extent possible, join their activities to form a seamless and comprehensive program of assistance to meet identified needs in their communities. This coordination also should help applicants jointly address barriers to fair housing and equal opportunity that have been identified in the community's Consolidated Plan and Analysis of Impediments in the geographic area(s) in which they are seeking assistance.

As part of the simplification of this funding process, and to avoid duplication of effort, the SuperNOFA provides for consolidated applications for several of the programs that are part of this SuperNOFA. HUD programs that provide assistance for, or complement, similar activities (for example, the Continuum of Care programs and CPD Technical Assistance programs) have a consolidated application that reduces the administrative and paperwork burden applicants would otherwise encounter in submitting a separate application for each program. The Program Chart in this introductory section of the SuperNOFA identifies the programs that have been consolidated and for which a consolidated application is made available to eligible applicants. *Eligible applicants are able, as they have been in the past, to apply for funding under as few as one or as many as all programs for which they are eligible.*

The specific statutory and regulatory requirements of the programs that are part of this SuperNOFA continue to apply to each program. The SuperNOFA

will identify, where necessary, the statutory requirements and differences applicable to the specific programs. *Please pay careful attention to the individual program requirements that are identified for each program. Also, you will note that not all applicants are eligible to receive assistance under all programs identified in this SuperNOFA.*

The SuperNOFA is divided into two major sections. The General Section of the SuperNOFA describes the procedures and requirements that are applicable to all applications. The Programs Section of the SuperNOFA describes each program that is part of this SuperNOFA. For each program, the Programs Section describes the eligible applicants, eligible activities, factors for award, and any additional requirements or limitations that apply to the program.

Please read carefully both the General Section and the Programs Section of the SuperNOFA for the program(s) to which you are applying. Your careful reading will ensure that you apply for program funding for which your organization is eligible to receive funds and you fulfill all the requirements for that program(s).

#### **The Programs of This SuperNOFA and the Amount of Funds Allocated**

The programs that are part of this SuperNOFA are identified in the chart below. The approximate available funds for each program are expected funding levels based on appropriated funds. In the event HUD recaptures funds or other funds become available for any program, HUD reserves the right to increase the available program funding amounts by the amount available.

The chart also includes the application due date for each program, the OMB approval number for the information collection requirements contained in the specific program, and the Catalog of Federal Domestic Assistance (CFDA) number.

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**HUD FY 1999 SUPERNOFA FUNDING**

<b>Program Name</b>	<b>Funding Available (approximate)</b>	<b>Due Date</b>	<b>Submission Location and Room</b>
<b><i>HOUSING AND COMMUNITY DEVELOPMENT</i></b>			
<b>Community Development Technical Assistance</b>	<b>\$ 24.25 million</b>		
Community Development Block Grant (CDBG) TA CFDA No: 14.227 OMB Approval No.:2506-0166	\$ 2.5 million	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices
Community Housing Development Organization (CHDO) TA CFDA No. 14.239 OMB Approval No.:2506-0166	\$ 9 million	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices
HOME TA CFDA No. 14.239 OMB Approval No.:2506-0166	\$ 8 million	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices
Supportive Housing Program (SHP) TA CFDA No. 14.235 OMB Approval No.:2506-0166	\$ 2.5 million	May 26, 1999	HUD Headquarters Room 7251, and copies to appropriate local HUD Field Offices
HOPWA TA CFDA No. 14.241 OMB Approval No.:2506-0133	\$ 2.25 million	May 26, 1999	HUD Headquarters Room 7251

Program Name	Funding Available (approximate)	Due Date	Submission Location and Room
<b>UNIVERSITY AND COLLEGE PARTNERSHIPS</b>			
<b>University and College Programs</b>	<b>\$ 16.5 million</b>		
Community Outreach Partnership Centers (COPC)  CFDA No.: 14511 OMB Approval No.: 2528-0180	\$ 7.5 million	June 9, 1999	HUD Headquarters Room 7251
Historically Black Colleges and Universities (HBCUs) Program  CFDA No.: 14.237 OMB Approval No.: 2506-0122	\$ 9 million	June 9, 1999	HUD Headquarters Room 7251 and copies to local HUD Field Office
Hispanic-Serving Institutions Assisting Communities (HSIAC) Program  CFDA No.: 14.514 OMB Approval No.: 2528-0198	\$ 5.65 million	June 9, 1999	HUD Headquarters Room 7251
<b>FAIR HOUSING OUTREACH, ENFORCEMENT AND ASSISTED HOUSING COUNSELING</b>			
<b>Fair Housing and Housing Counseling Programs</b>	<b>\$ 31.6 million</b>		
Education and Outreach Initiative (EOI)  CFDA No.: 14.409 OMB Approval No.: 2529-0033	\$ 4.5 million	April 27, 1999	HUD Headquarters Room 5234
Private Enforcement Initiative (PEI)  CFDA No.: 14.410 OMB Approval No.: 2539-0033	\$ 9.3 million	April 27, 1999	HUD Headquarters Room 5234
Fair Housing Organizations Initiative (FHOI)  CFDA No.: 14.413 OMB Approval No.: 2539-0033	\$ 1.2 million	April 27, 1999	HUD Headquarters Room 5234

<b>Program Name</b>	<b>Funding Available (approximate)</b>	<b>Due Date</b>	<b>Submission Location and Room</b>
Local Housing Counseling Agencies CFDA No.: 14.169 OMB Approval No.: 2502-0261	\$ 5.6 million	May 25, 1999	Appropriate HUD Homeownership Center (HOC)
National, Regional, and Multi-State Intermediaries CFDA No.: 14.169 OMB Approval No.: 2502-0261	\$ 7.5 million	May 25, 1999	HUD Headquarters Room 9166
State Housing Finance Agencies CFDA No.: 14.169 OMB Approval No.: 2502-0261	\$ 3.5 million	May 25, 1999	Appropriate HUD Homeownership Center (HOC)
<b>LEAD HAZARD CONTROL</b>			
<b>Lead-Based Paint Hazard Control Programs</b>	<b>\$ 62.5 million</b>		
Lead-Based Paint Hazard Control Program CFDA No.: 14.900 OMB Approval No.: pending	\$ 56 million	May 26, 1999	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206
Research to Improve Evaluation and Control of Residential Lead-Based Paint Hazards CFDA No.: 14.900 OMB Approval No.: 2529-0011	\$ 2.5 million	May 26, 1999	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206
Mold and Moisture Control in Inner City Housing CFDA No.: 14.900 OMB Approval No.: pending	\$ 4 million	May 26, 1999	Postal Service: HUD Headquarters, Office of Lead Hazard Control, Room P3206

<b>Program Name</b>	<b>Funding Available (approximate)</b>	<b>Due Date</b>	<b>Submission Location and Room</b>
<b><i>PUBLIC AND INDIAN HOUSING REVITALIZATION AND DEMOLITION</i></b>			
<b>Revitalization and Demolition Programs</b>	<b>\$ 583 million</b>		
Hope VI Revitalization Grants  CFDA No.: 14.866 OMB Approval No.: 2577-0208	\$ 523 million	May 27, 1999	HUD Headquarters Room 4138 and copies to appropriate local HUD Field Office
HOPE VI Demolition Grants  CFDA No.: 14.866 OMB Approval No.: 2577-0208	\$ 60 million	May 6, 1999 (first come, first serve but no later than May 6, 1999)	HUD Headquarters Room 4138 and copies to appropriate local HUD Field Office
<b><i>DRUG ELIMINATION IN PUBLIC AND ASSISTED HOUSING</i></b>			
<b>Drug Elimination Programs</b>	<b>\$ 289.30 million</b>		
Public Housing Drug Elimination Program (including Youth Sports Eligible Activities)  CFDA No.: 14.854 OMB Control No.: 2577-0124	\$ 242.75 million	June 16, 1999	Appropriate local HUD Field Office or Area Office of Native American Programs
Public Housing Drug Elimination New Approaches (Formerly Safe Neighborhood Grant)  CFDA No.: 14.854 OMB Control No.: 2577-0124	\$ 28.3 million	July 1, 1999	Appropriate local HUD Field Office or Area Office of Native American Programs
Public Housing Drug Elimination TA  CFDA No.: 14.854 OMB Control No.: 2577-0124	\$ 2 million	June 16, 1999	HUD Headquarters Room 4206
Drug Elimination Grants for Multifamily Low Income Housing  CFDA No.: 14.193 OMB Approval No.: 2502-0476	\$ 16.25 million	June 16, 1999	Appropriate local HUD Field Office or Area Office of Native American Programs

Program Name	Funding Available (approximate)	Due Date	Submission Location and Room
<b><i>ECONOMIC DEVELOPMENT AND EMPOWERMENT</i></b>			
<b>Economic and Empowerment Programs</b>	<b>\$ 120 million</b>		
Economic Development Initiative CFDA No.: 14.246 OMB Approval No.: 2506-0153	\$ 35 million	June 11, 1999	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office
Brownfields Economic Development Initiative CFDA No.: 14.246 OMB Approval No.: 2506-0153	\$ 25 million	June 25, 1999	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office
Self-Help Homeownership Opportunity Program (SHOP) CFDA No.: 14.247 OMB Approval No.: N/A	\$ 20 million	April 29, 1999	HUD Headquarters Room 7251
Youthbuild CFDA No.: 14.243 OMB Approval No.: 2508-0142	\$ 40 million	April 30, 1999	HUD Headquarters Room 7251 and copy to appropriate local HUD Field Office

Program Name	Funding Available (approximate)	Due Date	Submission Location and Room
<b>TARGETED HOUSING AND HOMELESS ASSISTANCE</b>			
<b>Targeted Housing and Homeless Assistance Programs</b>	<b>\$ 12,894.27 million</b>		
Continuum of Care Homeless Assistance - Supportive Housing CFDA No.: 14.235 - Shelter Plus Care CFDA No.: 14.238 - Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) CFDA No.: 14.249 OMB Approval No.: 2506-0112	\$ 750 million	June 2, 1999	HUD Headquarters Room 7270 and copies to appropriate local HUD Field Offices
Housing Opportunities for Persons with AIDS  CFDA No.: 14.241 OMB Approval No.: 2506-0133	\$ 22.275 million	June 2, 1999	HUD Headquarters Room 7251 and copies to appropriate local HUD Field Office
Section 202 Supportive Housing for the Elderly  CFDA No.: 14.157 OMB Approval No.: 2502-0267	\$ 434.8 million	May 27, 1999	Appropriate local HUD Multifamily HUB or Multifamily Program Center
Section 811 Supportive housing for Persons with Disabilities  CFDA No.: 14.181 OMB Approval No.: 2502-0462	\$ 87.2 million	May 27, 1999	Appropriate local HUD Multifamily HUB or Multifamily Program Center

*Paperwork Reduction Act Statement.* The information collection requirements in this SuperNOFA have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The chart shown above provides the OMB approval number for each program that is part of this SuperNOFA. Where the chart notes that an OMB number is pending, this means that HUD has submitted the information to OMB to obtain an approval number and HUD's request for the number is pending. As soon as HUD receives the approval number, the number will be published in the **Federal Register** and provided to the SuperNOFA Information Center. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

### General Section of the SuperNOFA

#### *I. Authority; Purposes of the FY 1999 SuperNOFA; Funding Amount; Eligible Applicants and Eligible Activities*

##### (A) Authority

HUD's authority for making funding under this SuperNOFA is the Fiscal Year 1999 Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1999 (Pub.L. 105–276, 112 Stat. 2461, approved October 21, 1998) (FY 1999 HUD Appropriations Act).

##### (B) Purposes

The purposes of this SuperNOFA are to:

(1) *Make funding available to empower communities and residents.* The funding made available by this SuperNOFA will assist community residents, particularly the poor and disadvantaged, to develop viable communities and provide decent housing for all citizens, without discrimination.

(2) *Simplification of the application process for funding under HUD programs.* This year's SuperNOFA continues to provide a single, uniform set of rating factors and submission requirements. This year's SuperNOFA also allows, as did last year's, for you, the applicant, to apply for more than one program with a single application.

(3) *Promote comprehensive approaches to housing and community development.* Through the SuperNOFA process, HUD encourages you, the applicant, to focus on the interrelationships that exist in a

community and in HUD's funding programs, and to build community-wide efforts that coordinate the resources of multiple applicants and programs. The needs and problems of a community rarely, if ever, stand in isolation from each other. Due to this fact, it is very difficult to address these problems and to provide opportunities to use existing community resources in a piecemeal fashion. To successfully address community needs and solve community problems, and to take advantage of existing resources, HUD encourages members of a community to join together and pool all available resources in a common, coordinated effort. In 1998, HUD began structuring its funding process to help its community partners take this coordinated, holistic approach. Further, by making all of HUD's competitive funding available in one document, HUD allows you, the applicant, to be able to relate the activities proposed for funding under this SuperNOFA to the community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice.

##### (C) Funding Available

As noted in the Introduction Section to the SuperNOFA, the HUD programs that are part of this SuperNOFA are allocated amounts based on appropriated funds. If HUD recaptures funds in any program, HUD reserves the right to increase the available funding amounts by the amount of funds recaptured.

##### (D) Eligible Applicants and Eligible Activities

The Programs Section of the SuperNOFA describes the eligible applicants and eligible activities for each program.

#### *II. Requirements and Procedures Applicable to All Programs*

Except as may be modified in the Programs Section of this SuperNOFA, or as noted within the specific provisions of this Section II, the principles listed below apply to all programs that are part of this SuperNOFA. Please be sure to read the Programs Section of the SuperNOFA for additional requirements or information.

##### (A) Statutory Requirements

To be eligible for funding under this SuperNOFA, you, the applicant, must meet all statutory and regulatory requirements that are applicable to the program or programs for which you are seeking funding. If you need copies of the program regulations, they are available from the SuperNOFA Information Center or through the

Internet at the HUD web site located at <http://www.HUD.gov>. Among the reasons that HUD may reject an application from further funding consideration is if the activities or projects proposed in the application are not eligible activities and projects, or (with the exception of the Section 202 and 811 programs) HUD may eliminate the ineligible activities from funding consideration and reduce the grant amount accordingly.

##### (B) Threshold Requirements—Compliance With Fair Housing and Civil Rights Laws.

With the exception of Federally recognized Indian tribes, all applicants and their subrecipients must comply with all Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR 5.105(a). If you are a Federally recognized Indian tribe, you must comply with the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and the Indian Civil Rights Act.

If you, the applicant—

(1) Have been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination;

(2) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or

(3) Have received a letter of noncompliance findings under Title VI, Section 504, or Section 109,—

HUD will not rank and rate your application under this SuperNOFA if the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department before the application deadline stated in the individual program NOFA. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

##### (C) Additional Nondiscrimination Requirements

You, the applicant and your subrecipients, must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972.

##### (D) Affirmatively Furthering Fair Housing

Unless otherwise specified in the Programs Section of this SuperNOFA, if you are a successful applicant, you will

have a duty to affirmatively further fair housing. Again, except as may be provided otherwise in the Programs Section of this SuperNOFA, you, the applicant, should include in your application or work plan the specific steps that you will take to:

(1) Address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;

(2) Remedy discrimination in housing; or

(3) Promote fair housing rights and fair housing choice.

Further, you, the applicant, have a duty to carry out the specific activities provided in your responses to the SuperNOFA rating factors that address affirmatively furthering fair housing. Please see the Programs Section of this SuperNOFA for further information.

(E) Economic Opportunities for Low and Very Low-Income Persons (Section 3).

Certain programs in this SuperNOFA require recipients of assistance to comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons in Connection with assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements subpart E. Section 3 requires recipients to ensure that, to the greatest extent feasible, training, employment and other economic opportunities will be directed to (1) low and very low income persons, particularly those who are recipients of government assistance for housing and (2) business concerns which provide economic opportunities to low and very low income persons. As noted in the Programs Section of this SuperNOFA, Section 3 is applicable to the following programs:

1. Historically Black Colleges and Universities (HBCU);
2. Hispanic Serving Institutions Assisting Communities (HSIAC);
3. Lead-Based Paint Hazard Control;
4. Mold and Moisture Control in Inner City Housing Program;
5. HOPE VI Public Housing Revitalization;
6. Public Housing Drug Elimination Program (PHDEP);
7. Public Housing Drug Elimination Program—New Approaches
8. Multifamily Housing Drug Elimination;
9. Economic Development Initiative (EDI);
10. Brownfields Economic Development Initiative (BEDI);
11. Self-Help Homeownership Opportunity Program (SHOP);

12. Youthbuild;
13. Continuum of Care Homeless Assistance Programs;
14. Housing Opportunities for Persons with AIDS (HOPWA);
15. Section 202 Supportive Housing for the Elderly; and
16. Section 811 Supportive Housing for Persons with Disabilities.

(F) Relocation

Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property directly (1) because of a written notice to acquire real property in whole or in part, or (2) because of the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by Federal relocation statute and regulations. Specifically, this type of move is covered by the acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. The relocation requirements of the URA and the governmentwide regulations cover any person who moves permanently from real property or moves personal property from real property directly because of rehabilitation or demolition for an activity undertaken with HUD assistance.

(G) Forms, Certifications and Assurances

You, the applicant, are required to submit signed copies of the standard forms, certifications, and assurances listed in this section, unless the requirements in the Programs Section specifies otherwise. Additionally, the Programs Section may specify additional forms, certifications, assurances or other information that may be required for a particular program in this SuperNOFA. As part of HUD's continuing efforts to improve the SuperNOFA process, several of the required standard forms have been simplified this year. The standard forms, certifications, and assurances are as follows:

- (1) Standard Form for Application for Federal Assistance (SF-424);
- (2) Standard Form for Budget Information—Non-Construction Programs (SF-424A) or Standard Form for Budget Information—Construction Programs (SF-424C), as applicable;
- (3) Standard Form for Assurances—Non-Construction Programs (SF-424B) or Standard Form for Assurances—

Construction Programs (SF-424D), as applicable;

(4) Drug-Free Workplace Certification (HUD-50070);

(5) Certification and Disclosure Form Regarding Lobbying (SF-LLL); (Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are not required to submit this certification. Tribes and TDHEs established under State law are required to submit this certification.)

(6) Applicant/Recipient Disclosure Update Report (HUD-2880);

(7) Certification that the applicant will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. CDBG recipients applying for funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) also must certify to compliance with section 109 of the Housing and Community Development Act. Federally recognized Indian tribes must certify that they will comply with the requirements of the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, and the Indian Civil Rights Act.

(8) Certification required by 24 CFR 24.510. (The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status, and a certification is required.)

(H) OMB Circulars

Certain OMB circulars also apply to this SuperNOFA. The policies, guidance, and requirements of OMB Circular No. A-87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments), OMB Circular No. A-122 (Cost Principles for Nonprofit Organizations), 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian tribal governments) may apply to the award, acceptance and use of assistance under the programs of this SuperNOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1999 HUD Appropriations Act, other Federal statutes or the provisions of this

SuperNOFA. Compliance with additional OMB Circulars may be specified for a particular program in the Programs Section of the SuperNOFA. Copies of the OMB Circulars may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395-7332 (this is not a toll free number).

#### (I) Environmental Requirements

If you become a grantee under one of the programs in this SuperNOFA that assist physical development activities or property acquisition, you are generally prohibited from acquiring, rehabilitating, converting, leasing, repairing or constructing property, or committing or expending HUD or non-HUD funds for these types of program activities, until one of the following has occurred:

(1) HUD has completed an environmental review in accordance with 24 CFR part 50; or

(2) For programs subject to 24 CFR part 58, HUD has approved a grantee's Request for Release of Funds (HUD Form 7015.15) following a Responsible Entity's completion of an environmental review.

You, the applicant, should consult the Programs Section of the SuperNOFA for the applicable program to determine the procedures for, timing of, and any exclusions from environmental review under a particular program. For applicants applying for funding under the Sections 202 or 811 Programs, please note the environmental review requirements for these programs.

#### (J) Conflicts of Interest

If you are a consultant or expert who is assisting HUD in rating and ranking applicants for funding under this SuperNOFA, you are subject to 18 U.S.C. 208, the Federal criminal conflict of interest statute, and the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, if you have assisted or plan to assist applicants with preparing applications for this SuperNOFA, you may not serve on a selection panel and you may not serve as a technical advisor to HUD for this SuperNOFA. All individuals involved in rating and ranking this SuperNOFA, including experts and consultants, must avoid conflicts of interest or the appearance of conflicts. Individuals involved in the rating and ranking of applications must disclose to HUD's General Counsel or HUD's Ethic Law Division the following information if applicable: the selection or non-selection of any applicant under this SuperNOFA will affect the individual's

financial interests, as provided in 18 U.S.C. 208; or the application process involves a party with whom the individual has a covered relationship under 5 CFR 2635.502. The individual must disclose this information prior to participating in any matter regarding this SuperNOFA. If you have questions regarding these provisions or if you have questions concerning a conflict of interest, you may call the Office of General Counsel, Ethics Law Division, at 202-708-3815 and ask to speak to one of HUD's attorneys in this division.

### III. Application Selection Process

#### (A) Rating Panels

To review and rate your applications, HUD may establish panels. These panels may include persons not currently employed by HUD. HUD may include these non-HUD employees to obtain certain expertise and outside points of view, including views from other Federal agencies.

(1) *Rating.* HUD will evaluate and rate all applications for funding that meet the threshold requirements and rating factors for award described in this SuperNOFA. The rating of you, as the "applicant," or of your organization, "the applicant's organization and staff," for technical merit or threshold compliance will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

(2) *Ranking.* HUD will rank applicants within each program (or, for Continuum of Care applicants, across the three programs identified in the Continuum of Care section of this SuperNOFA). HUD will rank applicants only against other applicants that applied for the same program funding. Where there are set-asides within a program competition, you, the applicant, only will compete against applicants in the same set-aside competition.

#### (B) Threshold Requirements

HUD will review your application to determine whether your application meets all of the threshold requirements described in Section II(B), above. Only if your application meets all of the threshold requirements will it be eligible to be rated and ranked.

#### (C) Factors for Award Used To Evaluate and Rate Applications

For each program that is part of this SuperNOFA, the points awarded for the rating factors total 100. Depending upon the program for which you the applicant seek funding, the program may provide for up to four bonus points as provided in paragraphs (1) and (2) of this Section III(C).

(1) *Bonus Points.* The SuperNOFA provides for the award of up to two bonus points for eligible activities/projects that the applicant proposes to be located in high performing federally designated Empowerment Zones (EZs) or Enterprise Communities (ECs). To be eligible to receive the two bonus points, you must certify that the proposed activities/projects: (a) will be located in a Federally designated Empowerment Zone or Enterprise Community and will serve residents of the EZ/EC; and (b) are consistent with the strategic plan of the EZ/EC. If you provide this certification and HUD determines that the area is a high performing EZ/EC, as announced in HUD's list to be published in the **Federal Register** in March 1999, you will be awarded the two points. A listing of the high performing federally designated EZs/ECs will be available from the SuperNOFA Information Center, or through the HUD web site on the Internet at <http://www.HUD.gov>, as well as in the **Federal Register**.

(2) *Court-Ordered Consideration.* For any application submitted by the City of Dallas, Texas, for funds under this SuperNOFA for which the City of Dallas is eligible to apply, HUD will consider the extent to which the strategies or plans in the city's application or applications will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's low income housing programs. The City of Dallas should address the effect, if any, that vestiges of racial segregation in Dallas Housing Authority's low income housing programs have on potential participants in the programs covered by this NOFA, and identify proposed actions for remedying those vestiges. HUD may add up to 2 points to the score based on this consideration. This special consideration results from an order of the U.S. District Court for the Northern District of Texas, Dallas, Division. (This Section III(C)(2) is limited to applications submitted by the City of Dallas.)

(3) *The Five Standard Rating Factors.* Additional details about the five rating factors listed below, and the maximum points for each factor, are provided in the Programs Section of the SuperNOFA. You, the applicant, should carefully read the factors for award as described in the Programs Section of the SuperNOFA. HUD has established these five factors as the basic factors for award in every program that is part of this SuperNOFA. For a specific HUD program, however, HUD may have modified these factors to take into account specific program needs, or statutory or regulatory limitations imposed on a program. The standard

factors for award, except as modified in the program area section are:

- Factor 1: Capacity of the Applicant and Relevant Organizational Staff
- Factor 2: Need/Extent of the Problem
- Factor 3: Soundness of Approach
- Factor 4: Leveraging Resources
- Factor 5: Comprehensiveness and Coordination

The Continuum of Care Homeless Assistance Programs have only two factors that receive points: Need and Continuum of Care.

#### (D) Negotiation

After HUD has rated and ranked all applications and has made selections, HUD may require, depending upon the program, that all winners participate in negotiations to determine the specific terms of the grant agreement and budget. In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. In this instance, HUD may offer an award to the next highest ranking applicant, and proceed with negotiations with the next highest ranking applicant.

#### (E) Adjustments to Funding

(1) HUD reserves the right to fund less than the full amount requested in your application to ensure the fair distribution of the funds and to ensure that the purposes of a specific program are met.

(2) HUD may choose not to fund any portion of your application that is not eligible for funding under specific program statutory or regulatory requirements, or which do not meet the requirements of this SuperNOFA or which may be duplicative of other funded programs or activities from previous years' awards. HUD may choose to fund only the eligible portions of your application.

(3) If funds remain after funding the highest ranking applications, HUD may fund part of the next highest ranking application in a given program. If you, the applicant, turn down the award offer, HUD will make the same determination for the next highest ranking application. If funds remain after all selections have been made, remaining funds may be available for other competitions for each program where there is a balance of funds.

(4) In the event HUD commits an error that, when corrected, would result in selection of an otherwise eligible applicant during the funding round of this SuperNOFA, HUD may select that applicant when sufficient funds become available.

#### (F) Performance and Compliance Actions of Grantees

HUD will measure and address the performance and compliance actions of grantees in accordance with the applicable standards and sanctions of their respective programs.

#### IV. Application Submission Requirements

As HUD discussed earlier in the introductory section of this SuperNOFA, part of the simplification of this funding process is to reduce the duplication of effort that has been required of applicants in the past. Before the SuperNOFA process, many of HUD's applicants were required to complete and submit similar applications for HUD funded programs. As the Program Chart above shows, the FY 1999 SuperNOFA provides, as did the FY 1998 SuperNOFA, for consolidated applications for several of the programs for which funding is available under this SuperNOFA.

#### V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you, however, to clarify an item in your application or to correct technical deficiencies. You should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of your response to any eligibility or selection factors. *Examples of curable (correctable) technical deficiencies* include your failure to submit the proper certifications or your failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. You must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If your deficiency is not corrected within this time period, HUD will reject your application as incomplete, and it will not be considered for funding. (Note that the Sections 202 and 811 Programs, by regulation, provide for appeal of rejection of an application on technical deficiency. Please see the Programs Sections for these programs for additional information and instructions.)

#### VI. Promoting Comprehensive Approaches to Housing and Community Development

##### (A) General

HUD believes the best approach for addressing community problems is through a community-based process that provides a comprehensive response to identified needs. By making these grant programs available in one document, applicants may be able to relate the activities proposed for funding under this SuperNOFA to the recent and upcoming NOFAs and the community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice. There are certain HUD grant programs that are not part of this SuperNOFA (primarily those for which funding is allocated by lottery).

##### (B) Linking Program Activities With AmeriCorps

You are encouraged to link your proposed activities with AmeriCorps, a national service program engaging thousands of Americans on a full or part-time basis to help communities address their toughest challenges, while earning support for college, graduate school, or job training. For information about AmeriCorps, call the Corporation for National Service at (202) 606-5000.

##### (C) Encouraging Visitability in New Construction and Substantial Rehabilitation Activities

In addition to applicable accessible design and construction requirements, you are encouraged to incorporate visitability standards where feasible in new construction and substantial rehabilitation projects. Visitability standards allow a person with mobility impairments access into the home, but do not require that all features be made accessible. Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors are at least 2 feet 10 inches wide, allowing 32 inches of clear passage space. Allowing use of 2'10" doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards (UFAS) for a small percentage of units. A visitable home also serves persons without disabilities, such as a mother pushing a stroller, or a person delivering a large appliance. Copies of the UFAS are available from the SuperNOFA Information Center (1-800-HUD-2209) and also from the Office of Fair Housing and Equal Opportunity,

U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755-5404 or the TTY telephone number, 1-800-877-8399 (Federal Information Relay Service).

*(D) Developing Healthy Homes*

HUD's Healthy Homes Initiative is one of the initiatives developed by the White House Task Force on Environmental Health Risks and Safety Risks to Children that was established under Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). HUD encourages the funding of activities (to the extent eligible under specific programs) that promote healthy homes, or that promote education on what is a healthy home. These activities may include, but are not limited to the following: educating homeowners or renters about the need to protect children in their home from dangers that can arise from items such as curtain cords, electrical outlets, hot water, poisons, fire, and sharp table edges, among others; incorporating child safety measures in the construction, rehabilitation or maintenance of housing, which include but are not limited to: child safety latches on cabinets, hot water protection devices, properly ventilated windows to protect from mold, window guards to protect children from falling, proper pest management to prevent cockroaches which can cause asthma, and activities directed to control of lead-based paint hazards. The National Lead Information Hotline is 1-800-424-5323.

*VII. Findings and Certifications*

*(A) Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Regulations Division, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500.

*(B) Federalism, Executive Order 12612*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this SuperNOFA will not have substantial direct effects on States or

their political subdivisions, or on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, the SuperNOFA solicits applicants to expand their role in addressing community development needs in their localities, and does not impinge upon the relationships between the Federal Government and State and local governments. As a result, the SuperNOFA is not subject to review under the Order.

*(C) Prohibition Against Lobbying Activities*

You, the applicant, are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that you will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, you must disclose, using Standard Form LLL, "Disclosure of Lobbying Activities," any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.)

*(D) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements*

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and

disclosure requirements of section 102 apply to assistance awarded under this SuperNOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this SuperNOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this SuperNOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

- (i) Assistance subject to section 102(a) of the HUD Reform Act; or
- (ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

*(E) Section 103 HUD Reform Act*

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for

assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

*VIII. The FY 1999 SuperNOFA Process and Future HUD Funding Processes*

In FY 1998, Secretary Cuomo took the first significant step in changing HUD's

funding process to better promote comprehensive, coordinated approaches to housing and community development by developing the SuperNOFA process. The three SuperNOFAs published in FY 1998 reflected a marked improvement over HUD's previous funding process and assisted communities to make better use of available resources through a coordinated approach.

This FY 1999 SuperNOFA takes HUD's funding process to the next step—a single SuperNOFA. The FY 1999 SuperNOFA was developed based on comments received from HUD clients and the Department believes it represents a significant improvement

over HUD's approach to the funding process in prior years. For FY 2000, HUD may take even further steps to enhance this process. HUD welcomes comments from applicants and other members of the public on this process, and how it may be improved in future years.

The description of programs for which funding is available under this SuperNOFA follows.

Dated: February 18, 1999.

**Saul N. Ramirez, Jr.,**  
*Deputy Secretary.*

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**COMMUNITY DEVELOPMENT  
TECHNICAL ASSISTANCE**

Community Development Block Grant  
(CDBG) TA

Community Housing Development  
Organization (CHDO) TA

HOME TA

Supportive Housing Program (SHP) TA

HOPWA TA



*Funding Availability for Community Development Technical Assistance (CD-TA) Programs—CDBG, CHDO, HOME, Supportive Housing and HOPWA*

*Program Overview*

*Purpose of the Program.* The purposes of the technical assistance programs in this SuperNOFA are:

*Community Development Block Grant Technical Assistance.* To increase the effectiveness with which States and units of general local government plan, develop and administer their Community Development Block Grant (CDBG) Programs, including assistance to aid non-profits and other recipients of CDBG funds.

*CHDO Technical Assistance.* To promote the ability of Community Housing Development Organizations (CHDOs) to maintain, rehabilitate and construct housing for low-income and moderate-income families; facilitate the education of low-income homeowners and tenants; and help women who reside in low- and moderate-income neighborhoods to rehabilitate and construct housing in the neighborhoods.

*HOME Technical Assistance.* To help HOME participating jurisdictions design and implement HOME programs, including: improving their ability to design and implement housing strategies and incorporate energy efficiency into affordable housing; facilitating the exchange of information to help participating jurisdictions carry out their programs; facilitating the establishment and efficient operation of employer-assisted housing programs and land bank programs; and encouraging private lenders and for-profit developers of low-income housing to participate in public-private partnerships.

*Supportive Housing Program (SHP) Technical Assistance.* To provide HUD-funded Supportive Housing Program projects with technical assistance to promote the development of supportive housing and supportive services as part of a Continuum of Care approach, including innovative approaches to assist homeless persons in the transition from homelessness, and promoting the provision of supportive housing to homeless persons to enable them to live as independently as possible.

*Housing Opportunities for Persons with AIDS (HOPWA).* To train communities to create comprehensive housing strategies and responsive area programs that assist residents who are living with HIV/AIDS; to train HOPWA grantees to administer formula and competitive funds in an efficient and

effective manner, including undertaking community consultations, program planning, housing development and operations, program evaluation and reporting on accomplishments; and to build the capacity of nonprofit organizations to carry out activities as HOPWA projects sponsors.

*Available Funds.* Up to \$24.3 million is available for the five CD-TA programs.

*Eligible Applicants.* Specific eligibility requirements for the five CD-TA programs are found below in Section III(C). Forty percent of the CDBG, CHDO, HOME and Supportive Housing technical assistance funds is limited to qualified providers who have not previously received a technical assistance award. This limitation is not applicable to HOPWA technical assistance.

*Application Deadline.* May 26, 1999.  
*Match.* None.

*Additional Information*

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

**I. Application Due Date, Application Kits, Further Information, and Technical Assistance**

*Application Due Date.* Submit your completed applications (an original and one copy) on or before 12:00 midnight, Eastern time, on May 26, 1999. The original application that you submit to Headquarters is considered the official application. Send a copy of your application on or before the application deadline date to the HUD CPD Field Office(s) in which you are seeking to provide services. Only one application per applicant is permitted; however, one application can include as few as one or as many as all five CD-TA programs. The application kit contains the addresses and hours of operation for the HUD CPD Field Offices.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Addresses for Submitting Applications.* Submit your completed original application to HUD Headquarters, U.S. Department of Housing and Urban Development, CPD Processing and Control Branch, Room 7251, 451 Seventh Street, SW, Washington, DC 20410. Send a copy of the application to the appropriate CPD Field Office(s) at the address shown on the list of HUD CPD Field Offices

included in the application kit. When submitting your application, please refer to the Community Development Technical Assistance Program. Be sure to include your name, mailing address (including zip code), telephone number (including area code), and fax number (including area code).

*For Application Kits.* For an application kit and any supplemental information, please call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, please refer to "Community Development Technical Assistance Programs." Please be sure to provide your name, address (including zip code), telephone number (including area code), and fax number (including area code).

*For Further Information and Technical Assistance.* For answers to your questions, you have several options. You may call the HUD CPD Office serving your area at the telephone number listed in the list of HUD CPD Field Offices included in the application kit, or you may contact Ms. Deirdre Neighbors at 202-708-3176 x4386 in HUD Headquarters. Information on this SuperNOFA also may be obtained through the HUD web site on the Internet at <http://www.HUD.gov>.

**II. Amount Allocated**

(A) The amounts allocated for each CD-TA program are as follows:

CDBG TA funds:

Up to \$2,500,000

CHDO TA funds:

Up to \$9,000,000 Total  
\$3,600,000 Single State  
\$5,400,000 Multi-State

HOME TA funds:

Up to \$8,000,000

SHP TA funds:

Up to \$2,500,000

HOPWA TA funds:

Up to \$2,250,000

(B) Each HUD/CPD Field Office has been allocated a "fair-share" of CD-TA funds for purposes of this competition, except for the HOPWA TA funds which will be awarded only through a national competition (See CD-TA Appendix A for the fair share allocations). The amounts are based on workload allocations of HOME, CDBG and SHP entitlement funds and competitive programs for which Field Offices have management oversight. These amounts are only for guidance purposes for you to develop your program budgets by Field Office jurisdiction and are not the exact amounts to be awarded to you in each area.

HUD will determine the total amount to be awarded to any provider based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, and the scope of the technical assistance to be provided. Additionally, HUD may reduce the amount of funds allocated for Field Office jurisdictions to fund national CD-TA providers and other CD-TA providers for activities which cannot be budgeted or estimated by Field Office jurisdiction. HUD may require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than applied for in order to supplement or strengthen the intermediary network in terms of the location (service area), types and scope of technical assistance proposed.

(C) In order to reach new technical assistance providers in the CDBG, HOME, CHDO and SH program areas, 40% of the funds in each of these four program areas within a field office (or at the national level) will be awarded to applicants who have not previously been funded under a technical assistance competition. Therefore, approximately \$1 million will be awarded to new providers in CDBG; \$3.2 million in HOME; \$3.6 million in CHDO; and \$1 million in SHP. With respect to CHDO funds, 40% of the total funds (single state and multi-state combined) are earmarked for new providers. If qualified new applicants are not found in each program area in each Field Office and/or at the national level, the remaining funds will be made available for previously funded providers. The reverse also is true.

(D) To the extent permitted by funding constraints, HUD intends to provide coverage for as full a range as possible, of eligible CD-TA activities of each CD-TA program in each Field Office jurisdiction. To achieve this objective, HUD will fund the highest ranking providers that bring the required expertise in one or more specialized activity areas, and fund portions of providers' proposed programs in which they have the greatest skill and capability for given geographic areas or on a national basis. HUD also may require national, multi-jurisdictional, or other providers to provide coverage to Field Office jurisdictions which cannot otherwise receive cost-effective support from a CD-TA provider. In selecting applicants for funding, in addition to the rating factors, HUD will apply program policy criteria identified in Section V of this

CD-TA Program section of SuperNOFA to select a range of providers and activities that would best serve program objectives for each program serviced by the CD-TA funded under this SuperNOFA.

### **III. Program Description; Program Award Period; Eligible Applicants; Eligible and Ineligible Activities; and Sub-Grants/Pass Through Funds**

(A) *Program Description.* Up to \$24.3 million in technical assistance (TA) funds is available from five separate technical assistance programs: Community Development Block Grant (CDBG) TA, Community Housing Development Organization (CHDO) TA, HOME TA, SHP TA, and HOPWA TA (collectively "CD-TA").

The funding of these five CD-TA programs through a single funding availability announcement will not affect the ability of eligible applicants to seek CD-TA funding. Eligible applicants are able to apply for funding under as few as one, and as many as five, separate CD-TA programs, individually or collectively, singularly or in combination. The specific provisions of the five separate CD-TA programs have not been changed. This Community Development Technical Assistance Programs section of the SuperNOFA reflects the statutory requirements and differences in the five different CD-TA programs.

#### **(B) Program Award Period.**

(1) Cooperative Agreements will be for a period of up to 36 months. HUD, however, reserves the right to:

(a) Terminate awards in accordance with provisions contained in OMB Circular A-102, and 24 CFR parts 84 and 85 anytime after 12 months;

(b) Withdraw funds from a specific provider, if HUD determines that the urgency of need for the assistance is greater in other Field Office jurisdictions or the need for assistance is not commensurate with the award for assistance;

(c) Extend the performance period of individual awardees up to a total of 12 additional months.

(2) In cases where an applicant selected for funding under this program section of the SuperNOFA currently is providing CD technical assistance under an existing CD-TA grant/cooperative agreement, HUD reserves the right to adjust the start date of funding under this program to coincide with the conclusion of the previous award, or to incorporate the remaining activities from the previous award into the new agreement, adjusting the funding levels as necessary.

#### **(C) Eligible Applicants.**

(1) *General.* The eligible applicants for each of the five CD-TA programs are listed in paragraphs (2), (3), (4) and (5) of this Section (C). This paragraph (1) lists requirements applicable to all applicants.

(a) Many organizations are eligible to apply for more than one CD-TA program and are encouraged to do so to the extent they have the requisite experience, expertise and capability.

(b) All applicant organizations must have demonstrated ability to provide CD-TA in a geographic area larger than a single city or county and must propose to serve an area larger than a single city or county.

(c) An organization may not provide assistance to itself, and any organization funded to assist CHDOs under this CD-TA Program section of the SuperNOFA may not act as a CHDO itself within its service area while under award with HUD.

(d) A consortium of organizations may apply for one or more CD-TA programs, but HUD will require that one organization be designated as the legal applicant, where legally feasible. Where one organization cannot be so designated for all proposed activities, HUD may execute more than one cooperative agreement with the members of a consortium.

(e) All applicants must meet minimum statutory eligibility requirements for each CD-TA program for which they are chosen in order to be awarded a cooperative agreement. Copies of the Technical Assistance program regulations will be provided with the application kit.

(f) All eligible CD-TA providers may propose assistance using in-house staff, consultants, sub-contractors and sub-recipients, networks of private consultants and/or local organizations with requisite experience and capabilities. Whenever possible, applicants should make use of technical assistance providers located in the Field Office jurisdiction receiving services. This draws upon local expertise and persons familiar with the opportunities and resources available in the area to be served while reducing travel and other costs associated with delivering the proposed technical assistance services.

(g) All applicants must meet the applicable threshold requirements of Section II(B) of the General Section of the SuperNOFA.

#### **(2) CDBG and Supportive Housing Eligible Applicants.**

(a) States and units of general local government.

(b) Public and private non-profit or for-profit groups, including educational institutions and area-wide planning

organizations, qualified to provide technical assistance on CDBG programs or Supportive Housing projects. With respect to the CDBG program, an applicant group must be designated as a technical assistance provider to a unit of government's CDBG program by the chief executive officer of each unit to be assisted before assistance is provided, unless the assistance is limited to conferences/workshops attended by more than one unit of government. Do not include letters of designation in your application since granting of an award does not constitute approval of assistance to a given community and is provided only through a Technical Assistance Delivery Plan (see Section IV(A)(3) of this program section of the SuperNOFA).

(3) *CHDO Eligible Applicants.* Public and private non-profit intermediary organizations that customarily provide services (in more than one community) related to affordable housing or neighborhood revitalization to CHDOs, or similar organizations that engage in community revitalization, including all eligible organizations under section 233 of the Cranston-Gonzalez National Affordable Housing Act, as amended.

HUD will consider an intermediary as a primarily single State technical assistance provider if it can document that more than 50% of its past activities in working with CHDOs or similar nonprofit and other organizations (on the production of affordable housing or revitalization of deteriorating neighborhoods and/or the delivery of technical assistance to these groups) was confined to the geographic limits of a single State.

(4) *HOME Eligible Applicants.*

(a) A for-profit or non-profit professional and technical services company or firm that has demonstrated capacity to provide technical assistance services;

(b) A HOME participating jurisdiction (PJ) or agency thereof;

(c) A public purpose organization responsible to the chief elected official of a PJ and established pursuant to State or local legislation;

(d) An agency or authority established by two or more PJs to carry out activities consistent with the purposes of the HOME program;

(e) A national or regional non-profit organization that has membership comprised predominantly of entities or officials of entities of PJs or PJs' agencies or established organizations.

(5) *HOPWA Eligible Applicants.*

(a) Non-profit organizations; and  
(b) States and units of general local government.

(D) *Eligible and Ineligible Activities.* Eligible and ineligible activities as appropriate for each of the five CD-TA programs are listed below:

(1) *Community Development Block Grant Technical Assistance.*

(a) *Eligible Activities.* Activities performed with CDBG funds must meet the substantive nexus test contained in 24 CFR 570.402(a)(2) and may include:

(i) The provision of technical or advisory services;

(ii) The design and operation of training projects such as workshops, seminars, conferences, or computer-based training;

(iii) The development and distribution of technical materials and information;

(iv) Other methods of demonstrating and making available skills, information and knowledge to assist States, units of general local government, in planning, developing, administering or assessing assistance under CDBG programs in which they are participating or seeking to participate.

(b) *Ineligible Activities.* Activities for which costs are ineligible for funding under the Community Development Block Grant Technical Assistance Program include:

(i) In the case of technical assistance for States, the cost of carrying-out the administration of the State CDBG program for non-entitlement communities;

(ii) The cost of carrying out the activities authorized under the CDBG Program, such as the provision of public services, construction, rehabilitation, planning and administration for which the technical assistance is to be provided;

(iii) The cost of acquiring or developing the specialized skills or knowledge to be provided by a group funded under this section;

(iv) Research activities;

(v) The cost of identifying units of governments needing assistance (except the cost of selecting recipients of technical assistance under the provision of 24 CFR 570.402(j) is eligible); or

(vi) Activities designed primarily to benefit HUD, or to assist HUD, in carrying out the Department's responsibilities; such as research, policy analysis of proposed legislation, training or travel of HUD staff, or development and review of reports to Congress.

(2) *CHDO Technical Assistance.* CHDO Technical Assistance funds may be used only for the following eligible activities:

(a) *Organizational Support—* Organizational support assistance may be made available to community housing development organizations to

cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization;

(b) *Housing Education—*Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, organizing homeowners and tenants who are eligible to receive assistance under other provisions of the HOME Program;

(c) *Program-Wide Support of Nonprofit Development and Management—*Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under the HOME Program;

(d) *Benevolent Loan Funds—* Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers;

(e) *Community Development Banks and Credit Unions—*Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing;

(f) *Community Land Trusts—* Organizational support, technical assistance, education, training and continuing support under this subsection may be made available to community land trusts (as such term is defined in section 233(f) of the Cranston-Gonzalez National Affordable Housing Act) and to community groups for the establishment of community land trusts; and

(g) *Facilitating Women in Homebuilding Professions—*Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low-and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by helping such women develop nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites,

counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10% of any assistance provided under this paragraph). HUD shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by HUD pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25% or less of the total number of workers in the occupation (in this section referred to as "nontraditional occupations").

(3) *HOME Technical Assistance Program.* HUD will provide assistance to:

(a) Facilitate the exchange of information that would help participating jurisdictions carry out the purposes of the HOME statute, including information on program design and accessibility, housing finance, land use controls, and building construction techniques;

(b) Improve the ability of States and units of local government to design and implement housing strategies, particularly those States and units of local government that are relatively inexperienced in the development of affordable housing;

(c) Encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of the HOME statute;

(d) Improve the ability of States and units of local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction and operation of affordable housing;

(e) Facilitate the establishment and efficient operation of employer-assisted housing programs, through research, technical assistance, and demonstration projects; and

(f) Facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of the HOME statute.

(4) *Supportive Housing Program Technical Assistance.* Funds are available to provide technical assistance

to HUD funded Supportive Housing projects. Funds may be used to provide technical assistance to prospective applicants, applicants, recipients or other providers (project sponsors) of Supportive Housing or SHP-funded services for homeless persons. The assistance may include, but is not limited to, written information such as papers, manuals, guides and brochures; person-to-person exchanges; on-site assessments and provision of technical expertise; and training and related costs.

(5) *HOPWA Technical Assistance.*

For the purposes of this program section of the SuperNOFA, HOPWA technical assistance shall mean the transfer to HOPWA grantees and project sponsors and potential recipients of program funds, the skills and knowledge needed to develop, operate and support HOPWA-eligible projects and activities.

An applicant for HOPWA TA funds must propose activities on a national or regional basis (e.g. serving a multi-state area). The application should emphasize how activities will advise and train communities and project sponsors in undertaking program planning, community consultations, housing development and operations, coordination with related health-care and other supportive services, and evaluation and reporting on program performance. The Department has established the following four national goals for HOPWA TA projects:

(a) *Comprehensive Strategies for HIV/AIDS Housing.* HOPWA TA funds can be used to advise and train communities in: undertaking community-based needs assessments of the housing needs of persons living with HIV/AIDS and their families; drafting comprehensive multiple-year HIV/AIDS housing plans; undertaking community-wide consultations, including consulting with potential clients, providers of HIV/AIDS housing and/or services, and local, State and Federal agencies that administer HIV/AIDS-related programs, including programs funded under the Ryan White CARE Act, and programs that address serious mental illness, chronic alcohol and other drug abuse issues, and homelessness; integrating HIV/AIDS housing efforts within the area's consolidated planning processes; and collaborating with the area's Continuum of Care Homeless Assistance processes in assisting persons with HIV/AIDS who are homeless. Technical assistance also may be used to train communities in how to best target assistance to traditionally underserved subpopulations in developing community-based needs assessments and may build capacity for State-wide,

metropolitan, non-metropolitan and/or rural areas in development of area multi-year HIV and AIDS housing plans. You also could provide technical assistance to HOPWA formula grantees that are new recipients of formula allocations or that are designated by HUD as prospective recipients in future allocations to promote the planning and startup for the use of funds.

(b) *Sound Management of HOPWA Programs.* HOPWA TA funds can be used to help ensure that grantees and project sponsors use funds in a manner that upholds the public trust in the operation of programs, including: advising on management practices to provide responsive, efficient and cost effective facility and program operations; advising on fiscal management to ensure accountability in the use of funds; advising on the coordination of housing with health-care and other related supportive services for eligible persons; assisting in developing collaborations with local, State and Federal agencies that administer HIV/AIDS-related programs, including programs funded under the Ryan White CARE Act; advising on data collection and evaluation of programs; providing program handbooks, guidance materials, audio/visual products, training, and other activities to promote good management practices.

(c) *Use of HUD Information Management Tools.* HOPWA TA funds may be used to assist grantees, project sponsors and other organizations involved in HIV/AIDS plans in using the Department's information technology, financial systems and information management systems for developing, operating and reporting on program activities. Applications should address how TA activities will support the use of the Department's Consolidated Planning Process, Integrated Disbursement and Information System (IDIS), the use of HOPWA Annual Progress Reports, the Grants Management System, the LOCCS/HUDCAPS and other HUD information collection or financial management tools. The use of these management tools will help to ensure that your performance is measured under the HOPWA national performance goals, established in the Department's Annual Performance Plan. You should address plans for conducting grantee and sponsor workshops, developing training materials, developing or adapting software for program activities and goals, and sponsoring conferences of grantees and sponsors.

(d) *National HOPWA Information.* HOPWA TA funds may be used to

establish a component to support HIV/AIDS housing discussions, panels, presentations, information, exhibit booths, and other training materials at national, regional, state-wide and local meetings of organizations that are involved in housing, community development, health-care and supportive services, veterans affairs and other human service efforts. The component should help promote understanding on HIV/AIDS housing issues and needs of persons living with HIV/AIDS, and offer training on developing and accessing HIV/AIDS housing and related services. A research and information services component of this effort should include the development of information on HIV/AIDS housing and activities supported under HOPWA grants which will be published for national distribution, including disseminating information on the success and lessons learned by the HOPWA Special Projects of National Significance and Long-term grants in non-formula areas that have been awarded in the HOPWA national competitions. This component should emphasize the collection and dissemination of information on the "best practices" of HUD grantees that should serve as a basis for peer support, technical assistance, and program improvement or address emerging and unresolved issues in assisting persons living with HIV/AIDS and their families.

(E) *Sub-Grants/Pass-Through Funds.* Applicants may propose to make sub-grants to achieve the purposes of their proposed CA-TA programs in accordance with program requirements in Section IV of this CD-TA Program section of the SuperNOFA. In the case of CHDO TA, these sub-grants (also called "pass-through" funds) may be made for eligible activities and to eligible entities as identified in Section 233(b)(1), (2), and (7) of the Cranston-Gonzalez National Affordable Housing Act. When CHDO TA sub-grants are made to CHDOs, two statutory provisions apply:

(1) The sub-grant amount, when combined with other capacity building and operating support available through the HOME program, cannot exceed the greater of 50% of the CHDO's operating budget for the year in which it receives the funds, or \$50,000 annually;

(2) An amount not exceeding 10% of the total funds awarded for the "Women in the Homebuilding Professions" eligible activity may be used to provide materials and tools for training such women.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, applicants are subject to the following requirements:

(A) *Program Requirements for CDBG, CHDO, HOME and SHP*

(1) *Profit/Fee.* No increment above cost, no fee or profit, may be paid to any recipient or subrecipient of an award under this CD-TA Program section of the SuperNOFA.

(2) *Demand/Response Delivery System.*

(a) As an awardee, you must operate within the structure of the demand/response system described in this section. You must coordinate your plans with, and operate under the direction of, each HUD Field Office within whose jurisdiction you are operating. When so directed by a Field Office, you will coordinate your activities instead through a lead CD-TA provider or other organization designated by the Field Office.

(b) If selected as the lead CD-TA provider in any Field Office jurisdiction, as an awardee you must coordinate the activities of other CD-TA providers selected under this CD-TA Program section of the SuperNOFA under the direction of the HUD Field Office. Joint activities by CD-TA providers may be required.

(c) Under the demand/response system, CD-TA providers will be required to:

(i) When requested by a Field Office or Government Technical Representative (GTR), market the availability of their services to existing and potential clients to include local jurisdictions in which the assistance will be delivered.

(ii) Respond to requests for assistance from the HUD Field Office(s) with oversight of the geographic service area for which the technical assistance will be delivered, including responding to priorities established by the Field Office in its Grants Management System. CHDOs, HOME PJs, CDBG and SHP grantees may request assistance from the CD-TA provider directly, but such requests must be approved by the local HUD Field Office.

(iii) When requested by a Field Office or GTR, conduct a Needs Assessment to identify the type and nature of the assistance needed by the recipients of the assistance. These needs assessments should typically identify the nature of the problem to be addressed by the technical assistance services; the plan of action to address the need including the

type of technical assistance services to be provided, the duration of the service, the staff assigned to provide the assistance, anticipated products and/or outcomes, and the estimated cost for the provision of services; and the relationship of the proposed services to the planned or expected Consolidated Plan submission to HUD and to other technical assistance providers providing service within the locality.

(iv) Obtain approval for the Technical Assistance Delivery Plan (TADP) from the HUD Field Office(s) with oversight for the area in which service will be provided. (See Section 3 below).

(v) Work cooperatively with other CD-TA providers in their geographic areas to ensure that clients are provided with the full range of CD-TA services needed and available. CD-TA providers are expected to be knowledgeable about the range of services available from other providers, make referrals and arrange visits by other CD-TA providers when appropriate, and carry out CD-TA activities concurrently when it is cost-effective and in the interests of the client to do so. HUD Field Offices may direct CD-TA providers to conduct joint activities.

(3) *Technical Assistance Delivery Plan (TADP).*

(a) After selection for funding but prior to award, you must develop a TADP for each Field Office jurisdiction or National Program for which you have been selected, in consultation with the Field office and/or GTR.

(b) In developing the TADP, you must follow the Field Office's Business Operating Plan (BOP) and management strategies/workplans for each community/State in the Field Office's jurisdiction. You must use these BOP/management strategies/workplans in determining your priority work activities, location of activities, and organizations to be assisted during the cooperative agreement performance period.

(c) The BOP/grantee management strategies/workplans are part of the Field Office's Grants Management Process (GMP) and should indicate the issues to be addressed by CD-TA, the improved performance expected as a result of CD-TA, and methods for measuring the success of the CD-TA.

(d) The TADP must delineate all the tasks and sub-tasks for each CD program the applicant will undertake in each Field Office jurisdiction. It must show the location of the community/State in which the CD-TA activities will occur, the level of CD-TA funding and proposed activities by location, the improved program performance or other results expected from the CD-TA and

the methodology to be used for measuring the success of the CD-TA. A time schedule for delivery of the activities, budget-by-task and staffing plan must be included in the TADP.

(4) *Negotiation.* After all applications have been rated and ranked and a selection has been made, HUD requires that all winners participate in negotiations to determine the specific terms of the TADP and the budget. HUD will follow the negotiation procedures described in Section III(D) of the General Section of the SuperNOFA.

(5) *Forms, Certifications and Assurances.* You must submit with your application the forms, certifications and assurances listed in the General Section of this SuperNOFA. After selection for funding but prior to your providing services to a specific community you must submit the CDBG Nexus Statement (where applicable) and/or the CHDO TA designation letter (where applicable).

(6) *Financial Management and Audit Information.* After selection for funding but prior to award, you must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that your financial management system meets prescribed standards for fund control and accountability required by 24 CFR part 84 for Institutions of Higher Education and other Non-Profit Institutions, 24 CFR part 85 for States and local governments, or the Federal Acquisition Regulations (for all other applicants). The information should include the name and telephone number of the independent auditor, cognizant Federal auditor, or other audit agency as applicable.

(7) *Designation for CDBG/CHDO Technical Assistance Providers.* CDBG TA providers will be expected to obtain designation as technical assistance providers by the chief executive officers of each community within which they are working as required by 24 CFR 570.402(c)(2). CHDO TA providers will be responsible for securing a technical assistance designation letter from a PJ stating that a CHDO or prospective CHDO to be assisted by the provider is a recipient or intended recipient of HOME funds and indicating, at its option, subject areas of assistance that are most important to the PJ.

(8) *Training Sessions.* When conducting training sessions as part of its CD-TA activities, CD-TA providers are required to:

(a) Design the course materials as "step-in" packages (also called "train-the-trainer" packages) so that a Field Office or other CD-TA provider may separately give the course on its own;

(b) Arrange for joint delivery of the training with Field Office participation when so requested by the Field Office or by the GTR for national grants; and

(c) When requested by a Field Office and/or GTR, provide for professional videotaping of the workshops/courses and ensure their production in a professional and high-quality manner, suitable for viewing by other CD clients (if this requirement is implemented, additional funds may be requested).

(d) When required by HUD, deliver HUD-approved training courses that have been designed and developed by other HUD contractors or HUD cooperating parties on a "step-in" basis for CD-TA clients, and send trainers to HUD-approved Train-the Trainer sessions.

(9) *Reports to Field Offices and/or GTRs.* CD-TA providers will be required to report to the HUD Field Office(s) with oversight of the geographic area(s) in which CD-TA services are provided or to Headquarters GTRs in the case of national providers. At a minimum, this reporting will be on a quarterly basis unless otherwise specified in the approved TADP.

(10) *Active Participation.* HUD Field Offices will be active participants in the delivery of all technical assistance by funded providers throughout the term of the cooperative agreement.

(11) *CHDO Pass-Through Funds.* CD-TA providers proposing pass-through grants are required to:

(a) Establish written criteria for selection of CHDOs receiving pass-through funds which includes the following:

(i) Participating jurisdictions (PJs) must designate the organizations as CHDOs.

(ii) Generally, the organizations should not have been in existence more than 3 years.

(b) Enter into an agreement with the CHDO that the agreement and pass-through funding may be terminated at the discretion of the Department if no written legally binding agreement to provide assistance for a specific housing project (for acquisition, rehabilitation, new construction or tenant-based rental assistance) has been made by the PJ with the CHDO within 24 months of receiving the pass-through funding.

(12) *CHDO TA Program Limitations.* Pursuant to section 233(d)(1) and (2) of the Cranston-Gonzalez National Affordable Housing Act, funding to any single eligible nonprofit intermediary organization seeking to provide CHDO TA, whether as an independent or joint applicant, is limited to the lesser of 20% of all funds, or an amount not to exceed 20% of the organization's operating

budget for any one year (not including funds sub-awarded or passed through the intermediary to CHDOs). Pursuant to section 233(e), HUD is making available through this program section of the SuperNOFA 40% of the total CHDO TA funds to single state providers within the Field Offices. If there are no single state applicants or the qualified single state applicants utilize less than the 40% set-aside in a given Field Office, that Field Office's single state CHDO set-aside will be redistributed among the qualified multi-state providers in that Field Office. Field Offices also may utilize their multi-state set-aside for single state applicants if the reverse is true.

(13) *HOME TA Program Limitations.* Pursuant to section 243(b) of the Cranston-Gonzalez National Affordable Housing Act, funding to any single eligible HOME TA organization, whether as an independent or joint applicant, is limited to not more than 20% of the operating budget of the recipient organization in any one year and is limited to 20% of the funds available under this program section of the SuperNOFA.

(14) *Affirmatively Furthering Fair Housing.* Section II(D) of the General Section of the SuperNOFA does not apply to these technical assistance programs.

(B) *Program Requirements for HOPWA Technical Assistance*

(1) *General Requirements.* The items listed below specify the requirements that apply to the HOPWA TA applications as follows: in Section (A), Paragraphs: (1) on Profit/Fee; (4) Negotiation, except that the TADP reference will apply to a workplan negotiated between the applicant and the GTR for the HOPWA TA grant in HUD Headquarters; (5) Forms, Certifications and Assurances; (6) Financial Management and Audit Information; (8) Training Sessions; (9) Reports to Field Offices and/or GTRs, except that you must report to the HOPWA Headquarters GTR, at a minimum, on a quarterly basis, unless otherwise specified in an approved HOPWA TA workplan; and the HOPWA TA grantees must also report to the GTR in the Headquarters program office by September 30, 1999 for activities carried out in Fiscal Year 1999; and (14) Affirmatively Furthering Fair Housing.

(2) *Coordination of HOPWA TA Requests.* Except for national meetings, research, information and other activities that are conducted on a program-wide basis in cooperation with HUD Headquarters, as the grantee of HOPWA TA funds, you must work

cooperatively with HUD Field Offices. You must notify the applicable HUD Field Office of the planned activities; must consider the views or recommendations of that office, if any; must follow those recommendations, to the degree practicable; and must report to the applicable Field Office on the accomplishments of this assistance.

## V. Application Selection Process

### (A) Rating and Ranking.

(1) HUD will evaluate applications competitively and rank them against all other applicants that have applied for the same CD-TA program (CDBG, HOME, SHP) within each Field Office or as a National Provider under HOPWA. CHDO applications are similarly evaluated and ranked but are separated into two sub-groups—single State providers and multi-State providers. There will be separate rankings for each CD-TA program, and you will be ranked only against others that have applied for the same CD-TA program.

(2) Once scores are assigned, all applications will be listed in rank order for each CD-TA program for which they applied by Field Office jurisdiction and/or the HOPWA National Program. In each Field Office jurisdiction or National Program area, all applications for the CDBG TA program will be listed in rank order on one list, all applications for the HOME TA program will be listed in rank order on another list, all applications for the SHP TA program will be listed in rank order on another list, and all applications for the HOPWA TA national projects will be ranked separately on another list. All applications for the CHDO TA program will be ranked separately on either the single state provider list or the multi-state provider list. Under this system, a single application from one organization for all CD-TA programs could be assigned different scores and different rankings for each program in different Field Offices.

(3) Applications will be funded in rank order for each CD-TA program by Field Office jurisdiction, except for HOPWA TA national providers and others which cannot be ranked by Field Office jurisdiction. National providers and others will be ranked separately and funded in rank order for each CD-TA program. Irrespective of final scores, HUD may apply program policy criteria to select one applicant in each of the four (CDBG, CHDO, HOME and SHP) CD-TA programs in each Field Office, to ensure diversity of methods, approaches, or kinds of projects. HUD will apply these program policy criteria to provide coverage of CD-TA services

for minorities; women, particularly women in the homebuilding professions under section 233(b)(7) of the Cranston-Gonzalez National Affordable Housing Act; persons with disabilities; homeless; persons with special needs; and rural areas.

(4) In addition to the authority in the General Section to adjust funding, HUD reserves the right to adjust funding levels for each applicant for each CD-TA program, as follows:

(a) Award additional funds to organizations designated as lead CD-TA providers as discussed in Section IV(A)(2)(b) of this CD-TA Program section of the SuperNOFA;

(b) Adjust funding levels for any provider based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, funds available on a national basis for providers that will be operating nationally, or the scope of the technical assistance to be provided;

(c) To negotiate increased grant awards with applicants approved for funding if HUD requests them to offer coverage to geographic areas for which they did not apply or budget, or if HUD receives an insufficient amount of applications.

(5) If funds remain after all selections have been made, remaining funds may be:

(a) Distributed among all HUD Field Offices (in proportion to their fair-share awards) and/or the National Program, or

(b) Made available for other CD-TA program competitions.

(6) If you apply for HOPWA TA funds, you must propose activities that will be carried out on a national or regional basis. With respect to the HOPWA TA program, the amount of funds you request may be adjusted by HUD to ensure that at least \$300,000 of the TA funds will be designated for each of the following four HOPWA TA goals:

(a) Comprehensive Strategies for HIV/AIDS Housing;

(b) Sound Management of HOPWA Programs;

(c) Use of HUD Information Management Tools; and

(d) National HOPWA Information.

If the highest rated application fails to adequately address one or more of the HOPWA TA goals, HUD reserves the right after selecting the highest rated application, to also provide funds to address the goal(s) that is not addressed by: selecting an application that does address this goal(s) in the rank order of all applications that address this goal(s); or, if no application is found to

adequately address this goal(s), by modifying the proposed program of the selected application(s) to address this goal(s). To ensure that activities are carried out on a national basis, HUD may also modify the service area of a selected application, if practicable.

(B) *Factors for Award Used to Evaluate and Rate Applications.* The factors and maximum points for each factor are provided below. The maximum number of points to be awarded for a CD-TA application is 100. The minimum score for an applicant to be considered in funding range is 55, with a minimum of 11 points in Factor 1 and 9 points in Subfactor 2 of Factor 3. The CD-TA program is not an eligible program for the EZ/EC bonus points, as described in Section III(C)(1) of the General Section of the SuperNOFA.

Rating of the "applicant" or the "applicant's organization and staff", unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

When addressing the Factors for Award, the applicant should discuss the specific TA projects, activities, tasks, etc. that it suggests be carried out during the term of the cooperative agreement. See Sections IV(A)(2) and (3) for a discussion of the extent to which such activities may be revised at or after the time of award.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points) (Minimum for Funding Eligibility—11 Points)

In rating this factor, HUD will consider the extent to which the application demonstrates in relation to CD-TA program funding that is requested:

(1) (10 points) Recent, relevant and successful experience of your organization and staff in providing technical assistance in all eligible activities and to all eligible entities for the CD-TA program(s) applied for, as described in the regulations;

(2) (5 points) The relevant experience and competence of your key personnel in managing complex, multi-faceted or multi-disciplinary programs that require coordination with other CD-TA entities or multiple, diverse units in an organization;

(3) (5 points) You have sufficient personnel or access to qualified experts or professionals to deliver the proposed level of technical assistance in each proposed service area in a timely and effective fashion.

**Rating Factor 2: Potential Effectiveness of the Application in Meeting Needs of Target Groups/Localities and Accomplishing Project Objectives for Each CD-TA Program for Which Funds Are Requested (20 Points)**

In rating this factor, HUD will consider the extent to which your application:

(1) (10 points) Identifies high priority needs and issues for the CD program in each community or Field Office jurisdiction for which CD-TA funding is requested, or on a national or regional basis for national HOPWA grants;

(2) (5 points) Outlines a clear and cost-effective plan of suggested TA activities for addressing those needs and aiding a broad diversity of eligible grantees and/or beneficiaries, including those which traditionally have been under-served; and

(3) (5 points) Identifies creative activities to assist eligible grantees in participating in the development of, and improving, local Consolidated Plans and comprehensive strategies.

**Rating Factor 3: Soundness of Approach (40 Points)**

In rating this factor, HUD will consider the extent to which your application evidences a sound approach in addressing identified needs and:

(1) (15 points) Provides a cost effective plan for designing, organizing, and carrying out the suggested technical assistance activities within the framework of the Demand/Response System or, for HOPWA TA applicants, in addressing the four HOPWA TA goals on a national or regional basis.

(2) (15 points) (Minimum for Funding Eligibility—9 points) Demonstrates an effective outreach and assistance program to previously underserved disadvantaged communities and/or organizations with the potential to participate in CPD programs.

(3) (5 points) Provides for full geographic coverage, including urban and rural areas, (directly or through a consortium of providers) of a single State or Field Office jurisdiction or is targeted to address the needs of rural areas, minority groups or other under-served groups, or for HOPWA TA applicants, addresses national or regional approaches;

(4) (5 points) Proposes a feasible, creative plan, which uses state of the art or new promising technology, to transfer models and lessons learned in each of its CD-TA program's activities to grantees and/or program beneficiaries in other CD-TA programs.

**Rating Factor 4: Leveraging Resources (10 Points)**

This factor addresses your ability to secure community resources (note: financing is a community resource) which can be combined with HUD's program resources to achieve program purposes. In evaluating this factor HUD will consider:

The extent to which you have partnered with other entities to secure additional resources to increase the effectiveness of the proposed program activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated to the purpose(s) of the award you are seeking. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities willing to partner with the applicant. You also may partner with other program funding recipients to coordinate the use of resources in the target area.

You must provide evidence of leveraging/partnerships by including in the application letters of firm commitments, memoranda of understanding, or agreements to participate from those entities identified as partners in the application. Each letter of commitment, memorandum of understanding, or agreement to participate should include the organization's name, proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

This factor addresses the extent to which the applicant coordinated its activities with other known organizations, participates or promotes participation in a community's Consolidated Planning process and Continuum of Care homeless assistance strategy, and is working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community.

In evaluating this factor, HUD will consider the extent to which you demonstrates you have:

(1) Coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support and coordinate all known activities and if funded, the specific steps it will take to share information on solutions and

outcomes with others. Describe any written agreements, memoranda of understanding in place, or that will be in place after award.

(2) Taken or will take specific steps to work with recipients of technical assistance services become active in the community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities the applicant proposes.

(3) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded projects/ activities outside the scope of those covered by the Consolidated Plan; and

(b) Other Federal, State or locally funded activities, including those proposed or on-going in the community.

**VI. Application Submission Requirements**

In addition to the forms, certifications and assurances listed in Section II(G) of the General Section of the SuperNOFA, your application must, at a minimum, contain the following items, (except that the following paragraphs (C), (D), (E), (F), (G) and (H) do not apply to HOPWA TA applicants):

(A) Transmittal Letter which identifies the SuperNOFA, the CD-TA programs for which funds are requested and the dollar amount requested for each program, and the applicant or applicants submitting the application. If your organization has never received a HUD technical assistance award, please include a statement to this effect in the transmittal letter.

(B) Narrative statement addressing the Factors for Award described in Section V(B) of this CD-TA Program section of this SuperNOFA. You should number the narrative response in accordance with each factor for award. This narrative statement will be the basis for evaluating your application. It should include a plan of suggested TA activities as described in Factors 2, 3, and elsewhere. These suggested TA activities may form a starting point for negotiating the TADP described in Section IV(A)(3) of this CD-TA Program section of the SuperNOFA. However, they are used primarily for purposes of rating and evaluation and may be substantially altered and revised during negotiations with the Field Offices on the content of the TADPs (see Section IV(A)(3) or Headquarters program office for national projects.

(C) Statement that identifies the Field Office jurisdictions in which you propose to offer services. If you will not offer services throughout the full jurisdictional area of the Field Office, your statement should identify the service areas involved (e.g., States, counties, etc.), as well as the communities in which you propose to offer services.

(D) A matrix that summarizes the amount of funds you are requesting for each CD-TA program in each Field Office jurisdiction. (See CD-TA Appendix B for a copy of the matrix to be submitted.)

(E) A statement as to whether you propose to use pass-through funds for CHDOs under the CHDO TA program, and, if so, the amount and proposed uses of such funds.

(F) If applying for the CHDO TA program, a certification as to whether you qualify as a primarily single-State provider under section 233(e) of the Cranston-Gonzalez Affordable Housing Act and as discussed in Section III(C)(3) of the CD-TA Program section of this SuperNOFA.

(G) A statement as to whether you propose to be considered for the role of lead CD-TA provider in one or more specific program areas in a Field Office jurisdiction, and if so, your organization's capabilities and attributes that qualify you for the role.

(H) Budget identifying costs for implementing the plan of suggested TA activities by cost category for each CD-TA program for which funds are requested by Field Office or as a National Provider (in accordance with the following):

(1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs;

(2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost;

(3) Material Costs indicating the item, quantity, unit cost per item, estimated cost per item, and the total estimated material costs;

(4) Transportation Costs, as applicable.

(5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs;

(6) Consultant Costs, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants;

(7) Subcontract Costs, if applicable. Indicate each individual subcontract and amount;

(8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total other direct costs for the award;

(9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

These line items should total the amount requested for each CD-TA program area. The grand total of all CD-TA program funds requested should reflect the grand total of all funds for which application is made.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Environmental Requirements**

In accordance with 24 CFR 50.19(b)(9) and 58.34(a)(9), the assistance provided

by these programs relates only to the provision of technical assistance and is categorically excluded from the requirements of the National Environmental Policy Act and not subject to environmental review under the related laws and authorities. This determination is based on the ineligibility of real property acquisition, construction, rehabilitation, conversion, leasing or repair for HUD assistance under these technical assistance programs.

#### **IX. Authority**

*CDBG Technical Assistance.* The Community Development Block Grant Technical Assistance Program is authorized under Title I of the Housing and Community Development Act of 1974, (42 U.S.C. 5301-5320; 24 CFR 570.402).

*CHDO Technical Assistance.* The CHDO Technical Assistance Program is authorized by the HOME Investment Partnerships Act (42 U.S.C. 12773); 24 CFR part 92.

*HOME Technical Assistance.* The HOME Technical Assistance Program is authorized by the HOME Investment Partnerships Act (42 U.S.C. 12781-12783); 24 CFR part 92.

*SHP Technical Assistance.* The Supportive Housing Program is authorized under 42 U.S.C. 11381 *et seq.*; 24 CFR 583.140.

*HOPWA Technical Assistance.* The HOPWA Technical Assistance program is authorized under the Department's FY 1999 appropriation act. The HOPWA program is authorized under the AIDS Housing Opportunities Act (42 U.S.C. 12901) and the HOPWA regulations are found at 24 CFR part 574.

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Appendix A to CD-TA Program: "Fair-Share" Amounts Allocated  
to Each HUD CPD Office

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
Alabama State Office	\$40,000	\$41,400	\$53,550	\$80,600	\$40,000	
Alaska State Office	\$40,000	\$23,640	\$30,300	\$45,600	\$40,000	
Arkansas State Office	\$40,000	\$35,280	\$45,645	\$68,700	\$40,000	
California State Office	\$153,200	\$247,320	\$319,455	\$480,900	\$181,600	
Los Angeles Area Office	\$157,000	\$253,440	\$327,360	\$492,800	\$191,300	
Caribbean Office	\$40,000	\$64,800	\$83,700	\$126,000	\$40,000	
Colorado State Office	\$83,950	\$135,360	\$174,840	\$263,200	\$40,000	
Connecticut State Office	\$40,000	\$52,920	\$68,355	\$102,900	\$40,000	
District of Columbia Office	\$40,000	\$52,920	\$68,385	\$103,000	\$62,500	
Florida State Office	\$40,000	\$59,040	\$76,260	\$114,800	\$52,800	
Jacksonville Area Office	\$43,750	\$70,560	\$91,140	\$137,200	\$40,000	
Georgia State Office	\$43,750	\$70,560	\$91,140	\$137,200	\$40,000	
Hawaii State Office	\$40,000	\$23,640	\$30,300	\$45,600	\$40,000	
Illinois State Office	\$91,200	\$147,240	\$190,185	\$286,300	\$109,300	
Indiana State Office	\$43,750	\$70,560	\$91,140	\$137,200	\$40,000	
Kansas/ Missouri State Office	\$40,000	\$64,800	\$83,700	\$126,000	\$40,000	

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
St. Louis Area Office	\$40,000	\$35,280	\$45,645	\$68,700	\$40,000	
Kentucky State Office	\$40,000	\$41,400	\$53,550	\$80,600	\$40,000	
Louisiana State Office	\$40,000	\$52,920	\$68,355	\$102,900	\$40,000	
Maryland State Office	\$40,000	\$35,280	\$45,645	\$68,700	\$40,000	
Massachusetts State Office	\$91,200	\$147,240	\$190,185	\$286,300	\$136,700	
Michigan State Office	\$76,700	\$123,840	\$159,960	\$240,800	\$103,500	
Minnesota State Office	\$40,000	\$52,920	\$68,355	\$102,900	\$40,000	
Mississippi State Office	\$40,000	\$35,280	\$45,645	\$68,700	\$40,000	
Nebraska State Office	\$40,000	\$47,160	\$60,990	\$91,800	\$40,000	
New Jersey State Office	\$76,700	\$123,840	\$159,960	\$240,800	\$40,000	
New Mexico State Office	\$40,000	\$23,640	\$30,300	\$45,600	\$40,000	
New York State Office	\$98,600	\$159,120	\$205,530	\$309,400	\$179,700	
Buffalo Area Office	\$175,100	\$282,960	\$365,490	\$550,200	\$43,100	
North Carolina State Office	\$43,750	\$70,560	\$91,140	\$137,200	\$40,000	
Ohio State Office	\$87,650	\$141,480	\$182,745	\$275,100	\$78,000	
Oklahoma State Office	\$40,000	\$41,400	\$53,550	\$80,600	\$40,000	
Oregon State Office	\$40,000	\$47,160	\$60,990	\$91,800	\$40,000	
Pennsylvania State Office	\$76,700	\$123,840	\$159,960	\$240,800	\$80,000	

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
Pittsburgh Area Office	\$43,750	\$70,560	\$91,140	\$137,200	\$43,100	
South Carolina State Office	\$40,000	\$59,040	\$76,260	\$114,800	\$40,000	
Tennessee Knoxville Area Office	\$40,000	\$59,040	\$76,260	\$114,800	\$40,000	
Texas State Office	\$105,800	\$171,000	\$220,875	\$332,500	\$66,400	
San Antonio Area Office	\$40,000	\$47,160	\$60,915	\$91,800	\$40,000	
Virginia State Office	\$40,000	\$52,920	\$68,355	\$102,900	\$40,000	
Washington State Office	\$47,450	\$76,680	\$99,045	\$149,100	\$50,900	
Wisconsin State Office	\$40,000	\$64,800	\$83,700	\$126,000	\$41,100	
National			\$750,000	\$1,000,000		\$2,250,000
Total	\$2,500,000	\$3,600,000	\$5,400,000	\$8,000,000	\$2,500,000	\$2,250,000

## Appendix B to CD-TA Program - Matrix of Amount of Funds Requested

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
Alabama State Office						
Alaska State Office						
Arkansas State Office						
California State Office						
Los Angeles Area Office						
Caribbean Office						
Colorado State Office						
Connecticut State Office						
District of Columbia Office						
Florida State Office						
Jacksonville Area Office						
Georgia State Office						
Hawaii State Office						
Illinois State Office						
Indiana State Office						
Kansas/ Missouri State Office						

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
St. Louis Area Office						
Kentucky State Office						
Louisiana State Office						
Maryland State Office						
Massachusetts State Office						
Michigan State Office						
Minnesota State Office						
Mississippi State Office						
Nebraska State Office						
New Jersey State Office						
New Mexico State Office						
New York State Office						
Buffalo Area Office						
North Carolina State Office						
Ohio State Office						
Oklahoma State Office						
Oregon State Office						
Pennsylvania State Office						

HUD CPD Field Office	CDBG TA	CHDO TA Single State	CHDO TA Multi-State	HOME TA	SHP TA	HOPWA TA
Pittsburgh Area Office						
South Carolina State Office						
Tennessee Knoxville Area Office						
Texas State Office						
San Antonio Area Office						
Virginia State Office						
Washington State Office						
Wisconsin State Office						
National						
Total						
Grand Total						

\* Grand Total must equal total amount of funds requested



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**COMMUNITY OUTREACH  
PARTNERSHIP CENTERS**



### Funding Availability for the Community Outreach Partnership Centers Program Overview

*Purpose of the Program.* To provide funds to community colleges, four-year colleges, and universities to establish and operate Community Outreach Partnership Centers (COPCs) to address the problems of urban areas.

*Available Funds.* Approximately \$7.5 million.

*Eligible Applicants.* Public and private profit and nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education.

*Application Deadline.* June 9, 1999.

*Match.* 50% of the total costs of establishing and operating research activities and 25% of the total costs of establishing and operating outreach activities.

#### Additional Information:

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

#### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

*Application Due Date.* Your completed application is due on or before 12:00 midnight, Eastern time on June 9, 1999, at HUD Headquarters. See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Address for Submitting Applications.* Submit your completed application (one original and two copies) to: Processing and Control Branch, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC 20410. When submitting your application, please refer to COPC and include your name, mailing address (including zip code) and telephone number (including area code).

*For Application Kits.* For an application kit and supplemental information you should call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, you should refer to COPC and provide your name, address (including zip code), and telephone number

(including area code). You may also download the application kit on the Internet through the HUD web site at <http://www.hud.gov>.

*For Further Information.* For answers to your questions, you have several options. You may contact Jane Karadbil of HUD's Office of University Partnerships at (202) 708-1537, ext. 5918. If you have a speech or hearing impairment, you may call HUD's TTY number (202) 708-0770, or 1-800-877-8399 (the Federal Information Relay Service TTY). Other than the "800" number, these numbers are not toll-free. You may also reach Ms. Karadbil via the Internet at [Jane\\_R\\_Karadbil@hud.gov](mailto:Jane_R_Karadbil@hud.gov).

*For Technical Assistance.* HUD will hold an information broadcast via satellite for potential applicants to learn more about the program and preparation of an application. For more information about the date and time of this broadcast, you should consult the HUD web site at the web address listed above.

#### II. Amount Allocated

Up to \$7.5 million to fund grants under the program. This year, HUD will award two kinds of grants—(A) New Grants to applicants who have never received a COPC grant before to undertake eligible work and (B) New Directions Grants to fund previous COPC recipients (as identified in III.(B) below) to undertake new directions in their activities. Institutionalization Grants will not be funded under this funding announcement for COPC. HUD will use up to \$6.6 million to fund New Grants and up to \$900,000 to fund New Directions Grants.

#### III. Program Description; Eligible Applicants; Eligible Activities

(A) *Program Description.* The purpose of this COPC Program is to assist in establishing or carrying out outreach and applied research activities addressing the problems of urban areas. Funding under this program is used to establish and operate local Community Outreach Partnership Centers (COPC).

The five key concepts that your COPC Program should include are:

(1) You should provide outreach, technical assistance, applied research, and empowerment to neighborhoods and neighborhood-based organizations based on what the residents decide is needed, not based on what the institution thinks is appropriate for that neighborhood;

(2) Community-based organizations should be your partners throughout the life of the project, from planning to implementation;

(3) Your applied research should be related to the outreach activities and be

used to influence your activities within the grant period or shortly after it ends. HUD will not fund research without practical application;

(4) The assistance you provide should be primarily by faculty, students, or to a limited extent, by neighborhood residents or community-based organizations funded by the university; and

(5) Your program should be part of your institution's broader effort to meet its urban mission, and be supported by senior officials, rather than just the work of a few faculty members. Your proposed activities should not duplicate those of other entities in the community and should be appropriate for an institution of higher education to undertake in light of its teaching and research missions.

(B) *Eligible Applicants.* Eligible applicants for both New Grants and New Directions Grants are public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. For New Grants, only applicants that have never previously received a New Grant or an Institutionalization Grant are eligible. For New Directions Grants, only COPC grantees who received grants in Fiscal Years 1994, 1995, or 1996 are eligible. Joint Community Development Program grantees are not eligible for either kind of funding, nor are FY 1997 and 1998 COPC Grantees.

Consortia of eligible institutions may apply, as long as one institution is designated the lead applicant. Since the Statement of Work and other facets of the technical review are assessed in the context of the proposed staffing, and in order to fund as many eligible applicants as possible, HUD has determined that you may be part of only one consortium or submit only one application or you will be disqualified. HUD will hold you responsible for ensuring that neither you nor any part of your institution, including specific faculty, participate in more than one application. For New Directions Grants, if you originally received funding as a consortium, you are not required to submit again with all the consortium members. Members of a previously approved consortium may submit on their own or as part of their old consortium. However, as with New Grants, only one application from an institution will be permitted.

Different campuses of the same university system are eligible to apply, even if one campus has already received COPC funding. Such campuses are eligible as separate applicants only if

they have administrative and budgeting structures independent of other campuses in the system.

(C) *Eligible Activities.* Your COPC Program must combine research with outreach, work with communities and local governments and address the multidimensional problems that beset urban areas. To meet the threshold requirements, your application should be multifaceted and address three or more urban problems. You should address urban problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary. Single purpose applications are not eligible.

Funded research must have a clear near-term potential for solving specific, significant urban problems. You must have the capacity to apply your research results and to work with communities and local institutions, including neighborhood groups and other appropriate community stakeholders, in applying these results to specific real-life urban problems.

While the list of eligible and ineligible activities is the same for both New Grant applicants and New Directions Grant applicants, New Directions Grant applicants must demonstrate that the proposed activities either implement new eligible projects in the current target neighborhood(s) or implement eligible projects in a new target neighborhood(s).

Eligible activities include:

(1) Research activities that have practical application for solving specific problems in designated communities and neighborhoods, including evaluation of the effectiveness of the outreach activities. In order to ensure that the primary focus of your project is on outreach, research may not total more than one-quarter of the total project costs contained in any grant made under this COPC funding announcement (including the required 50% match).

(2) Outreach, technical assistance and information exchange activities which are designed to address specific urban problems in designated communities and neighborhoods. Such activities must total no less than three-quarters of your total project costs (including the required 25% match). Examples of outreach activities include, but are not limited to:

(a) Job training and other training projects, such as workshops, seminars and one-on-one and on-the-job training;

(b) Design of community or metropolitan strategies to resolve urban problems of communities and neighborhoods;

(c) Innovative use of funds to provide direct technical expertise and assistance to local community groups, residents, and other appropriate community stakeholders to assist them in resolving local problems such as homelessness, housing discrimination, and impediments to fair housing choice;

(d) Technical assistance in business start-up activities for low- and moderate-income individuals and organizations, including business start-up training and technical expertise and assistance, mentor programs, assistance in developing small loan funds, business incubators, etc.;

(e) Technical assistance to local public housing authorities on welfare-to-work initiatives and physical transformations of public or assisted housing, including development of accessible and visitable housing;

(f) Assistance to communities to improve consolidated housing and community development plans and remove impediments to design and implementation of such plans;

(g) Assistance to communities to improve their fair housing planning process;

(h) Services to assist low-income students to attend college, as part of the U.S. Department of Education's Gaining Awareness and Readiness for Undergraduate Program (GEAR UP). (For more information call 1-800-USA-LEARN or visit the Department of Education's website at [www.ed.gov](http://www.ed.gov)); and

(i) Regional projects that maximize the interaction of targeted inner city distressed neighborhoods with suburban job opportunities similar to HUD's Bridges-to-Work or Moving to Opportunity programs.

(3) Funds for faculty development including paying for course time or summer support to enable faculty members to work on the COPC.

(4) Funds for stipends for students (which cannot cover tuition and fees) when they are working on the COPC.

(5) Activities to carry out the "Responsibilities" listed under Section IV(B) below. These activities may include leases for office space in which to house the Community Outreach Partnership Center, under the following conditions:

(a) The lease must be for existing facilities not requiring rehabilitation or consultation;

(b) No repairs or renovations of the property may be undertaken with Federal funds; and

(c) Properties in the Coastal Barrier Resource System designated under the Coastal Barrier Resources Act (16 U.S.C. 3501) cannot be leased with Federal funds.

(6) Components of your program may address metropolitan or regional strategies. You must clearly demonstrate how:

(a) Your strategies are directly related to what the targeted neighborhoods and neighborhood-based organizations have decided is needed; and

(b) Neighborhoods and neighborhood organizations are involved in the development and implementation of the metropolitan or regional strategies.

(D) *Ineligible Activities.* (1) Research activities that have no clear and immediate practical application for solving urban problems or do not address specific problems in designated communities and neighborhoods.

(2) Any type of construction, rehabilitation, or other physical development costs.

(3) Costs used for routine operations and day-to-day administration of institutions of higher education, local governments or neighborhood groups.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, grantees must meet the following program requirements:

(A) *Grant Sizes and Terms.* Each New Grant will be for a three-year period. In order to ensure that as many eligible applicants are funded as possible, HUD has set the maximum size of any New Grant at \$400,000. Because these projects are quite complex, HUD has also set the minimum grant size at \$250,000. Since the Statement of Work and other facets of the technical review are assessed in the context of the proposed budget and grant request, and in the interest of fairness to all applicants, HUD will not accept a New Grant application that is under \$250,000 or over \$400,000.

Each New Directions Grant will be for a two-year period. HUD has set the maximum size of any New Directions Grant at \$150,000. Since the Statement of Work and other facets of the technical review are assessed in the context of the proposed budget and grant request, and in the interest of fairness to all applicants, HUD will not accept a New Directions application that is over \$150,000.

(B) *Responsibilities.* You are required to:

(1) Employ the research and outreach resources of your institution of higher education to solve specific urban

problems identified by communities served by your Center;

(2) Establish outreach activities in areas identified in your application as the communities to be served;

(3) Establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) Coordinate outreach activities in communities to be served by your Center;

(5) Facilitate public service projects in the communities served by your Center;

(6) Act as a clearinghouse for dissemination of information;

(7) Develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) Exchange information with other Centers.

The clearinghouse function in (6) above refers to a local or regional clearinghouse for dissemination of information and is separate and distinct from the functions in (8) above, which relate to the provision of information to the University Partnerships Clearinghouse, which is the national clearinghouse for the program.

(C) *Cap on Research Costs.* No more than 25% of your total project costs (Federal share plus match) can be spent on research activities.

(D) *Match.* The non-Federal share may include cash or the value of non-cash contributions, equipment and other allowable in-kind contributions as detailed in 24 CFR part 84, and in particular § 84.23 entitled "cost sharing or matching." You may not count as match any costs that would be ineligible for funding under the program (e.g., housing rehabilitation).

(1) If you are a New Grant applicant, you must meet the following match requirements:

(a) *Research Activities.* 50% of the total project costs of establishing and operating research activities.

(b) *Outreach Activities.* 25% of the total project costs of establishing and operating outreach activities.

(2) If you are a New Directions Grant applicant, you must meet the following match requirements:

(a) *Research Activities.* 60% of the total project costs of establishing and operating research activities.

(b) *Outreach Activities.* 35% of the total project costs of establishing and operating outreach activities.

An example of how you should calculate the match is included in the application kit.

(E) *Administrative.* Your grant will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations), A-21 (Cost Principles for Education Institutions), and A-133 (Audits of States, Local Governments, and Non-Profit Organizations). You may not spend more than 20% of your grant on planning or administrative costs. The application kit contains a detailed explanation of what these costs are. You can access the OMB circulars at the White House website at <http://whitehouse.gov/WH/EOP/OMB/html/circulars>.

## V. Application Selection Process

There will be two separate competitions—one for New Grants and one for New Directions Grants. For each type of grant, applications will be rated, ranked, and selected separately. Two types of reviews will be conducted: a threshold review to determine your applicant eligibility; and a technical review to rate your application based on the rating factors in this Section, paragraph C below.

(A) *Additional Threshold Requirements For Funding Consideration.* Under the threshold review, you will be rejected from the competition if you are not in compliance with the requirements of the General Section of the SuperNOFA or if you do not meet the following additional standards:

(1) You have met the statutory match requirements, if applying for a New Grant or the higher match levels described above, if applying for a New Directions Grant.

(2) You have proposed a program in which at least 75% of the total project costs will be for outreach activities.

(3) For New Grants, you have requested a Federal grant between \$250,000 and \$400,000 over the three-year grant period. For New Directions Grants, you have requested a Federal grant that is no more than \$150,000 over the two-year grant period.

(4) You have addressed at least three urban issues, such as affordable housing, fair housing, economic development, neighborhood revitalization, infrastructure, health care; job training, education, crime prevention, planning, and community organizing.

(5) You and any part of your organization are participating in only one application.

(B) *Factors For Award Used To Evaluate and Rate Applications.* The factors for rating and ranking applicants, and maximum points for each factor, are

provided below. The maximum number of points for this program is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points)

This factor addresses the extent to which you have the organizational resources necessary to successfully implement the proposed activities in a timely manner. In rating this factor HUD will consider the extent to which the proposal demonstrates:

(1) For New Grants (15 points): For New Direction Grants (10 points).

(a) The knowledge and experience of your overall proposed project director and staff, including the day-to-day program manager, consultants and contractors in planning and managing programs for which funding is being requested. Experience will be judged in terms of recent, relevant and successful experience of your staff to undertake eligible program activities. In rating this factor, HUD will consider experience within the last 5 years to be recent; experience pertaining to the specific activities being proposed to be relevant; and experience producing specific accomplishments to be successful. The following categories will be evaluated:

(i) Undertaking research activities in specific communities that have a clear near-term potential for practical application to significant urban issues, such as affordable housing, fair housing including accessible and visitable housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, and community organizing;

(ii) Undertaking outreach activities in specific communities to solve or ameliorate significant urban issues;

(iii) Undertaking projects with community-based organizations or local governments; and

(iv) Providing leadership in solving community problems and making national contributions to solving long-term and immediate urban problems.

(2) For New Directions Grants only (5 points). The extent to which you performed successfully under your previous COPC grant(s), as measured by:

(a) Your achievement of specific measurable outcome objectives; and

(b) Your leveraging of funding beyond the funds originally proposed to be leveraged for that project.

**Rating Factor 2: Need/Extent of the Problem (15 Points)**

This factor addresses the extent to which there is a need for funding your proposed program activities and your indication of the urgency of meeting the need in the target area. In responding to this factor, you will be evaluated on the extent to which you document the level of need for the proposed activity and the urgency in meeting the need.

You should use statistics and analyses contained in a data source(s) that:

(1) Is sound and reliable. To the extent that the targeted community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, you should include references to these documents in your response. The Department will review your application more favorably if you used these documents to identify need, when applicable.

If the proposed activity is not covered under the scope of the Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI), you should indicate such, and use other sound data sources to identify the level of need and the urgency in meeting the need. Types of other sources include Census reports, Continuum of Care gaps analysis, law enforcement agency crime reports, Public Housing Authorities' Comprehensive Plan, and other sound and reliable sources appropriate for your program. You may also address needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements.

(2) To the extent possible, the data you use should be specific to the area where the proposed activity will be carried out. You should document needs as they apply to the area where activities will be targeted, rather than the entire locality or state, unless the target area is an entire locality or state.

**Rating Factor 3: Soundness of Approach (50 Points)**

This factor addresses the quality and cost-effectiveness of your proposed work plan. There must be a clear relationship between your proposed activities, community needs and the purpose of the program funding for you to receive points for this factor. The factor will be evaluated based on the extent to which the proposed work plan will:

(1) (10 points) Identify the specific services or activities to be performed. In reviewing this subfactor HUD will consider the extent to which:

(a) Your proposal outlines a clear research agenda, based on your familiarity with existing research on the subject.

(b) You demonstrate how the research will fit into and strengthen the outreach strategy and activities. For example, if you propose to study the extent of housing abandonment in a neighborhood and then design a plan for reusing this housing, you would be able to demonstrate the link between your proposed research and outreach strategies.

(c) Your plan outlines a clear outreach agenda and there is a plan for involving your institution as a whole in the execution of your outreach strategy. Your outreach program should provide for on-site or a frequent presence in the targeted communities and neighborhoods.

(d) Your outreach agenda includes training projects for local community leaders, for example, to increase their capacity to direct their organizations or undertake various kinds of community development projects.

(e) You demonstrate that your proposed research and outreach activities do not duplicate research and outreach previously completed or currently underway by others.

(f) You propose activities that are appropriate for an institution of higher education because they are tied to the institution's teaching or research mission.

(2) (9 points) Involve the communities to be served in implementation of your activities. In reviewing this subfactor, HUD will look at the extent to which:

(a) You have formed or will form one or more Community Advisory Committees, comprised of representatives of local institutions and a balance of the race, ethnic, disability status, gender, and income of the residents of the communities to be served to develop and implement strategies to address the needs identified in Factor 2. You will be expected to demonstrate that you have already formed such a committee(s) or secured the commitment of the appropriate persons to serve on the committee(s), rather than just describing generally the types of people whose involvement you will seek.

(b) You have involved a wide range of neighborhood organizations and local government entities in the identification of your research and outreach activities.

(3) (5 points) Help solve or address an urgent problem as identified in Rating Factor 2 and will achieve the purposes of the program within the grant period. In reviewing this subfactor, HUD will look at the extent to which:

(a) You identify specific time phased and measurable objectives to be accomplished; your proposed short and long term program objectives to be achieved as a result of the proposed activities; the tangible and measurable impacts your work program will have on the community in general and the target area or population in particular including affirmatively furthering fair housing for classes protected under the Fair Housing Act; and the relationship of your proposed activities to other on-going or proposed efforts to improve the economic, social or living environment in the impact area; and

(b) Grant funds will pay for activities you conduct directly, rather than passing funds through to other entities.

(4) (4 points) Potentially yield innovative strategies or "best practices" that can be replicated and disseminated to other organizations, including nonprofit organizations, State and local governments. In reviewing this subfactor, HUD will assess your demonstrated ability to disseminate results of research and outreach activities to other COPCs and communities. HUD will evaluate your past experience and the scope and quality of your plan to disseminate information on COPC results, strategies, and lessons learned through such means as conferences, cross-site technical assistance, publications, etc.

(5) (8 points)

(a) (3 points) Further and support the policy priorities of HUD including:

(i) Promoting healthy homes;

(ii) Providing opportunities for self-sufficiency, particularly for persons enrolled in welfare to work programs;

(iii) Enhancing on-going efforts to eliminate drugs and crime from neighborhoods through program policy efforts such as "One Strike and You're Out" or the "Officer Next Door" initiative;

(iv) Providing educational and job training opportunities through such initiatives as Neighborhood Networks, Campus of Learners and linking to AmeriCorps activities.

(b) (5 points) Include activities that affirmatively further fair housing, for example:

(i) Working with other entities in the community to overcome impediments to fair housing, such as discrimination in the sale or rental of housing or in advertising, provision of brokerage services, or lending;

(ii) Promoting fair housing choice through the expansion of homeownership opportunities and improved quality of services for minorities, families with children, and persons with disabilities; or

(iii) Providing housing mobility counseling services.

(6) For New Grants (14 points): For New Directions Grants (9 points). Result in the COPC function and activities becoming part of the urban mission of your institution and being funded in the future by sources other than HUD. In reviewing this subfactor, HUD will consider the extent to which:

(a) COPC activities relate to your institution's urban mission; are part of a climate that rewards faculty work on these activities through promotion and tenure policies; benefit students because they are part of a service learning program at your institution (rather than just volunteer activities); and are reflected in your curriculum. HUD will look at your institution's commitment to faculty and staff continuing work in COPC neighborhoods or replicating successes in other neighborhoods and to your longer term commitment (e.g., five years after the start of the COPC) of hard dollars to COPC work.

(b) You have received commitments for funding from sources outside the university for related COPC-like projects and activities in the targeted neighborhood or other distressed neighborhoods. Funding sources to be considered include, but are not limited to, local governments, neighborhood organizations, private businesses, and foundations.

(7) For New Direction Grants only (5 points). Previous grantees have a wealth of knowledge that they can and should share with other institutions. If you send a faculty member of your team who has been listed in your application to participate in the peer review process for New Grants, you will receive 5 points.

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses the ability of the applicant to secure community resources which can be combined with HUD's program resources to achieve program purposes. This factor measures the extent to which you have established partnerships with other entities to secure additional resources to increase the effectiveness of your proposed program activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated to the purpose(s) of the award you are seeking. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities willing to establish partnerships with you. You may also establish partnerships with funding recipients in other grant

programs to coordinate the use of resources in the target area. In evaluating this factor, HUD will allocate points as follows:

(1) Up to a total of 5 points will be awarded for a match that is 50% over the required match, as described in Section IV D above.

The Department is concerned that applicants should be providing hard dollars as part of their matching contributions to enhance the tangible resources going into targeted neighborhoods. Thus, while indirect costs can count towards meeting the required match, they will not be used in calculating match overage. Only direct costs can count in this factor.

(2) Up to an additional 5 points will be awarded for the extent to which you document that matching funds are provided from eligible sources other than your institution (e.g., funds from the city, including CDBG, other State or local government agencies, public or private organizations, or foundations).

You must provide evidence of leveraging/partnerships by including in the application letters of firm commitment, memoranda of understanding, or agreements to participate from those entities identified as partners in the application. Each letter of commitment, memorandum of understanding, or agreement to participate should include the organization's name, proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization. Unless matching funds are accompanied by a commitment letter, they will not be counted towards the match.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinated your activities with other known organizations, participate or promote participation in your community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community.

In evaluating this factor, HUD will consider the extent to which you have:

(1) (4 points) Coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support and coordinate all known activities and, if funded, the specific steps you will take to share information on solutions and outcomes

with others. Any written agreements, memoranda of understanding in place, or that will be in place after award should be described.

(2) (3 points) Taken or will take specific steps to become active in the community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities the applicant proposes.

(3) (3 points) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other Federal, State or locally funded activities, including those proposed or on-going in the community.

(c) *Selections.* In order to be funded under COPC, you must receive a minimum score of 70. HUD intends to fund at least one eligible applicant that serves colonias, as defined by section 916(d) of the Cranston-Gonzalez National Affordable Housing Act, as long as the applicant receives a minimum score of 70.

If two or more applications have the same number of points, the application with the most points for Factor 3, Soundness of Approach, shall be selected. If there is still a tie, the application with the most points for Factor 4, Leveraging Resources shall be selected.

HUD reserves the right to make selections out of rank order to provide for geographic distribution of funded COPCs. If HUD decides to use this option, it will do so only if two adjacent HUD regions do not yield at least one fundable COPC on the basis of rank order. If this occurs, HUD will fund the highest ranking applicant within the two regions as long as the minimum score of 70 points is achieved.

After all applications have been rated and ranked and selections have been made, HUD may require you, if you are selected, to participate in negotiations to determine the specific terms of your Statement of Work and grant budget. In cases where HUD cannot successfully conclude negotiations, or you fail to provide HUD with requested information, an award will not be made. In such instances, HUD may elect to offer an award to the next highest ranking applicant, and proceed with negotiations with that applicant.

After award but before grant execution, if you are selected, you will be required to provide a certification

from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by your institution meets proscribed standards for fund control and accountability required by OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, or 24 CFR part 84, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, or the Federal Acquisition Regulations (for all other applicants). This information should contain the name and telephone number of the Independent Auditor, cognizant Federal auditor, or other audit agency, as applicable.

#### **VI. Application Submission Requirements**

You should include an original and two copies of the items listed below. In order to be able to recycle paper, please do not submit applications in bound form; binder clips or loose leaf binders are acceptable. Also, please, do not use colored paper. Please note the page limits for some of the items listed below and do not exceed them.

In addition to the forms, certifications and assurances listed in Section II(G) of the General Section, your application must, at a minimum, contain the following items:

(A) *Transmittal Letter* signed by the Chief Executive Officer of your institution or his or her designee. If a designee signs, your application must include the official delegation of signatory authority;

(B) A *Statement of Work* (25 page limit) incorporating all activities to be funded in your application and details how your proposed work will be

accomplished. Following a task-by-task format, the Statement of Work must:

(1) Arrange the presentation of related major activities by project functional category (e.g., economic development, affordable housing, capacity building), summarize each activity, identify the primary persons involved in carrying out the activity, and delineate the major tasks involved in carrying it out.

(2) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(3) Identify specific numbers of quantifiable intermediate and end products and objectives you will deliver by the end of the award agreement period as a result of the work performed.

(C) *Narrative statement addressing the Factors for Award in Section V (B)*. (25 page limit, including tables and maps, but not including letters of matching commitments). Your narrative response should be numbered in accordance with each factor and subfactor. Please do not repeat material in your Statements of Work or Need; instead focus on how you meet each factor.

(D) *Budget*. Your budget presentation should be consistent with your Statement of Work and include:

(1) Budget Form—The sample budget form included in the application kit should be used to prepare the budget.

(2) A narrative explanation of how you arrived at your cost estimates, for any line item over \$5,000.

(3) A statement of your compliance with the 20% limitation on "Planning and Administration" Costs.

(4) An explanation of your compliance with the requirement that not more than 25% of the total budget be allocated to research activities.

(5) An explanation of your compliance with the matching requirements. More guidance on all of these items is included in the application kit.

(E) *Abstract*. (1 page limit) An abstract describing the goals and activities of your program.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Environmental Requirements**

In accordance with 24 CFR 50.19(b) of the HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under the related laws and authorities.

#### **IX. Authority**

This program is authorized under the Community Outreach Partnership Act of 1992 (42 U.S.C. 5307 note; hereafter referred to as the "COPC Act"). The COPC Act is contained in section 851 of the Housing and Community Development Act of 1992 (Pub.L. 102-550, approved October 28, 1992) (HCD Act of 1992). Section 801(c) of the HCD Act of 1992 authorizes \$7.5 million for each year of the 5-year demonstration to create Community Outreach Partnership Centers as authorized in the COPC Act. The HUD, VA and Independent Agencies Appropriations Act of 1999 (Pub.L. 105-276, approved October 21, 1998) continued the program beyond the initial five-year demonstration by providing funding for it for FY 1999.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**HISTORICALLY BLACK COLLEGES  
AND UNIVERSITIES (HBCU)**



## Funding Availability for the Historically Black Colleges and Universities Program

### Program Overview

**Purpose of the Program.** To assist HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

**Available Funds.** Approximately \$9 million.

**Eligible Applicants.** Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12876, dated November 1, 1993, are eligible for funding under the HBCU Program.

**Application Deadline.** June 9, 1999.

**Match:** None

### Additional Information

If you are interested in applying for funding under the HBCU program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Your completed application is due on or before 12:00 midnight, Eastern time on June 9, 1999, at HUD Headquarters with a copy to the appropriate HUD CPD Field Office. See the General Section of this SuperNOFA for specific procedures covering the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.** Submit your original signed application and one copy to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC, 20410. When submitting your application, please refer to the HBCU Program, and include your name, mailing address (including zip code) and telephone number (including area code).

**Copies of Applications to HUD Offices.** To facilitate processing and review of your application, submit one copy to the Community Planning and Development (CPD) Director in the appropriate HUD Field Office for the HBCU. The list of HUD Field Offices is included in the application kit.

HUD will accept only one application per HBCU. If HUD receives more than one application from a single HBCU, the application that was received earliest will be considered for funding. All others are ineligible. If HUD receives more than one application simultaneously from an HBCU then all applications will be considered ineligible for funding. You should take this policy into account to ensure that multiple applications are not submitted.

**For Application Kits.** For an application kit and any supplemental information, you should call the SuperNOFA Information Center at 1-800-HUD-8929. If you have a hearing or speech impairment please call the Center's TTY number at 1-800-843-2209. When requesting an application kit, you should refer to the HBCU Program and provide your name, address (including zip code), and telephone number (including area code). You may also download the application on the Internet through the HUD web site at <http://www.hud.gov>.

**For Further Information.** For answers to your questions, you have several options. You may call Ms. Delores Pruden, Historically Black Colleges and Universities Program, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh St, SW, Washington, DC 20410; telephone (202) 708-1590. (This is not a toll-free number.) If you have a hearing or speech impairment, you may access this number via TTY by calling the Federal Information Relay Service toll-free at 1-800-877-8339. You may also obtain information from the HUD Field Office located in your geographic area. The application kit contains the names, addresses and telephone numbers of the HUD Field Offices. For general information and information regarding training on this HBCU Program section of the SuperNOFA, you can call the SuperNOFA Information Center at 1-800-HUD-8929.

### II. Amount Allocated

(A) In order to ensure that some previously unfunded HBCUs will receive awards in this competition, approximately one-fourth of the available funds will be awarded to HBCUs that have not previously been funded under the HUD HBCU program. (The FY 1991 competition was the first funded under the current HBCU Program authorization, section 107(b)(3) of the Housing and Community Development Act of 1974.) Therefore, of the \$9 million in FY 1999 funds made available under this SuperNOFA for the HBCU Program:

(1) Approximately \$2,250,000 million will be awarded to HBCUs that have not received funding in past HUD HBCU competitions under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended. This includes competitions for Fiscal Years 1991 through 1998 ("previously unfunded HBCUs"). Previously unfunded HBCUs are listed in Appendix A of this HBCU Program section of the SuperNOFA.

(2) The remaining approximately \$6,750,000 million of FY 1999 funds will be awarded to HBCUs that have received funding under such competitions ("previously funded HBCUs"). Previously funded HBCUs are listed in Appendix B of this HBCU Program section of the SuperNOFA.

If recaptured funds are made available, those funds will also be divided proportionately between the two types of applicant funding pools; i.e. one fourth to previously unfunded HBCUs and three fourths to previously funded HBCUs.

HUD reserves the right to make awards for less than the maximum amount or less than the amount requested in a particular application. Awards will be made in the form of grants. The maximum amount awarded to previously unfunded applicants will be \$400,000 and the maximum amount awarded to previously funded applicants will be \$500,000.

(B) The maximum period for performance of your proposed program under this SuperNOFA for the HBCU Program is 24 months. The performance period will commence on the effective date of your grant agreement.

### III. Program Description; Eligible Applicants; Eligible Activities

(A) **Program Description.** Approximately \$9,000,000 is available in funding for the Historically Black Colleges and Universities (HBCU) Program. The HBCU Program assists HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

(1) For the purposes of this program, the term "locality" includes any city, county, town, township, parish, village, or other general political subdivision of a State or the U.S. Virgin Islands within which an HBCU is located.

(2) If your HBCU is located in a metropolitan statistical area (MSA), as established by the Office of Management and Budget, you may consider your

locality to be one or more of these entities within the entire MSA. The nature of the locality for each HBCU may differ, therefore, depending on its location.

(3) A "target area" is the locality or the area within the locality in which your HBCU will implement its proposed HUD grant activities.

(B) *Eligible Applicants.* Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12876, dated November 1, 1993, are eligible for funding under the HBCU Program. As indicated above, funds available under this program will be split between two classes of HBCU applicant, which will be rated, ranked, and selected separately.

(1) The first category of eligible applicant, previously unfunded HBCUs, includes HBCUs that *have not* received funding under section 107(b)(3)13 of the Housing and Community Development Act of 1974, which includes competitions for Fiscal Years 1991 through 1998.

(2) The second category, previously-funded HBCUs, includes HBCUs that have received funding in past HUD HBCU competitions. Lists of previously unfunded HBCUs and previously funded HBCUs appear as Appendices A and B to the HBCU Program section of the SuperNOFA. HUD will use these lists to determine in which category your application should be considered.

(C) *Eligible Activities.* (1) *General.* Each activity you propose for funding must meet both a Community Development Block Grant (CDBG) Program national objective AND the CDBG eligibility requirements. Eligible activities that may be funded under the HBCU Program are those activities eligible for CDBG funding. The activities are listed in 24 CFR part 570, subpart C, particularly §§ 570.201 through 570.206. Ineligible activities are listed at § 570.207. If you propose an activity which otherwise is eligible it may not be funded if State or local law requires that it be carried out by a governmental entity.

HUD will not fund specific proposed activities that do not meet eligibility requirements (see, particularly, 24 CFR part 570, subpart C), or that do not meet a national objective in accordance with 24 CFR 570.208. The CDBG Publication entitled "Everything You Wanted to Know About CDBG" discusses the regulations, and a copy can be ordered from HUD's SuperNOFA Information Center at 1-800-HUD-8929. Each activity that may be funded under this SuperNOFA for the HBCU Program

must meet one of the three national objectives of the Community Development Block Grant program which are:

- (a) Benefit to low- or moderate-income persons;
- (b) Aid in the prevention or elimination of slums or blight; or
- (c) Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

Criteria for determining whether an activity addresses one or more of these objectives are provided at 24 CFR 570.208. (It is not necessary for you to comply with the requirement that not less than 70% of the grant expenditures be for activities benefiting low and moderate income persons).

(2) *Examples of Eligible Activities.* Examples of activities that generally can be carried out with these funds include, but are not limited to:

- (a) Acquisition of real property;
- (b) Clearance and demolition;
- (c) Rehabilitation of residential structures to increase housing opportunities for low- and moderate-income persons and rehabilitation of commercial or industrial buildings to correct code violations or for certain other purposes; e.g., making accessibility and visitability modifications to housing. If you are proposing to undertake this activity, you will be required to provide reasonable estimates, from a *qualified* entity other than your university, of the cost to complete projects. Such an entity must be involved in the business of housing rehabilitation, construction and/or management;

(d) Direct homeownership assistance to low- and moderate-income persons, as provided in section 105(a)(25) of the Housing and Community Development Act of 1974;

(e) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, such as water and sewer facilities and streets. If you are proposing to undertake this activity, you will be required to provide reasonable estimates, from a *qualified* entity other than you, of the cost to complete projects. Such an entity must be involved in the business of housing rehabilitation, construction and/or management;

(f) Special economic development activities described at 24 CFR 570.203;

(g) Eligible public service activities, including activities that provide a

continuum of care for the homeless; adult basic education classes; GED preparation and testing; HBCU curriculum development of courses which will lead to a certificate or degree in community planning and development; job and career counseling and assessment; citizen participation academies, and public access telecommunications centers including "Campus of Learners" (COL) and "Neighborhood Networks" (NN); social and medical services; fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, family status and/or disability aware of the range of housing opportunities available to them; and/ or other support activities for low- and moderate-income residents, senior citizens and youth, including the U.S. Department of Education's Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). (For more information regarding GEAR UP, call 1-800-USA-LEARN or visit the Department of Education's website at [www.ed.gov](http://www.ed.gov));

(h) Assistance to facilitate economic development by providing technical or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises;

(i) Establishment of a Community Development Corporation (CDC) to undertake eligible activities;

(j) Assistance to a community based development organization (CBDO) to carry out a CDBG neighborhood revitalization, community economic development, or energy conservation project, in accordance with 24 CFR 570.204. This could include activities in support of a HUD approved local CDBG Neighborhood Revitalization Strategy (NRS) or HUD approved State CDBG Community Revitalization Strategy (CRS). If you are proposing a Community Development Corporation (CDC) component, it may qualify for CBDO activities; and

(k) Program administration costs related to the planning and execution of community development activities assisted in whole or in part with grant funds. *In order to enhance the capacity of HBCUs eligible under this SuperNOFA, you may propose to use up to 10% of the award funds to acquire technical assistance (TA) from a qualified TA provider to assist you in implementing your proposed activities.* While you are responsible for ensuring that potential TA providers are qualified, we would expect that the most qualified providers would be

entities/organizations that have demonstrated the expertise and capacity to successfully conceptualize, develop and implement community and economic development projects and initiatives similar to those you propose. Previously unfunded HBCUs are particularly encouraged to consider acquiring technical assistance from a qualified HBCU TA provider, as described in the paragraph below entitled "Partnering With A Qualified HBCU Technical Assistance (TA) Provider."

(3) *Activities Designed to Promote Training and Employment Opportunities.* In selecting proposed eligible activities, we urge you to consider undertaking activities designed to promote opportunities for training and employment of low-income residents in connection with HUD initiatives such as "Campus of Learners" (COL) in public housing and "Neighborhood Networks" (NN) in other Federally-assisted or insured housing. We also encourage you, whenever feasible, to propose implementing activities in a Federally-designated Urban or Rural (HUD or Department of Agriculture) Empowerment Zone, Urban or Rural Enterprise Community (EZ or EC), or a HUD-approved local CDBG Neighborhood Revitalization Strategy Area or HUD-approved State CDBG Community Revitalization Strategy Area.

(4) *Use of Grant Funds for Acquisition of Computer Hardware and Software.* We encourage you to propose the use of grant funds, at reasonable levels, for the acquisition of computer hardware and software compatible with Internet access and HUD's Community Planning 2020 Software, if you do not currently have such capability. You may obtain more information on the Community 2020 Software from your local HUD Community Planning and Development Office.

(5) *Use of Grant Funds for the Provision of Public Services.* If you plan to use grant funds to provide public services, you are bound by the statutory requirement that not more than 15% of the total grant amount be used for public service activities. Therefore, you must propose to use at least 85% of the grant amount for activities qualifying under an eligibility category other than public services (as described at 24 CFR 570.201(e)). While HUD encourages HBCUs to use a portion of their grant funds for curriculum development of courses that would lead to a certificate or degree in community planning and development, this activity is considered

a public service and subject to the public service cap of 15%.

(6) *Partnering With A Qualified HBCU Technical Assistance (TA) Provider.* In order to foster further partnerships between HBCUs, you are encouraged to propose using a portion of the award funds to acquire technical assistance from a qualified HBCU to assist you to develop and implement the proposed activities. The cost for the technical assistance must be for post award assistance and must be deemed by HUD as necessary and reasonable for the purposes of the grant. Under no circumstances may an applicant use more than 10 percent of the total HUD grant (not including matching funds, if any) to purchase technical assistance. While you are responsible for ensuring that potential TA providers are qualified, we would expect that the most qualified HBCU TA providers would be previously funded HBCUs that have demonstrated the expertise and capacity to successfully conceptualize, develop and implement community and economic development projects and initiatives, particularly by successfully carrying out activities funded under the HUD HBCU Program.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, you are subject to the following requirements:

##### (A) Leveraging

Although a match is not required to qualify for funding, if you claim a match, you must provide letters or other documentation evidencing the extent and firmness of commitments of a match from other Federal (e.g., Americorps Programs), State, local, and/or private sources (including the applicant's own resources). These letters or documents must be dated no earlier than the date of this published SuperNOFA. If you have evidence in support of the proposed match commitment, then you are eligible for more rating points than those applicants not having a firm commitment for a match.

##### Potential Sources of Assistance

- State and local governments.
- Housing Authorities.
- Local or national nonprofit organizations.
- Banks and private businesses.
- Foundations.
- Faith Communities.

##### Documentation Requirements

For each match, cash or in kind, you must submit a letter from the provider

on the provider's letterhead. Number each letter as a page in your application. For each match, include a letter from the provider that addresses the following:

- The dollar amount or dollar value of the in-kind goods and/or services committed. For each cash match, the dollar amount in the commitment letter must be consistent with the dollar amount you indicated on the Standard Form (SF) 424 and in the Budget-By-Task;
- How the match is to be used;
- The date the match will be made available and a statement that it will be for the duration of the grant period;
- Any terms and conditions affecting the commitment, other than receipt of a HUD HBCU Grant; and
- The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services. (See the application kit for a sample commitment letter.)

##### (B) Forms, Certifications and Assurances

The following forms, certifications and assurances are required to be submitted with your application:

- (1) Standard Form (SF) 424 Application for Federal Assistance;
- (2) Standard Form (SF) 424 B for Non-Construction Programs;
- (3) Applicant Certification;
- (4) Certification of Consistency with the Local Consolidated Plan; and
- (5) Letter Certifying Local Approval.
- (6) Certification Form for EZ/EC bonus points. These bonus points will only be awarded when the HBCU is located within the geographic boundaries of a high performing EZ/EC.

##### (C) Employment of Local Area Residents (Section 3)

Please see Section II(E) of the General Section of this SuperNOFA. The requirements are applicable to certain activities that may be funded under this program section of the SuperNOFA.

#### V. Application Selection Process

##### (A) Rating and Ranking

(1) *Threshold Review.* HUD will conduct a review to insure that applications are complete and consistent with the General Section of the SuperNOFA, this HBCU Program section of the SuperNOFA and the HBCU Program regulations (24 CFR 570.404) before reviewing the application for rating and ranking. The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

(2) *Funding of Applications.* To be considered for funding, your application

must receive a minimum score of 70 out of the possible total of 100 points possible for Factors 1 through 5. In addition, two bonus points may be awarded for EZ/EC, as described in the General Section of the SuperNOFA. Within each category of eligible applicant, HUD will fund applications in rank order, until it has awarded all available funds for that category of applicant, or until there are no fundable applications remaining in that category. If there is a tie in the point scores of two applications, the rank order will be determined by the score on Factor 3, 4, 2, 1, 5 in that order. HUD will give the higher rank to the application with the most points for a factor in the above order. At whichever factor one of the applicants has the higher score, the tie will be broken, and no other scores will be considered for the purpose of breaking the tie.

If funds remain after approving all fundable applications within a category of applicants, HUD may choose to add those funds to the funds available for the other category of applicants.

(3) *After Selection.* After selection, but prior to grant award, you will be required to:

(a) Negotiate. After HUD has rated and ranked all applications and HUD has selected the competition winners, HUD requires that all winners participate in negotiations to determine the specific terms of the Statement of Work and the grant budget. HUD will follow the negotiation procedures described in Section III(D) of the General Section of the SuperNOFA.

(b) Provide Financial Management and Audit Information. If you are selected for funding, you will be required to submit a certification from an Independent Public Accountant, or the cognizant government auditor, stating that the financial management system employed by you meets prescribed standards for fund control and accountability required by OMB Circular A-133, as codified at 24 CFR part 84.

*(B) Factors for Award Used To Evaluate and Rate Applications*

HUD will use the Factors For Award set forth below to evaluate applications. Your application must contain sufficient information for HUD to review it for its merits. The score for each factor will be based on the qualitative and quantitative aspects of your response to that factor. You may use up to a total of twenty-five (25) pages to respond to Factor 1 through 5. This limitation applies to your narrative response, tables, and maps, and NOT to firm commitment letters, the performance

narrative and progress reports for previously-funded HBCUs. Please note that this page limitation is different from last year's in that (1) the page limitation has been decreased and (2) tables and maps are included in the limitation.

*The maximum number of points that may be awarded is 102.* This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

**Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points)**

This factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed activities in a timely manner. In rating this factor, HUD will consider the extent to which:

(1) (10 points) Your application demonstrates the knowledge and experience of the overall project director and staff, including the day-to-day program manager, consultants (including TA providers) and contractors in planning and managing the kinds of programs for which funding is being requested. Experience will be judged in terms of recent, relevant and successful experience of your staff to undertake eligible program activities. In rating this factor, HUD will consider the extent to which your organization and staff have recent, relevant, and successful experience in:

(a) Undertaking specific successful community development projects with community-based organizations or local governments; and

(b) Providing proven leadership in solving community problems which have a direct bearing on the proposed activity.

(c) Also, for previously funded HBCUs, the extent to which you have been successful with past HUD/HBCU projects. For each HUD HBCU grant, you must submit a performance narrative, as outlined in the application package, and copies of the last two progress reports. HUD will consider your performance, including meeting established target dates and schedules, in applying the rating for this subfactor.

(2) (5 points) You propose to partner with a qualified HBCU technical assistance (TA) provider to receive technical assistance. Qualified HBCUs that will provide the technical assistance to other HBCUs responding to this SuperNOFA can also be awarded five (5) points for this subfactor.

Whether you are a TA recipient or a TA provider, you must (a) name the other party to the TA assistance; (b) describe the technical assistance to be provided; (c) state the costs of the technical

assistance; (d) state the duration of the technical assistance; and (e) state the expected results of the technical assistance.

**Rating Factor 2: Need/Extent of the Problem (15 Points)**

This factor addresses the extent to which there is a need for funding your proposed program activities and an indication of the importance of meeting the need in the target area. In responding to this factor, you will be evaluated on the extent to which you *document* the level of need for the proposed activities and the importance of meeting the need.

You should use statistics and analyses contained in a data source(s) that:

(a) Are sound and reliable. To the extent that your community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, you should include references to these documents in your response to this factor. The Department will view your application more favorably if you have used these documents to identify need.

If your proposed activities are not covered under the scope of the Consolidated Plan and AI, you should indicate such, and use other sound data sources to identify the level of need and the urgency in meeting the need. Types of other sources include, but are not limited to, Census reports, HUD's Continuum of Care gaps analysis, law enforcement agency crime reports, Public Housing Authorities' Comprehensive Plan, community needs analysis such as provided by the United Way, local Urban League, the HBCU and other sound and reliable sources appropriate for the HBCU program. You also may address needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements.

(b) To the extent possible, the data you use should be specific to the area where the proposed activities will be carried out. You should document needs as they apply to the area where the activities will be targeted, rather than the entire locality or State, unless the target area is the entire locality or State.

**Rating Factor 3: Soundness of Approach (50 Points)**

This factor addresses the quality and cost-effectiveness of your proposed work plan. There must be a clear relationship between the proposed activities, the community's needs and

the purpose of the HUD HBCU Program for you to receive points for this factor.

HUD will consider the effectiveness/impact and feasibility of your work plan in addressing the needs described in your response to Factor 2 (Needs) including the extent to which you will provide geographic coverage for the target area.

(1) *Quality of the Work Plan* (35 Points). Your work plan must incorporate all proposed activities, describing in detail how your activities will alleviate and/or fulfill the needs identified in Factor 2, including how your activities will benefit low-income and elderly residents, welfare recipients, and the working poor in the target area to be served, and how your activities will be implemented. If relocation is to be a part of your work activities, you should discuss your plan for temporary or permanent relocation of occupants of units affected, including storage or moving of household goods, stipends and/or incentives. Your work plan must delineate tasks and subtasks for each activity, and indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously. In evaluating this factor, HUD will consider:

(a) *Specific Services or Activities*. (20 points) The extent to which your proposed work program identifies the specific services or activities to be performed. In reviewing this subfactor, HUD will consider the extent to which:

(i) Your proposal outlines a clear agenda based on a thorough familiarity with existing work/activities in the target area. You should demonstrate that your proposed activities do not duplicate work/activities previously completed or work/activities currently underway by others and that they meet a CDBG national objective and are eligible activities under the CDBG program;

(ii) You demonstrate how the activities will fit into and strengthen your role in addressing community development needs in the targeted locality, and how the proposed project will potentially yield innovative strategies or "best practices" that can be duplicated and disseminated to other organizations; and

(iii) Your plan outlines a clear agenda for citizen involvement in the planning and implementation. HUD will look at the extent to which:

- Local community representatives are involved and reflect a balance of race, ethnic, disability, gender and income of the residents of the community to be served, or will be

involved to address the needs identified in Factor 2;

- Evidence is provided that neighborhood organizations and local government entities were invited to, or participated in, the identification of activities to be undertaken; and

- The methods you used for outreach to the community during the development of your application and propose to use for the implementation of the proposed project will be effective.

(b) *Feasibility of Success and Timely Delivery of Products and Implementation*. (10 points) In evaluating this subfactor, HUD will consider the extent to which your proposed activities will achieve the purposes of the program within the grant period, and the extent to which your schedule represents an efficient and feasible plan for implementation of your proposed activities. You should identify measurable objectives to be accomplished during the period of performance e.g., the number of persons to be trained, number of persons to be employed, number of houses to be built (pursuant to 24 CFR 570.207) or rehabilitated, number of minority owned businesses to be started, etc.; the proposed short and long term program objectives to be achieved as a result of your proposed activities; the tangible and measurable impacts your work program will have on the community in general and the target area or population in particular; and the relationship of your proposed activities to other on-going or proposed efforts to improve the economic, social, or living environment in the target area.

Your work plan must describe the timing of all activities you will undertake and complete under your grant. You should describe the products you will deliver in 6 month intervals, up to 24 months and indicate which staff described in your response to Factor 1 will be responsible and accountable for the deliverables.

(c) *HUD Priorities*. (5 points) The extent to which your proposed application will further and support the policy priorities of HUD including:

- (i) Promoting healthy homes;
- (ii) Enhancing on-going efforts to eliminate drugs and crime from neighborhoods through program policy efforts such as "one Strike and You Are Out" or the "Officer Next Door" initiative; and

- (iii) Providing educational, job training, and homeownership opportunities through such initiatives as Neighborhood Networks and Campus of Learners, and linking programs to Americorps activities.

The *Healthy Homes* initiative implements a series of initiatives to protect children from home hazards such as lead-based paint, radon, fires and accidents around the home.

The *Neighborhood Networks* (NN) initiative enhances the self-sufficiency, employability, and economic self-reliance of low-income families and the elderly living in HUD-insured and HUD-assisted properties by providing such residents with on-site access to computer and training resources.

The *Campus of Learners* (COL) initiative is designed to transform public housing into safe and livable communities where families undertake training in new telecommunications and computer technology and partake in educational opportunities and job training initiatives.

(2) *Institutionalization of Project Activities* (10 Points). The extent to which your project will result in the kinds of activities being proposed sustained by becoming part of the mission of your institution. HUD will look at your commitment to continuing to work in the target area or other similar areas and to your longer term commitment of hard dollars to similar work.

(3) *Affirmatively Furthering Fair Housing* (5 Points). Activities to affirmatively further fair housing, for example:

- (a) Overcoming impediments to fair housing, such as discrimination in the sale or rental of housing or in advertising, provision of brokerage services, or lending;

- (b) Promoting fair housing through the expansion of homeownership opportunities and improved quality of services for minorities, families with children, and persons with disabilities; or

- (c) providing mobility counseling.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure community resources which can be combined with HUD program funds to assist HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development.

In evaluating this factor, HUD will consider the extent to which you have established partnerships with other entities to secure additional resources to increase the effectiveness of your proposed activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated solely to the purpose(s) of the award you are seeking.

Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities. You may also establish partnerships with other program funding recipients to coordinate the use of resources in the target area.

You must provide letters or other documentation evidencing the extent and firmness of commitments of a match from other Federal (e.g., Americorps Programs), State, local, and/or private sources (including your own resources). These commitment letters or documents must be dated *no earlier* than the date of this published SuperNOFA. If you have evidence in support of your proposed match commitment, you are eligible for more rating points than applicants who do not have a *firm commitment* for a match.

The maximum number of rating points you can receive for leveraging is 10 points. HUD will award a higher number of points for a CASH match than in-kind goods or services of the same value. To be recognized as leveraging, contributions must be made available for performance of pertinent grant activity(ies). If you do not have evidence of leveraging, you will receive zero (0) points for this Factor.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you have coordinated your activities with other known organizations, participate or promote participation in your community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community. For specific information about your locality's planning process, contact the local or State Community Development Agency or the local HUD Field Office.

In evaluating this factor, HUD will consider the extent to which you demonstrate you have:

(1) (4 points) Coordinated your proposed activities with those of other groups or organizations before submission in order to best complement, support and coordinate all known activities, and if funded, the specific steps you will take to share information on solutions and outcomes with others. You should describe any written agreements, memoranda of understanding in place, or that will be in place after award.

(2) (3 points) Taken or will take specific steps to become active in the community's Consolidated Planning

process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to your proposed activities.

(3) (3 points) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

- (a) Other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan; and
- (b) Other Federal, State or locally funded activities, including those proposed or on-going in the community.

#### VI. Application Submission Requirements

You must complete and submit your application for an HBCU grant in accordance with instructions contained in the University and College Programs Application Kit for 1999. The application kit will request information in sufficient detail for HUD to determine whether your proposed activities are feasible and meet all the requirements of applicable statutes, regulations, and this SuperNOFA for the HBCU Program. Following is a list of items required for your HBCU application:

(A) *Transmittal Letter*. A transmittal letter must accompany your application. Your cover letter must be signed by the *Chief Executive Officer* (usually the President or Provost) of your institution. If the Chief Executive Officer has delegated this responsibility to another official, that person may sign, but a copy of the delegation must also be included.

(B) *Application Checklist*.

(C) *Abstract/Executive Summary* (one page limit) describing the goals and activities of your project.

(D) *Budget Document* The budget presentation must be consistent with the Work Plan and the Standard Form (SF) 424. Your budget submission must include: (1) a budget summary covering the Federal and non-Federal share of the costs proposed by cost category. You should pay particular attention to accurately estimating costs, determining the necessity for and reasonableness of costs; and correctly computing all budget items and totals. Indirect costs must be substantiated and approved by the cognizant Federal agency or you must provide an indirect cost rate plan. The indirect cost rate should be indicated in your budget; (2) a budget justification, which should be a narrative statement indicating how you arrived at your costs. When possible, you should use quotes from vendors or historical data. You must support all direct labor and salaries with mandated

city/state pay scales or other documentation; and (3) a budget-by-task which includes a listing of tasks to be completed for each activity needed to implement the program, the overall costs for each task, and the cost for each funding source.

You must submit reasonable cost estimates supplied by a qualified entity other than yourself if you are proposing to do any of the following: rehabilitation of residential, commercial *and/or* industrial structures; and/or acquisition, construction, or installation of public facilities and improvements. The supplier of cost estimates must be involved in the business of housing rehabilitation, construction and/or management. You may obtain guidance for securing these estimates from the CPD Director in the HUD field office or the local government. A format for the budget summary and the budget-by-task is included in the application kit.

(E) *Narrative Statement Responding To The Factors For Award* (25 page limit, including tables and maps, but not including firm commitment letters, the performance narrative and progress reports). The narrative should be numbered in accordance with each factor and subfactor.

(F) *Certifications*. All certification forms must be signed by the Chief Executive Officer of your organization.

HUD will not consider appendices to an application. You must submit your documentation, including firm commitment letters, the performance narrative and progress reports, with your responses to the pertinent factors in order to receive points for it.

#### VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### VIII. Environmental Review

If you propose activities (such as physical development activities) that are not excluded from environmental review under 24 CFR 50.19(b), an environmental review by HUD staff is required in accordance with 24 CFR part 50, as indicated by 24 CFR 570.404(i), before HUD approves the proposal (i.e., releases CDBG funds). Before any HUD grant funds are released, environmental approval must be secured. If the requirements of part 50 are not met, HUD reserves the right to terminate all or portions of the award. You are not authorized to proceed with any activity requiring approval until written approval is received from the appropriate HUD Field Environmental Clearance Officer in your area certifying

that the project has been approved and released from all environmental conditions.

### IX. Authority

This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act) (42 U.S.C. 5307(b)(3)), which was added by section 105 of the Department of Housing and Urban Development Reform Act of 1989 (Pub.L. 101-235). The HBCU Program is governed by regulations contained in 24 CFR 570.400 and 570.404, and in 24 CFR part 570, subparts A, C, J, K, and O.

#### HBCU Program Appendix A

*Historically Black Colleges and Universities (Previously Unfunded By HUD During Fiscal Years 1991-1998)*

##### Alabama

Bishop State Community College  
Concordia College  
Fredd State Technical College  
Lawson State Community College  
Miles College  
Selma University  
J.F. Drake Technical College  
Trenholm State Technical College

##### Arkansas

Shorter College

##### Delaware

Delaware State University

##### Florida

Bethune-Cookman College  
Edward Waters College  
Florida Memorial College

##### Georgia

Morehouse College  
Morehouse School of Medicine  
Paine College

##### Louisiana

Dillard University  
Southern University at Shreveport/Bossier City

##### Maryland

University Of Maryland Eastern Shore

##### Michigan

Lewis College of Business

##### Mississippi

Hinds Community College  
Mary Holmes College

##### North Carolina

Barber-Scotia College  
Livingstone College

##### Ohio

Wilberforce University  
Pennsylvania  
Cheyney University of Pennsylvania  
South Carolina

Allen University  
Clinton Junior College  
Denmark Technical College  
Morris College

##### Tennessee

Knoxville College  
Lane College  
Meharry Medical College  
Tennessee State University

##### Texas

Jarvis Christian College  
Southwestern Christian College  
Texas College

##### Virginia

Virginia Union University  
West Virginia  
Bluefield State College  
West Virginia State University  
U.S. Virgin Islands  
University of the Virgin Islands

#### HBCU Program Appendix B

*Historically Black Colleges and Universities (Previously Funded By HUD During Fiscal Years 1991-1998)*

##### Alabama

Alabama A&M University  
Alabama State University  
Gadsden State Community College  
Oakwood College  
Stillman College  
Talladega College  
Tuskegee University

##### Arkansas

Arkansas Baptist College  
Philander Smith College  
University of Arkansas at Pine Bluff

##### District of Columbia

Howard University  
University of the District of Columbia

##### Florida

Florida A&M University

##### Georgia

Albany State University  
Clark Atlanta University  
Fort Valley State University  
Interdenominational Theological Center  
Morris Brown College  
Savannah State University  
Spelman College

##### Kentucky

Kentucky State University

##### Louisiana

Grambling State University  
Southern University A & M College System at Baton Rouge  
Southern University at New Orleans  
Xavier University of New Orleans

##### Maryland

Bowie State University  
Coppin State College  
Morgan State University

##### Mississippi

Alcorn State University  
Coahoma Community College  
Jackson State University  
Mississippi Valley State University  
Rust College  
Tougaloo College

##### Missouri

Harris-Stowe State College  
Lincoln University

##### North Carolina

Bennett College  
Elizabeth City State University  
Fayetteville State University  
Johnson C. Smith University  
North Carolina A&T State University  
North Carolina Central University  
St. Augustine's College  
Shaw University  
Winston-Salem State University

##### Ohio

Central State University

##### Oklahoma

Langston University

##### Pennsylvania

Lincoln University

##### South Carolina

Benedict College  
Claflin College  
South Carolina State University  
Voorhees College

##### Tennessee

Fisk University  
Lemoyne-Owen College

##### Texas

Huston-Tillotson College  
Paul Quinn College  
Prairie View A&M University  
Saint Philip's College  
Texas Southern University  
Wiley College

##### Virginia

Hampton University  
Norfolk State University  
Saint Paul's College  
Virginia State University

BILLING CODE 4210-32-P



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**HISPANIC-SERVING INSTITUTIONS  
ASSISTING COMMUNITIES (HSIAC)**



## Funding Availability for the Hispanic-Serving Institutions Assisting Communities Program

### Program Overview

**Purpose of the Program.** To assist Hispanic-serving institutions of higher education (HSIs) expand their role and effectiveness in addressing community development needs in their localities, consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

**Available Funds.** Approximately \$5.65 million.

**Eligible Applicants:** Only nonprofit Hispanic-serving institutions of higher education that meet the definition of an HSI established in Title V of the 1998 Amendments to the Higher Education Act of 1965 (Pub. L. 105-244; enacted October 7, 1998).

**Application Deadline.** June 9, 1999.

**Match.** None.

### Additional Information:

If you are interested in applying for funds under the HSIAC Program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Your completed application is due on or before 12:00 midnight, Eastern Time on June 9, 1999 at HUD Headquarters.

See the General Section of this SuperNOFA for specific procedures covering the form of the application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.** Submit your original signed application and two copies to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC, 20410. When submitting your application, please refer to HSIAC and include your name, mailing address (including zip code) and telephone number (including area code).

HUD will accept only one application per HSI for this program. If your institution submits more than one application, all of your applications for HSIAC will be disqualified. You should take this policy into account and take steps to ensure that multiple applications are not submitted.

**For Application Kits.** For an application kit and any supplemental information, you should call the

SuperNOFA Information Center at 1-800-HUD-8929. If you have a hearing or speech impairment, please call the Center's TTY number at 1-800-843-2209. When requesting an application kit, you should refer to HSIAC Program and provide your name and address (including zip code) and telephone number (including area code). You may also access the application on the Internet through the HUD web site at [www.hud.gov](http://www.hud.gov).

**For Further Information and Technical Assistance.** For answers to your questions, you have several options. You may call Jane Karadbil of HUD's Office of University Partnerships at 202-708-1537, extension 5918. If you have a hearing or speech impairment, you may access this number via TTY by calling the Federal Information Relay Service toll-free at 1-800-877-8339. You may also write to Ms. Karadbil via email at [Jane\\_R\\_Karadbil@HUD.Gov](mailto:Jane_R_Karadbil@HUD.Gov).

There will be an information broadcast via satellite so that you can learn more about this program and how to prepare an application. For more information about the date and time of this broadcast, you should consult the HUD web site.

### II. Amount Allocated

Approximately \$5.65 million in FY 1999 funds is being made available under this SuperNOFA for HSIAC. The maximum grant period is 24 months. The performance period will commence on the effective date of the grant agreement. The maximum amount request and amount to be awarded is \$400,000. Since the Statement of Work and other facets of the technical review are assessed in the context of the proposed budget and grant request, and in the interest of fairness to all applicants, if you submit an application requesting more than \$400,000 in HUD funds, it will be ruled ineligible. HUD reserves the right to make awards for less than the maximum amount or less than the amount requested in your application.

### III. Program Description; Eligible Applicants; Eligible Activities

**(A) Program Description.** The purpose of HSIAC is to assist HSIs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development.

(1) For the purposes of this program, the term "locality" includes any city, county, Township, parish, village, or other general political subdivision of a State, Puerto Rico, or the U.S. Virgin

Islands within which your HSI is located.

(2) If your HSI is located in a metropolitan statistical area (MSA), as established by the Office of Management and Budget, you may consider your locality to be one or more of these entities within the entire MSA. The nature of the locality for each HSI may differ, therefore, depending on its location.

(3) A "target area" is the locality or the area within the locality in which your institution will implement its proposed HUD grant.

**(B) Eligible Applicants.** Only if your institution is a nonprofit institution of higher education and meets the statutory definition of an HSI in Title V of the 1998 Amendments to the Higher Education Act of 1965 (P.L. 105-244) are you eligible to apply. In order for you to meet this definition, at least 25 percent of the full-time undergraduate students enrolled in your institution must be Hispanic and not less than 50 percent of these Hispanic students must be low-income individuals. You are not required to be on the list of eligible institutions prepared by the U.S. Department of Education. However, if you are not, you will be required to certify in the application that you meet the statutory definition.

**(C) Eligible Activities.** (1) **General.** Each activity you propose for funding must meet both a Community Development Block Grant Program (CDBG) national objective and the CDBG eligibility requirements. A discussion of the national objectives can be found at 24 CFR part 570.208. There are three national objectives:

- (a) Benefit to low- and moderate-income persons;
- (b) Aid in the prevention or elimination of slums or blight; or
- (c) Meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs.

(It is not necessary for you to comply with the requirement that not less than 70% of the grant expenditures be for activities benefiting low- and moderate-income persons.)

You can find the regulations governing activities eligible under the CDBG program at 24 CFR part 570, subpart C, particularly §§ 570.201 through 570.206. Ineligible activities are listed at § 570.207. The CDBG publication entitled "Everything You Wanted to Know About CDBG"

discusses the regulations. You can obtain a copy from the SuperNOFA Information Center. If you propose an activity which otherwise is eligible, it may not be funded if State or local law requires that it be carried out by a governmental entity.

In addition, you may not propose the construction or rehabilitation of your own facilities unless you can demonstrate that such activities would meet the purpose of this program to expand the role and effectiveness of an HSI in its locality. HUD will scrutinize proposed activities for eligibility. As examples of eligible and ineligible on-campus activities, rehabilitating a library for use by your students would not be an eligible activity, but rehabilitating it to convert it to a micro-business enterprise center for the community would be.

(2) *Examples of Eligible Activities.*

Examples of activities that generally can be carried out with these funds, under one the three national objectives, include, but are not limited to:

- (a) Acquisition of real property;
- (b) Clearance and demolition;
- (c) Rehabilitation of residential structures to increase housing opportunities for low- and moderate-income persons and rehabilitation of commercial or industrial buildings to correct code violations or for certain other purposes, e.g., making accessibility and visitability modifications to housing;
- (d) Direct homeownership assistance to low- and moderate-income persons, as provided in section 105(a)(25) of the Housing and Community Development Act of 1974;
- (e) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, such as water and sewer facilities and streets;
- (f) Special economic development activities described at 24 CFR 570.203;
- (g) Up to 15 percent of the grant for eligible public services activities including:
  - (i) Work study programs that meet the program requirements of the Hispanic-serving Institutions Work Study program, which can be found at 24 CFR 570.416;
  - (ii) Outreach and other program activities as described in the Community Outreach Partnership Centers Program section of the SuperNOFA;
  - (iii) Educational activities including English as a Second Language (ESL) classes, adult basic education classes, GED preparation and testing, and curriculum development of courses that

will lead to a certificate or degree in community planning and development;

(iv) Job and career counseling and assessment and other activities designed to promote employment opportunities;

(v) Capacity building for community organizations;

(vi) Social and medical services for youths, adults, senior citizens, and the homeless;

(vii) Fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601–20) by making all persons, without regard to race, color, religion, sex, national origin, familial status and/or disability aware of the range of housing opportunities available to them;

(viii) Day care services and costs for the children of students attending your institution;

(ix) Continuum of care services for the homeless;

(x) Public access telecommunications centers including "Campus of Learners" and "Neighborhood Networks;"

(xi) Services to assist low-income students to attend college, as part of the U.S. Department of Education's Gaining Awareness and Readiness for Undergraduate Program (GEAR UP). (For more information, call 1-800-USA-LEARN or visit the Department of Education's website at [www.ed.gov](http://www.ed.gov)).

(h) Assistance to facilitate economic development by providing technical assistance or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises.

(i) Establishment of a Community Development Corporation (CDC) at the institution to undertake eligible activities;

(j) Assistance to community-based development organizations (CBDO) to carry out a CDBG neighborhood revitalization, community economic development, or energy conservation project, in accordance with 24 CFR 570.204. This could include activities in support of a HUD approved local CDBG Neighborhood Revitalization Strategy (NRS) or HUD approved State CDBG Community Revitalization Strategy (CRS). If you are proposing a Community Development Corporation (CDC) component, it may qualify for CBDO activities;

(k) Activities designed to promote training and employment opportunities;

(l) Up to 20% of your grant for program administration costs related to the planning and execution of community development activities assisted in whole or in part with grant funds. Pre-award planning costs may not be paid out of grant funds.

(3) *Use of Grant Funds for Acquisition of Computer Hardware and Software.*

HUD encourages you to propose the use of grant funds, at reasonable levels, for the acquisition of computer hardware and software compatible with Internet access and HUD's Community Planning 2020 Software, if you do not currently have such capability. You may obtain more information on the Community Planning 2020 Software from the local HUD Community Planning and Development Office.

(D) *Other Requirements.* (1)

*Leveraging.* Although a match is not required to qualify for funding, if you claim a match, you must provide letters or other documentation evidencing the extent and firmness of commitments of a match from other Federal (e.g., Americorps Programs), State, local, and/or private sources (including the applicant's own resources). These letters or documents must be dated no earlier than the date of this published SuperNOFA.

Potential Sources of Assistance

- State and local governments.
- Housing Authorities.
- Local or national nonprofit organizations.
- Banks and private businesses.
- Foundations.
- Faith Communities.

Documentation Requirements

For each match, cash or in kind, you must submit a letter from the provider on the provider's letterhead. Number each letter as a page in the application. For each match, include a letter from the provider that addresses the following:

- The dollar amount or dollar value of the in-kind goods and/or services committed. For each cash match, the dollar amount in the commitment letter must be consistent with the dollar amount you indicated on the SF-424 and in the Budget;
- How the match is to be used;
- The date the match will be made available and a statement that it will be for the duration of the grant period;
- Any terms and conditions affecting the commitment, other than receipt of a HUD HSIAC Grant; and
- The signature of the appropriate executive officer authorized to commit the funds and/or goods and/or services. (See the application kit for a sample commitment letter.)

(2) *Employment of local area residents (Section 3).* Please see Section II(E) of the General Section of this SuperNOFA. The requirements are applicable to certain activities that may be funded under this program section of the SuperNOFA.

(3) *Labor Standards.* If you are awarded a grant, you must comply with the labor standards as found at 24 CFR 570.6603.

(4) *OMB Circulars.* Your grant will be governed by the provisions of 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations), A-21 (Cost Principles for Education Institutions, and A-133 (Audits of States, Local Governments, and Non-Profit Organizations). You may not spend more than 20% of your grant on planning or administrative costs. The application kit contains a detailed explanation of what these costs are. You can access the OMB circulars at the White House website at <http://whitehouse.gov/WH/EOP/OMB/html/circulars>.

#### IV. Application Selection Process

HUD will conduct two types of review: a threshold review to determine applicant eligibility; and a technical review to rate the application based on the rating factors in this section.

##### (A) Threshold Factors for Funding Consideration

Under this threshold review, your application will be rejected from competition if it is not in compliance with the requirements of the General Section of the SuperNOFA or the following additional standards are not met:

- (1) You must be an eligible HSI;
- (2) Your application requests a Federal grant that is no more than \$400,000 over a two-year period;
- (3) There is only one application from your institution or a part of your institution;
- (4) At least one of the activities in your application is eligible.

(B) *Factors for Award Used to Evaluate and Rate Applications.* The factors for rating and ranking applicants, and maximum points for each factor, are provided below. The maximum number of points for this program is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

##### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points)

This factor addresses the extent to which you have the organization resources necessary to successfully implement the proposed activities in a timely manner. In rating this factor, HUD will consider the extent to which your application demonstrates the knowledge and experience of the overall project director and staff, including the

day-to-day program manager, consultants and contractors in planning and managing the kinds of programs for which funding is being requested. If this experience is found within the HSI, you will receive higher points on this factor than if you have secured this experience from consultants, contractors, and other staff outside your institution. In addition, if you demonstrate that the previous experience is for the project team from the institution proposed for this project, you will receive higher points than if the experiences are for people not proposed to work on this project. Experience will be judged in terms of recent, relevant, and successful experience of your staff to undertake activities in:

- (a) Outreach activities in specific communities to solve or ameliorate significant housing and community development issues;
- (b) Undertaking specific successful community development projects with community-based organizations; and
- (c) Providing proven leadership in solving community problems which have a direct bearing on the proposed activity.

##### Rating Factor 2: Need/Extent of the Problem (15 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the importance of meeting the need in the target area. In responding to this factor, you will be evaluated on the extent to which you *document* the level of need for the proposed activities and the importance of meeting the need.

You should use statistics and analyses contained in a data source(s) that:

- (1) Is sound and reliable. To the extent that your targeted community's Five (5) Year Consolidated Plan and Analysis of Impediments to Fair Housing Choice (AI) identify the level of the problem and the urgency in meeting the need, you should include references to these documents in your response to this factor. The Department will view your application more favorably if you have used these documents to identify need.

If your proposed activities are not covered under the scope of the Consolidated Plan and AI, you should indicate such, and use other sound data sources to identify the level of need and the urgency in meeting the need. Types of other sources include Census reports, HUD Continuum of Care gaps analysis, law enforcement agency crime reports, Public Housing Authorities' Comprehensive Plans, community needs analyses such as provided by the

United Way, the HSI, etc., and other sound and reliable sources appropriate for the HSIAC program. You may also address needs in terms of fulfilling court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements.

(2) To the extent possible, the data you use should be specific to the area where the proposed activities will be carried out. You should document needs as they apply to the area where the activities will be targeted, rather than the entire locality or State, unless the target area is the entire locality or State.

##### Rating Factor 3: Soundness of Approach (50 Points)

This rating factor addresses the quality and cost-effectiveness of your proposed work plan. There must be a clear relationship between the proposed activities, the community's needs, and the purpose of HSIAC for you to receive points on this factor.

(1) *Quality of the Statement of Work.* (20 points) Your statement of work must incorporate all proposed activities, describing in detail how the activities will alleviate and/or fulfill the needs identified in Factor 2 and how the activities will be implemented. In evaluating this factor, HUD will consider:

(a) (10 points) The extent to which your proposed statement of work identifies the specific services or activities to be performed. In reviewing this subfactor, HUD will consider the extent to which:

(i) Your proposal outlines a clear agenda based on your familiarity with existing work/activities in the target area. You should demonstrate that your proposed activities do not duplicate work/activities previously completed or currently underway by others and that they meet a CDBG national objective and are eligible activities under the CDBG program;

(ii) You demonstrate how your activities will fit into and strengthen your role in addressing community development needs in your locality; and how the proposed project will potentially yield innovative strategies or "best practices" that can be duplicated and disseminated to other organizations.

(b) (10 points) The extent to which the proposed activities involve the communities to be served in implementation of these activities. HUD will look at the extent to which:

(i) Representatives of the local communities (that reflect a balance of race, ethnic, disability, gender, and income of the residents of the community to be served) are involved or

will be involved to address the needs identified in Rating Factor 2;

(ii) Evidence is provided that you invited neighborhood organizations and local government entities to participate, or that they did participate in the identification of the activities to be undertaken; and

(iii) The methods you used for outreach to the community during the development of the application and propose to use for implementation of the proposed project will be effective.

(2) *Feasibility of Successful and Timely Delivery of Products and Implementation.* (10 points) Your statement of work must describe the timing of all activities to be undertaken and completed under the grant. You should describe the products you will deliver in 6 month intervals, up to 24 months and indicate which staff under Factor 1 will be responsible and accountable for the deliverables. In evaluating this factor, HUD will consider the extent to which the proposed activities will achieve the purposes of the program within the grant period and the extent to which the schedule represents an efficient and feasible plan for implementation of your proposed activities. You should identify specific time-phases and measurable objectives to be accomplished during the period of performance; the proposed short- and long-term program objectives to be achieved as a result of the proposed activities; the tangible and measurable impacts the statement of work will have on the community in general and on the target area in particular; and the relationship of the proposed activities to other on-going or proposed efforts to improve the economic, social, or living environment in the target area.

(3) *Affirmatively Furthering Fair Housing.* (5 points) The extent to which you propose to undertake activities designed to affirmatively further fair housing, for example:

(a) Working with other entities in the community to overcome impediments to fair housing, such as discrimination in the sale or rental of housing or in advertising, provision of brokerage services or lending;

(b) Promoting fair housing choice through the expansion of homeownership opportunities and improved quality of services for minorities, families with children, and persons with disabilities; or

(c) Providing housing mobility counseling services.

(4) *HUD priorities.* (5 points) The extent to which your application will further and support the following priorities of HUD:

(1) Promoting healthy homes;

(2) Providing opportunities for self-sufficiency, particularly for persons enrolled in welfare-to-work programs;

(3) Enhancing on-going efforts to eliminate drugs and crime from neighborhoods through program policy efforts such as "One Strike and You Are Out" or the "Officer Next Door" initiative; or

(4) Providing educational, job training, and homeownership opportunities through such initiatives as GEAR UP, Neighborhood Networks, Campus of Learners, and linking programs to Americorps.

The *Healthy Homes* initiative implements a series of initiatives to protect children from home hazards such as lead-based paint, radon, fires, and accidents around the home.

The *GEAR UP* initiative promotes partnerships between colleges and middle or junior high schools in low-income communities, to help teach students how they can go to college by informing them about college options, academic requirements, costs, and financial aid, and by providing support services, including tutoring, counseling, and mentoring.

The *Neighborhood Networks* initiative enhances the self-sufficiency, employability, and economic self-reliance of low-income families and the elderly living in HUD-insured and HUD-assisted properties by providing them with on-site access to computer and training resources.

The *Campus of Learners* initiative is designed to transform public housing into safe and livable communities where families undertake training in new telecommunications and computer technology and partake in educational opportunities and job training initiatives.

(4) *Institutionalization of Project Activities.* (10 points) The extent to which your project will result in the kinds of proposed activities being sustained by becoming part of the mission of your institution. In reviewing this subfactor, HUD will consider the extent to which program activities relate to your institution's mission; are part of a climate that rewards faculty work on these kinds of activities through promotion and tenure; benefits students because they are part of a service learning program at your institution; and are reflected in the curriculum. HUD will look at your commitment to faculty and staff continuing work in the target area or other similar areas and to your longer term commitment (five years after the start of the grant) of hard dollars to similar work.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure community resources, which can be combined with HUD program funds to achieve program objectives.

In evaluating this factor, HUD will consider the extent to which you have established partnerships with other entities to secure additional resources to increase the effectiveness of the proposed activities. Resources may include funding or in-kind contributions, such as services or equipment. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities. You may also establish partnerships with other program funding recipients to coordinate the use of resources in the target area.

You may count overhead and other institutional costs (e.g., salaries) that are waived as leveraging. However, higher points will be awarded if you secure leveraging resources from sources outside the institution.

You must provide letters or other documentation showing the extent and firmness of commitments of leveraged funds (including your own resources) in order for these resources to count in determining points under this factor. These commitment letters or documents must be dated no earlier than the date of this published SuperNOFA. This documentation should include the organization's name, proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must also be signed by the official of the organization legally able to make commitments on behalf of the organization. Any resource for which there is no commitment letter will not be counted, nor will the resource be counted without the proposed level of commitment being quantified. If your application does not include evidence of leveraging, it will receive zero (0) points for this Factor.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you have coordinated your activities with other known organizations, participate or promote participation in a community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community. For specific information about your locality's process, contact the local or State Community

Development Agency or the local HUD field office.

In evaluating this factor, HUD will consider the extent to which you demonstrate that you have:

(1) (4 points) Coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support, and coordinate all known activities and, if funded, the specific steps you will take to share information on solutions with others. Any written agreements, memoranda of understanding in place, or that will be in place after award, should be described.

(2) (3 points) Taken or will take specific steps to become active in the community's Consolidated Planing process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities you propose.

(3) (3 points) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other Federal, State or locally-funded activities, including those proposed or on-going in the community.

(C) *Selections.* In order to be funded, you must receive a minimum score of 70 points. HUD will fund applications in rank order, until it has awarded all available funds. If two or more applications have the same number of points, the application with the most points for Factor 3, Soundness of Approach, shall be selected. If there is still a tie, the application with the most points for Factor 4, Leveraging, shall be selected.

HUD will not fund specific proposed activities that do not meet eligibility requirements (see 24 CFR part 570, subpart C) or do not meet a national objective in accordance with 24 CFR 570.208.

HUD reserves the right to make selections out of rank order to provide for geographic distribution of funded HSIACs. If HUD decides to use this option, it will do so only if two adjacent HUD regions do not yield at least one fundable HSIAC on the basis of rank order. If this occurs, HUD will fund the highest ranking applicant within the two regions as long as the minimum score of 70 points is achieved.

After all application selections have been made, HUD may require that you participate in negotiations to determine

the specific terms of the Statement of Work and the grant budget. In cases where HUD cannot successfully complete negotiations, or you fail to provide HUD with requested information, an award will not be made. In such instances, HUD may elect to offer an award to the next highest ranking applicant, and proceed with negotiations with that applicant.

After award but before grant execution, winners will be required to provide a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by your institution meets proscribed standards for funds control and accountability required by OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, or 24 CFR part 84, or the Federal Acquisitions Regulations (for all other applicants). This information should contain the name and telephone number of the Independent Auditor, cognizant Federal auditor, or other audit agency, as applicable.

#### V. Application Submission Requirements

You should include an original and two copies of the items listed below. In order to be able to recycle paper, please do not submit applications in bound form; binder clips or loose leaf binders are acceptable. Also, please do not use colored paper. Please note the page limits for some of the items listed below and do not exceed them.

In addition to the forms, certifications and assurances listed in Section II(G) of the General Section, your application must, at a minimum, contain the following items:

(A) *Transmittal Letter*, signed by the Chief Executive Officer of your institution or his or her designee. If a designee signs, your application must include the official designation of signatory authority.

(B) *Application Checklist*.

(C) *Abstract/Executive Summary* (one page limit) describing the goals and activities of the project.

(D) *Statement of Work* (25 page limit) incorporating all activities to be funded in your application and details how your proposed work will be accomplished. Following a task-by-task format, the Statement of Work must:

(1) Arrange the presentation of major related activities (e.g., rehabilitation of a child care center, provision of tutoring services), summarize each activity, identify the primary persons involved in carrying out the activity, and delineate the major tasks involved in carrying it out.

(2) Indicate the sequence in which tasks are to be performed, noting areas of work that must be performed simultaneously.

(3) Identify the specific numbers of quantifiable intermediate and end products and objectives the applicant aims to deliver by the end of the grant period as a result of the work performed.

(E) *Narrative Statement Addressing the Factors for Award*. (25 page limit, including tables, and maps, but not including any letters of commitment) You should number the narrative in accordance with each factor and subfactor. Please do not repeat material in the Statement of Work.

(F) *Budget*. The budget presentation should be consistent with the Statement of Work and include:

(1) A budget by task, using the sample form included in the application kit. This form separates the Federal and non-Federal costs of each program activity. Particular attention should be paid to accurately estimating costs; determining the necessity for and reasonableness of costs; and correctly computing all budget items and totals.

(2) A narrative statement of how you arrived at your costs, for any line item over \$5,000. When necessary, quotes from various vendors or historical data should be used and included. All direct labor or salaries must be supported with mandated city/state pay scales or other documentation. Indirect costs must be substantiated and the rate must have been approved by the cognizant Federal agency. If you are proposing to undertake rehabilitation of residential, commercial, or industrial structures or acquisition, construction, or installation of public facilities and improvements, you must submit reasonable costs supplied by a qualified entity other than your institution. Such an entity must be in the business of housing rehabilitation, construction or management. Guidance for securing these estimates can be obtained from the CPD Director in your HUD field office or from your local government.

You may not submit appendices or general support letters or resumes. If you submit letters of leveraging commitment, they must be included in your response to Factor 4. If you submit other documentation, it must be included with the pertinent factor responses (taking note of the page limit).

#### VI. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

**VII. Environmental Requirements**

If you propose activities (such as physical development activities) that are not excluded from environmental review under 24 CFR 50.19(b), HUD will conduct an environmental review in accordance with 24 CFR part 50, before HUD approves the proposal (i.e., releases HSIAC funds). If the requirements of part 50 are not met, HUD reserves the right to terminate all or portions of your award. You are not

authorized to proceed with any activity requiring such approval until written approval is received from the appropriate HUD Field Office Environmental Clearance Officer in its area certifying that the project has been approved and released from all environmental conditions.

**VIII. Authority**

This program is authorized under the section 107 of the CDBG appropriation

for fiscal year 1999, as part of the "Veterans Administration, HUD and Independent Agencies Appropriations Act of 1999" (Pub. L. 105-276, approved October 21, 1998). For this first year of the program, HSIAC is being implemented through this program section of the SuperNOFA and the policies governing its operation are contained herein.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**FAIR HOUSING INITIATIVES  
PROGRAM (FHIP)**



## Funding Availability for the Fair Housing Initiatives Program

### Program Overview

**Purpose of the Program.** To increase compliance with the Fair Housing Act (the Act) and with substantially equivalent State and local fair housing laws.

**Available Funds.** Approximately \$15,000,000 is allocated as follows:

A. Private Enforcement Initiative (PEI) .....	\$9,300,000
B. Education and Outreach Initiative (EOI) .....	4,500,000
C. Fair Housing Organizations Initiative (FHOI) .....	1,200,000

**Eligible Applicants.** Qualified Fair Housing Organizations (QFHOs); Fair Housing Organizations (FHOs); public or private non-profit organizations or institutions and other public or private entities that are working to prevent or eliminate discriminatory housing practices; State and local governments; and Fair Housing Assistance Program Agencies (FHAP) (as defined in Section IV.(A)(13), *Program Definitions*, and described in detail under the initiatives that follow).

**Application Deadline.** April 27, 1999.  
**Match:** None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** You must submit completed applications for all Initiatives/Components on or before 12:00 midnight, Eastern time on April 27, 1999 at HUD Headquarters.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.** You must submit completed applications (one original and five copies) to: FHIP SuperNOFA '99, [Specify Initiative/Component], FHIP/FHAP Support Division, Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5234, Washington, DC 20410.

When you submit your application, please provide your name, mailing address (including zip code) and telephone number (including area code) on the front of the mailing envelope.

**For Application Kits.** For an application kit and supplemental information, please call the HUD SuperNOFA Information Clearinghouse at 1-800-HUD-8929. If you have a hearing or speech impairment, you may use the Center's TTY at 1-800-HUD-2209. When requesting an application kit, please refer to FHIP SuperNOFA '99, and provide your name, address (including zip code), and telephone number (including area code). Application kits also will be available on the Internet at: <http://www.hud.gov>.

**For Further Information and Technical Assistance.** For answers to your technical questions, you may contact Ivy L. Davis, Director, FHIP/FHAP Support Division at 202-708-0800 ext. 7028 (this is not a toll-free number). If you prefer to use a TTY telephone, you may call 1-800-290-1617.

### II. Amount Allocated

The amount of \$23,500,000 has been appropriated for the Fair Housing Initiatives Program in FY 1999. Approximately \$15,000,000 is being made available for National and Regional/Local/Community-Based activities on a competitive basis to eligible organizations responding to this SuperNOFA. The remaining approximately \$8,500,000 will be made available through separate Requests for Proposals.

The amount available for each initiative is divided as follows:

(A) **Private Enforcement Initiative (PEI).** The objective of this initiative is to support private fair housing enforcement organizations in their investigations of alleged violations of the Fair Housing Act and substantially equivalent State and local fair housing laws. Approximately \$9,300,000 is allocated as follows:

(1) **General Multi-Year Component.** \$7,800,000; award cap: \$300,000 for single projects, \$600,000 for partnership projects; project duration 24-36 months.

(2) **Joint Enforcement Project Component.** \$1,500,000; award cap: \$300,000; project duration 24-36 months.

(B) **Education and Outreach Initiative (EOI).** The objective of this initiative is to assist projects which inform the public about their rights and obligations under the Fair Housing Act and substantially equivalent State and local fair housing laws, to educate the public about the procedures for filing claims with HUD, and to increase the referrals of credible, legitimate fair housing cases (complaints) and other information to HUD. Approximately \$4,500,000 is allocated for 18 month projects; of this,

\$450,000 is allocated for the National Program and \$4,050,000 is allocated for the Regional/Local/Community-Based Program as follows:

(1) **Regional/Local/Community-Based Program.**

(a) **General Component.** \$2,550,000; award cap: \$300,000.

(b) **Homeownership Component.** \$750,000; award cap: \$150,000.

(c) **Disability Component.** \$750,000; award cap: \$150,000.

(2) **National Program, Best Practices Component.** \$450,000; award cap: \$225,000.

(C) **Fair Housing Organizations Initiative (FHOI).** The objective of this initiative is to establish new fair housing enforcement organizations and to build the capacity of fair housing enforcement organizations to carry out enforcement activities. Approximately, \$1,200,000 is allocated for the following components:

(1) **Establishing New Organizations Component (ENOC).** \$800,000; award cap: \$400,000; project duration 24-36 months.

(2) **Continued Development Component (CDC).** \$400,000; award cap: \$200,000; project duration 24 months. Under this component, your award may not exceed 50 percent of the operating budget of your organization for one year. **Operating budget** means your organization's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the 24 months for which funding is received.

### III. Program Descriptions; Eligible Applicants; Eligible Activities

The Fair Housing Initiatives Program (FHIP) assists projects and activities that increase compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. In September 1997, HUD announced a "crackdown on housing discrimination" pledging to substantially increase its enforcement actions. The activities funded under this SuperNOFA are expected to contribute to the accomplishment of this pledge.

Immigrant populations are increasingly responsible for new household formations in the United States and they often face formidable barriers because of discriminatory housing practices. As the President has stated, these unlawful barriers hinder the goal of "One America." It is imperative that fair housing efforts be directed to educating immigrant populations about their fair housing rights and ensuring that enforcement mechanisms address the specific types of discrimination they encounter on a

national, regional, local or community basis. Therefore, activities under the following components should address the fair housing needs of these and other "underserved populations:" (1) the General Component of the Private Enforcement Initiative; (2) the General Component of the Regional/Local/Community-Based Education and Outreach Initiative; and, (3) the Best Practices Component of the Education and Outreach Initiative National Program.

*(A) Private Enforcement Initiative (PEI)*

*(1) PEI-General Multi-Year Component. (a) Component Description.*

If you apply for this component, you must place special emphasis on the fair housing enforcement needs of new immigrant groups and other underserved populations, as defined in the introductory paragraph of Section III. of this program section of the SuperNOFA. The objective of this component is to carry out audits, tests, and other investigative activities which:

- (i) Determine compliance with accessibility requirements;
- (ii) Discover and remedy discrimination in the public and private real estate markets;
- (iii) Propose and undertake activities to detect and remedy more subtle and sophisticated forms of discriminatory practices; and
- (iv) Reduce the incidence of steering and other practices perpetuating segregation.

*(b) Eligible Applicants.* (i) Eligible organizations are FHOs with at least one year of experience in complaint intake, complaint investigation, testing for fair housing violations, and meritorious claims; and QFHOs.

(ii) If you are currently receiving PEI Multi-Year funding awarded to you under a previous NOFA, and, as of the date of this SuperNOFA, your funding expires after June 30, 2000, you are not eligible to apply for this General Multi-Year Component under this SuperNOFA. You are, however, eligible to apply for funding under any other initiative/component.

(iii) Your proposal will be considered either as a single or partnership project (see Section IV.(C)(3), *Program Requirements*, for more details). If you are submitting a partnership proposal, although your award will be made to a single organization, all members of your partnership must meet the eligibility requirements of this initiative.

*(c) Eligible Activities.* Eligible activities include:

- (i) Complaint intake of allegations of housing discrimination, testing, evaluating testing results, or providing

other investigative and complaint support for administrative and judicial enforcement of fair housing laws;

(ii) Investigations of individual complaints and systemic housing discrimination for further enforcement processing by HUD, through testing and other investigative methods;

(iii) Mediation or otherwise voluntarily resolving allegations of fair housing discrimination after a complaint has been filed; and

(iv) Costs and expenses of litigating fair housing cases, including expert witness fees.

*(2) Joint Enforcement Project Component (JEP). (a) Component Description.* This component promotes partnerships between private fair housing enforcement organizations, FHAP agencies and/or traditional civil rights organizations to focus on systemic investigations of housing discrimination. As set forth in Rating Factor 3: Soundness of Approach, these partnerships are expected to result in enforcement proposals being filed with HUD or sufficient information being provided to HUD for the filing of Secretary-initiated complaints or other use by the Department.

*(b) Eligible Applicants.* If you are a QFHO or FHO, you are eligible for funding under this component and may subcontract with other organizations to carry out Joint Enforcement Project Components. Subcontracts should be discussed in accordance with Rating Factor 3: Soundness of Approach.

*(c) Eligible Activities.* Eligible activities include:

- (i) Conducting joint investigations;
- (ii) Conducting joint investigative activities through testing, review of property records, development of strategies, interviews, etc.;
- (iii) Developing complaints for referral to HUD for action; and
- (iv) Sharing information with HUD regarding potential violations for investigation based upon complaints, data, or other sources.

*(B) Education and Outreach Initiative (EOI)*

*(1) General. (a) Initiative Description.* This initiative assists projects which inform and educate the public about their rights and obligations under the Fair Housing Act and substantially equivalent State and local fair housing laws, and educate the public about the procedures for filing claims with HUD. The activities funded under this initiative are expected to result in an increased number of referrals of credible, legitimate fair housing claims and other information regarding discriminatory practices.

*(b) Eligible Applicants.* QFHOs; FHOs; public and private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices; State or local governments; and FHAP Agencies. If you are a traditional civil rights organization, you are encouraged to apply under this initiative.

*(c) Eligible Activities.* The following activities are eligible for all components under this initiative, unless otherwise noted under the specific component: holding educational symposia; duplicating existing fair housing materials for distribution throughout your project area; conducting outreach and providing information on fair housing through printed and electronic media; and providing outreach to persons with disabilities and/or their support organizations and service providers, housing providers, and the general public on the rights of persons with disabilities under the Fair Housing Act. Regional/Local/Community-Based activities must use existing locally available materials. You may not develop new fair housing materials except as a supplement to existing materials and/or in languages other than English or Braille.

*(2) Regional/Local/Community-Based Program.*

*(a) General Component. (i) Component Description.* This component places special emphasis on the fair housing needs of new immigrant groups and other underserved populations.

*(ii) Eligible Applicants.* Are the same as described in Section III.(B)(1)(b), above.

*(iii) Eligible Activities.* Are the same as described in Section III.(B)(1)(c), above.

*(b) Homeownership Component. (i) Component Description.* This component focuses on education and outreach activities that improve access to homeownership for racial/ethnic minorities by addressing multiple barriers to fair housing choice (e.g., mortgage lending discrimination) and education and outreach aimed at reducing racial and other housing segregation.

*(ii) Eligible Applicants.* Are the same as described in Section III.(B)(1)(b), above.

*(iii) Eligible Activities.* Are the same as described in Section III.(B)(1)(c), above.

*(c) Disability Component. (i) Component Description.* This component focuses on the education and outreach efforts of organizations

that assist persons with disabilities to understand their fair housing rights and the forms of discrimination they confront.

(ii) *Eligible Applicants.* Are the same as described in Section III.(B)(1)(b), above.

(iii) *Eligible Activities.* Are the same as described in Section III.(B)(1)(c), above.

(3) *National Program.* (a) *Best Practices Component.* (i) *Component Description.* This component will fund a Best Practices Campaign for Fair Housing Enforcement and Education to collect prototypes of successful fair housing education and enforcement business practices and techniques which benefit underserved populations making them available to State and local governments and others.

(ii) *Eligible Applicants.* Are the same as described in Section III.(B)(1)(b), above.

(iii) *Eligible Activities.* Your program must include: (1) collecting examples of good fair housing enforcement, business practices and education techniques which benefit underserved populations, particularly non-English speaking persons and new immigrants, and (2) disseminating these best practices for use by State and local governments, fair housing organizations, housing industry groups and others. The Department encourages you to address at least one of the following statutory objectives: cooperation with real estate industry organizations; and/or dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Amendments Act of 1988.

(C) *Fair Housing Organizations Initiative (FHOI)*

(1) *Establishing New Organizations Component (ENOC).*

(a) *Component Description.* The objective of this component is to establish new fair housing enforcement organizations in underserved areas.

(b) *Eligible Applicants.* Only QFHOs are eligible to apply under this component.

(c) *Eligible Activities.* You must propose the establishment of a new fair housing organization in an underserved area.

(2) *Continued Development Component (CDC)*

(a) *Component Description.* The objective of this component is to provide support to build the enforcement capacity of newly established fair housing enforcement organizations created under past FHOI-ENOC awards (new organizations).

(b) *Eligible Applicants.* Only new organizations previously funded as new organizations through FHOI-ENOC grants that will have expired as of June 30, 2000, are eligible for funding under this component. A list of these organizations is provided in the FHIP Appendix at the end of this program section of the SuperNOFA.

(c) *Eligible Activities.* Your application must build your enforcement capacity by proposing all or some of the following activities:

(i) Complaint intake of allegations of housing discrimination; testing, evaluating testing results or providing other investigative and complaint support for administrative and judicial enforcement of fair housing laws;

(ii) Investigations of individual complaints and systemic housing discrimination for further enforcement processing by HUD, through testing and other investigative methods;

(iii) Mediation or otherwise voluntarily resolving allegations of fair housing discrimination after a complaint has been filed; and

(iv) Costs and expenses of litigating fair housing cases, including expert witness fees.

**IV. Program Requirements**

(A) *Requirements for All Initiatives/Components.*

In addition to the requirements listed in Section II of the General Section of this SuperNOFA, you must also meet the following application requirements:

(1) *Performance Measures and Deliverables.* Your application must demonstrate how your program activities will support HUD goals, identify performance measures/outcomes in support of those goals, and identify current (baseline) conditions and target level of the performance measure that you plan to achieve. Your proposal also must contain a strategy for achieving project deliverables, with related timelines and milestones. If you are selected, your final performance measures and deliverables will be negotiated between you and HUD as part of your executed grant agreement, based upon your proposal.

(2) *Reports and Meetings On Performance Measures and Deliverables.* In your final grant report, you must describe the status of performance measures in a spreadsheet format or other manner specified by the Department [also see the reporting requirements for PEI and FHOI grants at Section IV.(B)(9), below, of this program section of the SuperNOFA]. You are required to report quarterly on the status of project deliverables against your

approved milestones and timelines and meet at least semi-annually with HUD to ensure that project activities satisfy grant requirements.

(3) *Single Award Limitation/Preference Must be Stated.* (a) Except as provided in paragraph (b) of this section, you may apply for funding under more than one component for which you are an eligible applicant, but you may receive only one award under this program section of the SuperNOFA. If you apply for funding under more than one component, you must state your priority for selection and submit your preference in your application. If you fail to submit your preference, your application will be ineligible.

(b) The requirements of paragraph (a) of this section do not apply to the components listed in this paragraph. In addition to the single award for which you are eligible under paragraph (a) of this section, if you are an eligible applicant for the following components, you may also apply for, and are eligible to receive:

(i) An FHOI-Establishing New Organizations Component (ENOC) award, and/or

(ii) One EOI-National Program award.

(4) *Independence of Awards.* Although there is no limitation on the number of applications that you may submit, each project or activity proposed in an application must be independent and capable of being implemented without reliance on the selection of other applications submitted by you or other applicants. This provision does not preclude you from submitting a proposal which includes other organizations as sub-recipient.

(5) *Project Starting Period.* For planning purposes, assume a start date no later than September 30, 1999.

(6) *Page Limitation.* The narrative response for each of the five rating factors for award is limited to ten pages (this does not include forms or documents which are required under each factor). Pages exceeding that limit will not be evaluated. Furthermore, unrequested items, such as brochures and news articles, will not be considered. You should respond to each factor. Failure to provide narrative responses to all factors will result in your application not receiving points for the information omitted, which may significantly affect your application score.

(7) *Training.* Your proposed budget must include a training set-aside of \$3,000 for single-year projects and \$6,000 for multi-year projects. HUD will permit recipients to use these funds to

attend both HUD-sponsored and HUD-approved training.

(8) *Payment Contingent on Completion.* Payments including multi-year award increments, are contingent on the satisfactory completion of your project activities and deliverables as called for in your grant agreement.

(9) *Accessibility Requirements.* All activities and materials funded by this Program must be accessible to persons with disabilities [24 CFR 8.4, 8.6, and 8.54].

(10) *Copyright Materials.* You may copyright any work that is subject to copyright; however, HUD reserves the right to reproduce, publish, or otherwise use your work for Federal purposes, and to authorize others to do so as outlined in 24 CFR 84.36.

(11) *Ineligible Applications.*

(a) If you fail to meet the requirements set forth in Section II of the General Section of this SuperNOFA, your application will be ineligible for funding.

(b) *Award Caps.* If you exceed the award cap for the component for which you are requesting funding, your application will be ineligible.

(c) *Research Activities.* Projects aimed solely or primarily at research or dependent upon such data-gathering, including but not limited to surveys and questionnaires, are not eligible for funding.

(d) *Non-Profit Status.* If you are applying under the PEI and FHOI Initiatives, you must submit documentation with your application that, as of the application due date of this program section of the SuperNOFA, you are a 501(c)(3) tax-exempt organization as determined by the Internal Revenue Service. Failure to submit this documentation with your application will be treated as a technical deficiency as discussed in Section V of the General Section of this SuperNOFA.

(e) *JEP Component.* You must include in your JEP application a memorandum of understanding (MOU) from all project participants describing the signatories's duties and responsibilities. The MOU must be signed by an official of each project organization who is authorized to make commitments on behalf of the participating organization. If you fail to submit this documentation with your application, you will be ineligible.

(f) *Single Award Limitation/Preference Must be Stated.* If your application does not state a funding preference as required by Section IV.(A)(3), above, of this program section of the SuperNOFA, your application will be ineligible.

(12) *Ineligible Activities.*

(a) *Fair Housing and Free Speech.* None of the amounts made available under this SuperNOFA may be used to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

(b) *Suits Against the United States.* No recipient of assistance under this program may use any funds provided by HUD for the payment of expenses in connection with litigation against the United States (24 CFR 125.104(f)).

(13) *Program Definitions.* The definitions that apply to this FHIP section of the SuperNOFA are as follows:

*Enforcement actions* includes charges issued under the Fair Housing Act, settlements with relief equivalent to or greater than what HUD would seek had a charge been issued; settlements with relief for a broad class of victims; referrals to the Department of Justice (DOJ) where it has legal authority to take further action: zoning and land use cases (42 U.S.C. 3614(b)); pattern and practice cases [42 U.S.C. 3614(a)]; requests for prompt judicial action; [42 U.S.C. 3610(e)]; and allegations of criminal violations of the Fair Housing Act (42 U.S.C. 3631).

*Enforcement proposals* are potential complaints under the Fair Housing Act which are timely, jurisdictional, and well developed which could reasonably be expected to become an enforcement action if an impartial investigation finds evidence supporting the allegations and the case proceeds to a resolution with HUD involvement.

*Fair Housing Assistance Program (FHAP) Agencies* means State and local agencies which administer laws substantially equivalent to the Fair Housing Act, as described in 24 CFR part 115.

*Fair Housing Enforcement Organization (FHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

*Meritorious Claims* means enforcement activities by an organization as defined in 24 CFR 125.103.

*Qualified Fair Housing Enforcement Organization (QFHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

*Regional/Local/Community-Based Activities* are defined at 24 CFR 125.301(d).

*Traditional Civil Rights Organizations* means non-profit organizations or

institutions and/or private entities with a history and primary mission of securing Federal civil rights protection for groups and individuals protected under the Fair Housing Act and substantially equivalent State or local laws and which are engaged in programs to prevent or eliminate discriminatory housing practices.

*Underserved areas* means jurisdictions where no public or private fair housing enforcement organizations exist or which are not sufficiently served by one or more public or private enforcement fair housing organizations, and which contain large concentrations of protected classes.

*Underserved populations* means protected class members among new immigrant populations (especially ethnic minorities who are not English speaking) rural populations, persons with disabilities and the homeless that can be documented as historically not having been the focus of Federal, State or local fair housing enforcement efforts.

(B) *Requirements For Private Enforcement Initiative and Fair Housing Organizations Initiative*

(1) *Broad-Based and Full Service Projects.* If you are applying under the Private Enforcement Initiative (PEI) and Fair Housing Organizations Initiative (FHOI), your activities must be broad-based and full service enforcement projects that address discrimination against persons protected by the Fair Housing Act. Furthermore, your activities must contribute in measurable ways to HUD's commitment to increase its number of enforcement actions. Full service projects must include more than one type of the following enforcement related activities in your project proposal: interviewing potential victims of discrimination; analyzing housing-related issues; intaking complaints; testing; evaluating testing results; conducting preliminary investigations; conducting mediation; enforcing meritorious claims through litigation or referral to administrative enforcement agencies; and disseminating information about fair housing laws. "Broad-based" projects are not limited to a single fair housing issue, instead they cover multiple issues related to housing discrimination covered under the Fair Housing Act, such as: rental, sales and financing of housing.

(2) *Non-Profit Status.* If you are applying under the PEI and FHOI Initiatives, you must submit documentation with your application that, as of the application due date of this program section of the SuperNOFA, you are a 501(c)(3) tax-exempt organization as determined by the Internal Revenue Service. Failure to

submit this documentation with your application will be treated as a technical deficiency as described in Section V. of the General Section of this SuperNOFA.

(3) *Mandatory Referrals.* You are required to refer to HUD all cases arising from FHIP-funded audit testing. In all FHIP-funded cases where you find a basis for filing a complaint with a bona fide complainant other than your organization, you must file the complaint with HUD unless, consistent with the Act, the complainant refuses, in writing, to do so. In addition to filing with HUD, a bona fide complainant may file in Federal or State Court.

(4) *Outreach Expenses.* Your budget may designate up to 5% of requested funds for education and outreach to promote awareness of services available, if the education activities are necessary for the successful implementation of your project.

(5) *Tester Requirements.* Testers in your FHIP-funded testing activities must not have prior felony convictions or convictions of crimes involving fraud or perjury. All testers must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(a) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(b) Be a relative of any party in a case;

(c) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(d) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(6) *Testing Experience.* When proposing testing other than rental or accessibility testing, you must document, to HUD's satisfaction, that at minimum you have conducted successful rental testing. Documentation of your experience must include, a general description of: when and where tests occurred, the entities tested, and the overall results of the tests, including complaints filed and settlements or remedies secured. You must include copies of testing methodologies and training materials used. The testing methodology and procedures will remain confidential for enforcement purposes.

(7) *Review and Approval of Testing Methodology.* If your Statement of Work proposes testing, other than rental testing, HUD reserves the right to require as a deliverable to be reviewed and approved by HUD prior to your

carrying out the testing activities: (a) The testing methodology to be used, and (b) the training to be provided to testers. Your testing methodology and procedures will remain confidential for enforcement purposes.

(8) *Conflict of Interest and Use of Settlement Funds Certifications.*

(a) You must certify you will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of FHIP-funded testing by you during the 12 month period following the test. This does not preclude settlement based on investigative findings. HUD reserves the right to negotiate with awardees additional provisions addressing potential conflicts of interest.

(b) You must certify that any compensation you receive directly or indirectly from a settlement, conciliation, or award of damages as a result of activities funded under this SuperNOFA, will be used only to carry out activities specifically authorized under your cooperative agreement/grant agreement or to carry out other activities approved by HUD.

(9) *Reports.* You must provide reports in a format (which may be computer generated), at a frequency and with contents specified by HUD. Your report must include: the number and basis of claims/complaints filed with HUD or in Federal/State court, the number and terms of settlements or other outcomes achieved. The terms of settlements ordered by a court or other tribunal to be kept confidential need not be produced.

(10) *Enforcement Log.* You are required to record information about the funded project in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD. Such information must include: the number of complaints of possible discrimination you have received; the protected basis of these complaints; the issue, test type, and number of tests utilized in the investigation of each allegation; the respondent type and testing results; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; to whom the case was referred; and the resolution and type of relief sought and received. You must agree to make this log available to HUD. This log will be considered confidential for enforcement purposes.

(C) *Additional Requirements for Private Enforcement Initiative*

(1) Your proposal must include a description of the enforcement proposals to be referred to HUD to

increase enforcement actions. Therefore, you must state what information you intend to collect and analyze, the kind and number of complaints you anticipate referring to HUD for enforcement purposes, and a method for referring such complaints. Your application should explain how you plan to structure tests, train investigators, conduct investigations, etc. This description should make clear the safeguards to be used to ensure that complaints referred to HUD for enforcement action are fully jurisdictional under the Act and supported by credible and legitimate evidence that the Act has been violated.

(2) Neither you nor any sub-recipient are permitted to charge or claim credit for any activities performed under the FHIP Program toward any other Federal project/funds. For example: If you receive a PEI-JEP award and you are a FHAP agency, you will not be able to count any cases/referrals arising under an approved project toward your FHAP case processing calculations.

(3) *PEI-General Multi-Year Component.* If you apply for this component as a single or partnership project the amount awarded will vary as noted in Section II.(A)(1), Amount Allocated, above in this program section of the SuperNOFA. A higher award cap is allocated for partnership projects. If you are submitting a partnership proposal you must meet the following requirements:

(a) You must designate a single organization with responsibility for administering the grant and overseeing project activities which must be the organization submitting the application.

(b) All members of your partnership must be identified in your application with the duties and responsibilities for each partner described fully.

(c) All partnership members must meet the eligibility requirements of this initiative (see Section III.(A)(1)(b), eligible applicants for PEI), and

(d) Your application must make clear you are submitting a partnership proposal.

(D) *Additional Requirements for Education and Outreach Initiative National Program and Regional/Local/Community-Based Program*

(1) All projects must address housing discrimination based on race, color, religion, sex, disability, familial status, or national origin.

(2) Your proposal must contain a description of how your activities or your final products can be used by other agencies and organizations. If modifications are necessary for use by others, describe the modifications.

(3) Your proposal must describe the referral process and list in the Statement of Work the projected referrals to be submitted to HUD.

(E) *Additional Requirements for Fair Housing Organizations Initiative: Establishing New Organizations Component ENOC.* You must propose the establishment of a new fair housing enforcement organization in an underserved area. You must provide a justification for why the target project area is underserved. Your justification must include data and studies that indicate the presence of housing discrimination, segregation and/or other indices of discrimination in the locality based upon race, color, religion, sex, national origin, familial status, or disability.

## V. Application Selection Process

### (A) Rating and Ranking

(1) Your application for funding will be evaluated competitively under one of the following components:

(a) Private Enforcement Initiative (PEI):

(i) General Multi-Year Component;  
(ii) Joint Enforcement Project Component;

(b) Education and Outreach Initiative (EOI):

(i) Regional/Local/Community-Based Program:

(1) General Component;  
(2) Homeownership Component;  
(3) Disability Component;

(ii) National Program:

(1) Best Practices Component;  
(c) Fair Housing Organizations

Initiative (FHOI):

(i) Establishing New Organizations Component;

(iii) Continuing Development Component.

(2) You will be awarded points and assigned a score based on the Factors for Award. After eligible applications are evaluated against the factors for award and assigned a score, they will be ranked in order by score. A minimum score will be established below which applications will not be considered to be of sufficient quality for funding. This score (based upon review of the applications by applying the factors for award) will identify applications that will not effectively achieve the objectives of this SuperNOFA. This score will vary based upon the overall quality of the proposals received in each program or component, but will be set within 30 percentage points of the average score of all proposals that are scored in that program or component. The Rating Factor requirements listed in the General Section of this SuperNOFA

are applicable to applicants applying for funding under this Program.

(3) *Tie Breaking.* When there is a tie in the overall score, the applicant with the higher score under Rating Factor 3: Soundness of Approach will be ranked higher. If the applications are equal in this respect, the application that receives a total higher number of points under Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience will be ranked higher. If these scores are identical then the applicant with the lower request for FHIP funding will be ranked higher.

### (B) Selections

(1) *In general.* Except as noted in paragraph (2) "Achieving Diversity of Awards," proposals of sufficient quality to be funded will be funded in rank order until all available funds have been obligated or until no applications of sufficient quality remain. The final decision rests with the selecting official—the Assistant Secretary for Fair Housing and Equal Opportunity, or designee.

(2) *Achieving Diversity of Awards.* The selecting official shall have discretion to pass over applicants in funding a component in accordance with the funding diversity or geographic diversity procedure or both procedures. If the selecting official decides to use any of these procedures, the selecting official shall apply that procedure equally to all applicants. If the selecting official opts to use both procedures, he/she will use the funding diversity procedure first, and then apply the geographic diversity procedure. These procedures are applied component-by-component. No shifting of leftover funds from a component will occur until all applications of sufficient quality in that component are awarded funds.

(a) *Funding Diversity.* The selecting official may pass over applicants to provide broader representation among funded entities. For any component in which the Selecting Official decides to use this procedure, the selecting official will pass over applicants who have received two FHIP SuperNOFA grants in the past five years in favor of lower ranked applications of sufficient quality to be funded who have not received two FHIP SuperNOFA grants in the past five years. Prior receipt of an ENOC award will not be included in determining whether an applicant received two grants in the past five years. Passed over applications of sufficient quality will be placed at the bottom of the ranking list of applications of sufficient quality for the component, but will be placed in rank order among passed over applications. Once applications of

sufficient quality to be funded are reordered to reflect the funding diversity procedure, the selecting official shall proceed in one of two ways:

(i) The selecting official may apply the geographic diversity procedure to all applications of sufficient quality, or

(ii) The selecting official may not apply geographic diversity and award funds to applicants based on their rank order except that passed over applicants are funded in rank order after all other applicants of sufficient quality are funded, until funds are exhausted or there are no more applications of sufficient quality to be funded.

(b) *Geographic Diversity.* To provide for broader geographic representation among funded projects, the selecting official will have the discretion to pass over an applicant where there is more than one applicant located in a Metropolitan Statistical Area (MSA), as defined by the Bureau of the Census. If the selecting official decides to use this procedure in a component, the selecting official will select from the applications of sufficient quality to be funded the highest ranked applicant in each MSA, once applications of sufficient quality have been reordered to reflect the funding diversity procedure. If funding diversity has been applied, this is the highest ranked applicant in each MSA that was not passed over in that procedure. Passed over applications of sufficient quality will go to the bottom of the ranking list of applications of sufficient quality to be funded for the component, but will be placed in rank order among passed over applications, whether passed over for funding or geographic diversity. If additional funds remain in the component after funding the highest ranked applicant in each MSA, the selecting official shall proceed in one of two ways:

(i) The selecting official may decide to apply geographic diversity to the passed over applicants, to the extent that additional funds remain. If, after applying geographic diversity a second time, additional funds still remain, the remaining funds will be awarded based on the rank order of any remaining applications of sufficient quality to be funded, irrespective of MSA.

(ii) If the selecting official opts not to apply geographic diversity a second time, then remaining funds shall be awarded to passed over applicants based on their rank order until funds are exhausted.

### (C) Priority for Shifting Left Over Funds

If after all applications within funding range have been selected in a initiative/component and leftover funds remain

available, the selecting official or designee will have the discretion to shift leftover funds in rank order within and between initiatives/components as follows:

(1) First, within initiatives:

(a) For PEI and EOI, leftover funds from any component will be shifted to the General Component;

(b) For FHOI, leftover funds from ENOC will be shifted to CDC.

(2) Second, between initiatives: if after shifting funds, as noted above, leftover funds remain, those funds will be shifted to the PEI-Multi-Year General Component.

*(D) Factors for Award Used To Evaluate and Rate All Applications Except the National Program of the Education and Outreach Initiative*

The factors for rating and ranking applicants and the maximum points for each factor, are provided below. The maximum number of points to be awarded any application is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

**Rating Factor 1: Capacity of Applicant and Relevant Organizational Experience (20 Points)**

This factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed activities in a timely manner. In rating this factor HUD will consider the extent to which your proposal demonstrates:

(1) (10 points) Specific Description of Staff for Proposed Activities.

(a) The knowledge and experience of your proposed project director and staff, including the day-to-day program manager, consultants and contractors in planning and managing programs for which you're requesting funding. Experience will be judged in terms of recent, relevant and successful experience of you and your staff to undertake eligible program activities.

(b) Whether there is sufficient personnel or you will be able to quickly access qualified experts or professionals to deliver the proposed activities in a timely and effective fashion, and your readiness and ability to immediately begin your proposed work program. To demonstrate there is sufficient personnel, you must submit the proposed number of staff years for your proposed employees and experts, the titles and relevant professional background and experience of each employee and expert proposed, and the roles to be performed by each. You should identify the key personnel in your Statement of Work, as discussed in

Rating Factor 3: Soundness of Approach.

(2) (10 points for either (a) or (b)) Specific Description of Experience Relevant to the Proposed Activities.

(a) Your past grant experience in terms of your ability to attain demonstrated measurable progress in the implementation of your most recent activities where performance has been assessed as measured by expenditures and progress in achieving the purpose of the activities. HUD will also consider any evidence it has in its files of your failure under past awards to comply with grant award provisions; or

(b) If you have not received funding in the past, your demonstration of experience in managing programs, and carrying out management responsibilities for programs similar in scope or nature to the work activities proposed. Therefore, if you have managed large, complex, interdisciplinary programs, or work similar in scope or complexity to your proposed program, you should include that information in your response.

**Rating Factor 2: Need/Distress/Extent of the Problem (25 Points)**

This factor addresses the extent to which there is a need to fund your proposed activities and an indication for the urgency of meeting the need in your target area. In addition, if you are applying under the General Components of PEI and/or EOI, you should address the fair housing needs of new immigrants and other underserved populations as defined in Section IV.(A)(11) of this program section of the SuperNOFA. In rating this factor, HUD will consider the extent to which you demonstrate:

(1) (15 points) Documentation of Need. The level of need for your project activities in your target area, including the needs of new immigrants and other underserved populations (under the EOI-General and PEI-General Components), and the urgency in meeting the need using statistics and analyses contained in a data source(s) that is sound and reliable. You should analyze the level of need for your proposed activities and document the level of need in the specific area where your activities will be carried out.

Attention must be paid to documenting need where activities will be targeted, rather than the entire locality or State. If your target area is an entire locality or State, then documenting need at this level is appropriate. Your proposal may reference the extent to which your community's Consolidated Plan (CP) and Analysis of Impediments to Fair Housing Choice (AI) identify the level of

the problem and urgency of need. In addition, your proposal should reference the extent to which project activities will affirmatively further fair housing (AFFH), by describing how proposed activities will assist in overcoming impediments to fair housing choice identified in the jurisdiction's AI (Analysis of Impediments to Fair Housing Choice), which is a component of the jurisdiction's Consolidated Plan (CP), or other planning document that addresses fair housing issues. Additional examples of how you may document need may be obtained from Chapter 5 of the "Fair Housing Planning Guide, Vol. 1," use of HUD reports and analyses, relevant economic and/or demographic data including indices of segregation in areas by race or national origin, government or foundation reports and studies, news articles, and other information which relate to your proposed activities.

In evaluating this sub-factor for applications submitted under the General Components of PEI and EOI, five of the 15 points will be awarded to proposals which address the needs of underserved populations, as defined in Section IV.(A)(11) of this program section of the SuperNOFA. When describing the need of underserved populations, you should include: (a) the extent to which there is an urgent and/or unmet need for undertaking eligible activities aimed at underserved populations in the area to be served, and (b) a strategy for providing fair housing services to these populations.

(2) (10 points) Rationale for Proposed Activities and Methods. The extent to which your proposal provides a rationale for how the proposed activities and methods most effectively deal with the need you described in responding to the preceding sub-factor. You should discuss how you took into account existing and planned efforts of government agencies, community-based organizations, faith-based institutions, for-profit firms, and other entities to address such needs in the community(ies) to be served, how the proposed program complements or supplements existing efforts and why additional funds are being requested.

**Rating Factor 3: Soundness of Approach (35 Points)**

This factor addresses the quality and cost-effectiveness of your proposed Statement of Work. You must show a clear relationship between your proposed activities, community needs and the purpose of the program funding in order to receive points for this factor. In addition, HUD has pledged to substantially increase its enforcement

actions, and all projects funded under this SuperNOFA shall contribute to the accomplishment of this goal. In evaluating your response to this rating factor, HUD will consider the extent to which your proposal demonstrates:

(1) (15 points) Description of Proposed Activities. How your proposed activities will result in the referral of enforcement proposals to HUD as demonstrated by the number projected in your proposal and method used to obtain that projection. Specifically, your projection should relate to cases being referred to HUD during the period of performance of the grant from activities you will perform under your award. In responding to this factor, describe the methods to be developed or used to identify and refer enforcement proposals to HUD, how you derived your projected number of referrals and the relationship to your proposed activities. If your past activities have resulted in successful enforcement proposals being referred to HUD, describe these actions and the outcome of such referrals.

Examples of enforcement proposals include:

(i) Allegations that are supported by evidence that meet the requirements for a filed complaint under the Fair Housing Act, including prima facie evidence, with or without related testing evidence;

(ii) Results of testing or audits demonstrating potential housing discrimination;

(iii) Well-developed analysis of data including Home Mortgage Disclosure Act (HMDA), Community Reinvestment Act (CRA) Analyses, Census data, current studies of residential segregation, or other similar documentation supporting allegations of discrimination; and

(iv) Referrals of claims to HUD on behalf of individuals or groups other than your organization.

(b) Your application must provide a basis for your specific activities relating to enforcement proposal referrals to HUD and your projected number of enforcement proposal referrals that are described in your Statement of Work. Your final performance measures for enforcement proposal referrals will be negotiated between you and HUD as part of the executed grant agreement and will be based upon your proposal.

(2) (10 points) Statement of Work. Additionally, HUD is looking for an efficient, effective and feasible Statement of Work that:

(a) Describes in broad terms the design and objectives of your proposal, including the geographic area to be served; the protected classes to be

served; end product(s); program improvements to be achieved; total number of staff needed to complete all proposed activities and projected referrals to HUD; key personnel by years of experience, name and function; and the number of referrals for enforcement you expect to refer to HUD. You must also describe how program objectives for the component for which you are seeking funding will be met (e.g., enforcement efforts (PEI); education and outreach (EOI); creating or building a fair housing capacity organization (FHOI));

(b) Outline in chronological order your administrative and program tasks to be performed and the duration of the project. Your outline should identify all tasks and sub-tasks to be performed and by whom, i.e., you or a sub-recipient; deliverables which will be provided to HUD and when; and technically competent methodologies you will use to carry out these tasks.

(3) (10 points) Budget and Financial Controls. HUD also will assess the soundness of your approach by evaluating the following:

(a) The quality, thoroughness and reasonableness of the cost estimates provided. As part of your response, a summary budget should be provided which identifies costs by category in accordance with the following:

(i) *Direct Labor* by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs;

(ii) *Fringe Benefits* by staff position, identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost;

(iii) *Material Costs* indicating the item, unit cost per item, the number of items to be purchased, estimated cost per item, and the total estimated material costs;

(iv) *Transportation Costs*, as applicable. Where a local private vehicle is proposed to be used, costs should indicate the proposed number of miles, rate per mile of travel identified by item, and estimated total private vehicle costs. Where air transportation is proposed, costs should identify the destination(s), number of trips per destination, estimated air fare and total estimated air transportation costs. If other transportation costs are listed, you should identify the other method of transportation selected, the number of trips to be made and destination(s), the estimated cost, and the total estimated costs for other transportation costs;

(v) *Per diem*, as applicable. You should identify per diem or subsistence

costs per travel day and the number of travel days included, the estimated costs for per diem/subsistence and the total estimated transportation costs. You should use the Federal Travel Regulation for per diem rate for cities listed under "Transportation Costs" in your cost estimate;

(vi) *Equipment charges*, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs;

(vii) *Consultant Costs*, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants;

(viii) *Subcontract Costs*, if applicable. Indicate each proposed individual subcontract and amount. Each proposed subcontract should include a separate budget which identifies proposed costs by cost categories. In addition, your project budget should include any costs related to subcontract(s) with FHAP agencies and traditional civil rights organizations which account for activities related to the sub-recipient's role in the project. A separate detailed budget for each subcontract should be included in the application. If you have selected sub-recipients or are submitting a joint application with one partner serving as a lead applicant, you must provide the actual subcontract costs;

(ix) *Other Direct Costs* listed by item, quantity, unit cost, total for each item listed, and total direct costs for the award;

(x) *Indirect Costs* should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

(b) The rationale used to determine costs and validation of fringe and indirect cost rates, if you are not using an accepted, Federally negotiated indirect cost rate;

(c) The extent to which your program is cost effective in achieving the anticipated results of your proposed activities as well as in achieving significant community impact; and

(d) The extent to which you demonstrate capability in handling financial resources with adequate financial control procedures and accounting procedures. HUD will consider items such as findings identified in your most recent audits, internal consistency in the application of numeric quantities, accuracy of mathematical calculations and other available information on financial management capability.

**Rating Factor 4: Leveraging Resources (10 Points)**

This factor addresses your ability to secure community resources (Note: financing is a community resource) which can be combined with HUD's program resources to achieve program purposes. In other words, to what extent can you get groups in the community to work with you. In evaluating this factor HUD will consider:

(1) (5 points) Extent to Which Applicant Has Secured Other Resources. The extent to which local groups will provide additional resources to increase the effectiveness of the proposed activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated to the purpose(s) of your proposal. Resources may be provided by governmental entities, public or private non-profit organizations, for-profit private organizations, or other entities willing to work with you. You may also work with other FHIP-funded recipients to coordinate the use of resources in your project area.

(2) (5 points) Evidence of Firm Commitment of Leveraging. The extent to which there is evidence of leveraging. You can establish this by providing letters of firm commitment, memoranda of understanding (MOU); or agreements to participate from those entities identified as partners in your application. Each letter of commitment, memorandum of understanding, or agreement to participate should: (a) identify the organization, (b) describe the proposed level of commitment, (c) outline the responsibilities as they relate to your proposal, and (d) be signed by an official of the organization legally able to make commitments on behalf of the organization. If you are applying under the PEI-JEP you must submit a memorandum of understanding in support of your leveraged partnership.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

This factor addresses the extent to which you coordinate your activities with other organizations in the project area, participate or promote participation in the project area's Consolidated Planning process (including Analysis of Impediments to Fair Housing Choice), and are creating linkages with other activities in the community. In other words, to what extent are you working with others to address community needs in your project area. In evaluating this factor, HUD will consider the extent to which you demonstrate:

(1) Project activities will reach your targeted audience. This includes a discussion of how: (a) your methods or approaches will ensure that project activities and materials are made available to local groups and organizations, and (b) the project can enhance the activities or work in tandem with such groups or organizations in your project area. At a minimum, your application should discuss procedures you will use to promote awareness of the services provided by your proposal.

(2) Project activities will make communities and organizations in your project area aware of opportunities for linking activities with:

(a) Other proposed or on-going HUD-funded program activities;

(b) Other proposed or on-going State, Federal, local or privately funded activities which, taken as a whole, support and sustain a comprehensive system to address the purpose of these programs; and

(c) Other activities being undertaken to address barriers to housing choice identified in the Consolidated Plan's Analysis of Impediments to fair housing choice.

**(E) Factors for Award Used To Evaluate and Rate Applications for the National Education and Outreach Initiative Program**

The factors for rating and ranking applicants and the maximum points for each factor, are provided below. The maximum number of points to be awarded any application is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

**Rating Factor 1: Capacity of Applicant and Relevant Organizational Experience (20 Points)**

This factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed activities in a timely manner, and your ability to collect or make available prototypes of successful fair housing education and enforcement business practices and techniques, as appropriate, on a national scale. The rating of your organization and staff for technical merit or threshold compliance, unless otherwise specified, will include any consultants, sub-recipients, and partners that are firmly committed to the project. In rating this factor, HUD will consider the extent to which your application demonstrates:

(1) (5 points) General Description of Applicant Organization and Relevant Experience.

(a) The eligibility and qualifications of your organization; the type of organization (e.g., public, private, non-profit, for profit); and your general areas of activity or line of business;

(b) Your management of large, complex, interdisciplinary projects;

(c) Awards and major accomplishments of your organization. HUD may also consider any documented evidence, such as performance reviews, newspaper articles, or monitoring findings, that may reflect positively or negatively upon your ability and the proposed staff's ability to perform the work;

(d) Your ability to handle financial resources with adequate financial control procedures and accounting procedures. In addition, HUD will consider findings identified in your most recent audits; internal consistency in the application of numeric quantities; accuracy of mathematical calculations; and other available information on financial management capability.

(2) (10 points) Specific Description of Staff for Proposed Activities. Whether you have sufficient personnel or will be able to quickly access qualified experts or professionals to deliver your proposed activities in a timely and effective fashion, including your readiness and ability to immediately begin your proposed work program; the knowledge and experience of your overall proposed project director and staff, including the day-to-day program manager, consultants and sub-recipients in planning and managing programs for which funding is being requested. To demonstrate that you have sufficient personnel, you must submit the proposed number of staff hours for your employees and experts allocated to your project, the titles and relevant professional background and experience of each employee and expert proposed to be assigned to your project, and the roles to be performed by each identified employee and expert. Experience will be judged in terms of at least two years' worth of recent and relevant experience to undertake eligible program activities or projects similar in scope or nature and directly relevant to your work activities proposed.

(3) (5 points) Specific Description of Experience Relevant to the Proposed Activities. Demonstrated past experience(s) in collecting, analyzing and making available prototypes of successful fair housing education and enforcement business practices and techniques, as appropriate, on a national scale. You must describe your ability to understand fair housing enforcement-related issues/policies/practices which influence discriminatory housing

practices. In responding to this rating factor, it will be especially helpful to describe your past experiences with developing and implementing innovative strategies and the results of those efforts. The rating of this factor for technical merit will include any consultants, sub-recipients, and partners that are identified as participants in your project. If you have or are currently receiving funding under FHIP, you should list and provide the status of your previous referrals of enforcement proposals to HUD, especially those made during FY 1998 and a list of cases referred to HUD for joint enforcement.

**Rating Factor 2: Need/Distress/Extent of the Problem (25 Points)**

This factor addresses the extent to which you document and address the national need for educating immigrant and other underserved populations about their fair housing rights and ensure that enforcement mechanisms address the specific types of discrimination they encounter. You should state which activities and methods you intend to address, and how your proposal offers the most effective approach for dealing with that national need. In responding to this factor, you will be evaluated on the following:

(1) (15 points) Documentation of Need. The extent to which you describe and document the national need you intend to address, and demonstrate a grasp of the elements of the problem and its pervasiveness at the national level. Your description of the national need will be used to evaluate the depth of your understanding of the problem as an indication of your ability to address the problem; and

(2) (10 points) Rationale for Proposed Activities and Methods. The extent to which you provide a rationale for how your proposed activities and methods most effectively deal with the national need described in response to sub-factor (1), above.

**Rating Factor 3: Soundness of Approach (35 Points)**

This factor addresses the quality and cost-effectiveness of your proposed Statement of Work. In evaluating this factor, HUD will consider the extent to which:

(1) (15 Points) Description of Proposed Activities. Your proposed activities will be conducted in a manner (e.g., languages, formats, locations, distribution, use of minority media) to reach and benefit all members of the public, especially underserved populations; and proposed activities will yield long-term results and

innovative strategies or "best practices" that can be readily disseminated to other organizations and State and local governments.

(2) (10 Points) Statement of Work. Applications include Statement of Work that:

(a) Clearly describe your specific tasks and sub-tasks to be performed; the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously; estimated completion dates; and program deliverables to be completed within the grant period, including specific numbers of quantifiable end products and program improvements you intend to deliver by the end of the award agreement period as a result of the work performed;

(b) Provide national coverage and identify the protected class focus of the project, and serve the needs of new immigrants and underserved populations; and

(c) Describe the immediate benefits of your proposal and how you will measure the benefits. You must describe the methods you will use to determine the effectiveness of your proposed activities and benefits achieved to receive points.

(3) (10 Points) Budget and Financial Controls. You must include proposed budgets that demonstrate:

(a) Cost estimates, salary levels, staff assignments, number of staff hours, and other budget items are reasonable, allowable, and appropriate for your proposed activities.

(b) Your proposed program is cost effective in achieving its anticipated results, as well as in achieving significant impact.

**Rating Factor 4: Leveraging Resources (10 Points)**

This factor addresses your ability to secure community resources (Note: financing is a community resource) which can be combined with HUD's program resources to achieve program purposes. In other words, to what extent can you get others to work with you. In evaluating this factor HUD will consider:

(1) (5 points) Extent to Which Applicant has Secured Other Resources. The extent to which others will provide additional resources to increase the effectiveness of your proposed project activities. Resources may include funding or in-kind contributions, such as services or equipment allocated to the purpose(s) of your proposal. Resources may be provided by governmental entities, public or private non-profit organizations, for-profit private organizations, or other entities willing

to work with you. You may also work with other FHIP-funded recipients to coordinate the use of resources in the project area.

(2) (5 points) Evidence of Firm Commitment of Leveraging. The extent to which there is evidence of leveraging. You can establish this by providing letters of firm commitment; memoranda of understanding; or agreements to participate from those entities identified as partners in your application. Each letter of commitment, memorandum of understanding, or agreement to participate should: (a) identify the organization, (b) describe the proposed level of commitment, (c) outline the responsibilities as they relate to the proposed project, and (d) be signed by an official of the organization legally able to make commitments on behalf of the organization.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

This factor addresses the extent to which you coordinate your activities with other organizations in your project area, and are creating linkages with other activities in your project area. In other words, to what extent are you working with others to address needs in your project area. In evaluating this factor, HUD will consider the extent to which you demonstrate:

(1) Project activities will reach your targeted audience. This includes a discussion of how: (a) your methods or approaches will ensure that project activities and materials are made available to local groups and organizations, and (b) the project can enhance the activities or work in tandem with such groups or organizations in your project area. At a minimum, your application should discuss procedures you will use to promote awareness of services provided by your proposed project.

(2) Project activities will make communities and organizations in your project area aware of opportunities for linking activities with:

(a) Other HUD-funded programs activities, proposed or on-going; or (b) Other proposed or on-going State, Federal, local or privately funded activities which, taken as a whole, support and sustain a comprehensive system to address the purpose of these programs.

**(F) Applicant Notification and Award Procedures**

(1) Notification. No information will be available to you during the period of HUD evaluation, approximately 90 days, except for notification in writing or by telephone if HUD determines your

application is ineligible or has correctable deficiencies (as described in Section V. of the General Section of the SuperNOFA). Selections will be announced by HUD upon completion of the evaluation process and will be subject to final award negotiations of award.

(2) *Negotiations.* After HUD has ranked the applications and provided notifications to those selected, HUD will require selected applicants to participate in negotiations to determine the specific terms of the cooperative or grant agreement. HUD will follow the negotiation procedures described in Section III.(D) of the General Section of the SuperNOFA.

(3) *Funding Instrument.* HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the selected applicants.

(4) *Adjustments to Grant Amounts.* As provided in Section III.(E) of the General Section of the SuperNOFA, HUD may approve an application for an amount lower than the amount requested, fund only portions of an application, withhold funds after approval, and/or require that special conditions be added to the grant agreement, in accordance with 24 CFR 84.14, the requirements of this SuperNOFA, or where:

- (a) HUD determines the amount requested for one or more eligible activity is unreasonable or unnecessary;
- (b) An ineligible activity is proposed in an otherwise eligible project;
- (c) Insufficient amounts remain to fund the full amount requested in the application, and HUD determines that partial funding is a viable option; or
- (d) An applicant has demonstrated an inability to manage HUD grants, particularly FHIP grants.

(5) *Performance Sanctions.* A grantee or sub-recipient, failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of

further participation in programs of HUD or any Federal agency.

**VI. Application Submission Requirements**

In addition to the statements, forms, certifications and assurances required by Section II(G) of the General Section of the SuperNOFA and by the Program Requirements in Section IV. of this program section of the SuperNOFA, your application must, at a minimum, contain the following items:

(A) *Transmittal Letter.* Your letter must identify: (1) the dollar amount requested for each component, (2) the specific FHIP initiative and component under which your application is submitted, and (3) in the case of the EOI, whether it is the Regional/Local/Community Based Program or the National Program.

(B) *Narrative Statement.* Your narrative statement must address, and should be numbered to track, the Factors for Award in Section V.(D), above, of this FHIP section of the SuperNOFA.

(C) *Financial Management and Audit Information.* You must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by you meets proscribed standards for fund control and accountability required by: OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations; OMB Circular A-110 (as codified at 24 CFR part 84), Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and/or OMB Circular A-102 (as codified at 24 CFR Part 85) Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. This information should contain the name and telephone number of the Independent Auditor, cognizant Federal auditor, or other audit agency, as applicable.

(D) *Non-Profit Status.* If you are applying under the PEI and FHOI

Initiatives, you must submit documentation with your application that, as of the closing date of this FHIP section of the SuperNOFA, you are a 501(c)(3) tax-exempt organization as determined by the Internal Revenue Service. Failure to submit this documentation with your application will be treated as a technical deficiency as discussed in Section V. of the General Section of this SuperNOFA.

(E) *JEP Component.* If you are submitting a JEP application, your application must include a memorandum of understanding (MOU) from all project participants describing the signatories' duties and responsibilities. The MOU must be signed by an official of the partnership organization authorized to make commitments on behalf of the organization. If you fail to submit this documentation with your application, your application will be ineligible.

(F) *Preference for Award Must Be Stated.* If your application does not state a funding preference as required by Section IV.(A)(3), above, of this program section of the SuperNOFA, your application will be ineligible.

**VII. Corrections to Deficient Applications**

Section V of the General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

**VIII. Environmental Requirements**

In accordance with 24 CFR 50.19(b)(9) and (12) of HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under related laws and authorities.

**IX. Authority**

Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP)) and the implementing regulations are found at 24 CFR part 125.

FHIP APPENDIX—NEW ORGANIZATIONS ESTABLISHED UNDER FHIP ENOC

Name and address of new organization	Area served
The Fair Housing Continuum, 846 N. Cocoa Blvd., Cocoa, FL 32922 .....	Brevard County, Florida.
North Carolina Fair Housing Center, 101 St. Mary Street, Raleigh, NC 27609 .....	State of North Carolina.
Southern Center of Civil Rights Enforcement, 1083 Austin Ave, NE, Atlanta, GA 31107 .....	Areas in Georgia, Arkansas, Mississippi and South Carolina.
Central Alabama Fair Housing Center, 207 Montgomery St. Suite 725, Montgomery, AL 36104	Central and Southern Alabama.
Arkansas Fair Housing Organization, 2101 South Main Street, Little Rock, AR 72206 .....	Central Arkansas.
Arkansas Fair Housing Council, 103 West Capitol, #1115, Little Rock, AR 72201 .....	Arkansas Congressional Districts #1, 2 and 4.
Fair Housing Action Center, 938 Lafayette St., #413, New Orleans, LA 70113 .....	Greater Metropolitan New Orleans.

FHIP APPENDIX—NEW ORGANIZATIONS ESTABLISHED UNDER FHIP ENOC—Continued

Name and address of new organization	Area served
Legal Aid Society of Albuquerque, 121 Tijereas, NE, #3100, Albuquerque, NM 87102 .....	State of New Mexico.
Louisiana Fair Housing Organization, 1624 Elysian Fields, Ave., New Orleans, LA 70117 .....	Southern Louisiana.
New Mexico Fair Housing Organization, 918 Silver SW, Albuquerque, NM 87102 .....	Central New Mexico (primarily Albuquerque and Santa Fe).
Fair Housing Center of Nebraska, 2522 N. 24th St., #103, Omaha, NE 68110 .....	Omaha, Nebraska and South Sioux City.
Kansas City Fair Housing Center, 3033 Prospect Ave., Kansas City, MO 64128 .....	Metropolitan Kansas City, Missouri.
Metro St. Louis Equal Housing Opportunity Center, 1027 VanDerventer Ave., 4th Floor, St. Louis, MO 63110.	Metropolitan St. Louis, Missouri.
North Dakota Fair Housing Council, 533 Airport Rd, Suite B, Bismark, ND 58504 .....	State of North Dakota.
Greater Nevada Fair Housing Council, 410 East John Street, Carson City, NV 89706 .....	Northern Nevada.
Nevada Fair Housing Center, 2725 East Desert Inn Road, Suite 180, Las Vegas, NV 89121 .....	Southern Nevada.
Fair Housing Council of Fresno County, 2014 Tulane St., 1413, Fresno, CA 93721 .....	Fresno, California.
Idaho Fair Housing Council, 310 N. 5th Street, Boise, ID 83702 .....	State of Idaho.
Northwest Fair Housing Alliance, 1613 West Gardner Ave., Spokane, WA 99201 .....	Eastern Washington.
Fair Housing Council of South Puget Sound, 8815 S. Tacoma Way, Suite 211, Tacoma, WA 98499.	Puget Sound.
Asian Americans for Equality FH Cntr .....	Queens, NY.
San Antonio Fair Housing Center .....	San Antonio, TX.
Fair Housing Center of Houston .....	Houston, TX.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**HOUSING COUNSELING**



**Funding Availability for the Housing Counseling Program**

*Program Overview*

*Purpose of the Program.* The purpose of this program is to provide comprehensive housing counseling through national, regional, multi-State housing counseling agencies, State housing finance agencies, and local HUD-approved housing counseling agencies. Counseling assists homebuyers, homeowners, and tenants to meet their housing needs and resolve their housing problems.

*Available Funds.* Approximately \$16.6 million.

*Eligible Applicants.* (1) HUD-approved national, regional, or multi-State intermediaries; (2) HUD-approved local housing counseling agencies; and (3) State housing finance agencies.

*Application Deadline.* May 25, 1999.  
*Match.* None.

*Additional Information*

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

**I. Application Due Date, Application Kits, Further Information, and Technical Assistance**

*Application Due Date.* You must submit a completed application on or before 12:00 midnight, Eastern time on May 25, 1999 to the addresses shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications,

express mail, overnight delivery, or hand carried).

*Addresses for Submitting Applications.* If you are a Local Housing Counseling Agencies or State Housing Finance Agencies: Send an original and two copies of your completed application to the respective HUD Homeownership Center (HOC) having jurisdiction over the locality, area or State in which your proposed program is located. Your application should be sent to the attention of the Program Support Division Director, and the envelope should be clearly marked "FY 1999 Housing Counseling Application". A list of the HUD Homeownership Centers, including their jurisdictions, and the Program Support Division Directors appears below and in the Application Kit.

	Office
Philadelphia Homeownership Center: Mr. Michael Perretta, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3380, Contact: Robert Wright Flint, (215) 656-0527 x3406.	Albany, Baltimore, Boston, Buffalo, Camden, Cleveland, Charleston, Cincinnati Columbus, Detroit, Grand Rapids, Hartford, Manchester, New York, Newark Philadelphia, Pittsburgh, Providence, Richmond, District of Columbia.
Atlanta Homeownership Center: Ms. Gayle Knowlson, Richard B. Russell Federal Building, 75 Spring Street, S.W., Room 572, Atlanta, GA 30303-3308, Contact: Fellece Sawyer-Coleman (404) 331-5001 x2675.	Atlanta, Birmingham, Caribbean, Chicago and Springfield, Columbia, Coral Gables, Greensboro, Indianapolis, Jackson, Jacksonville, Knoxville, Louisville, Memphis, Nashville, Orlando, Tampa.
Denver Homeownership Center: Ms. Jane Hall First Interstate Tower North, 633 17th Street, Denver, CO 80202-3607, Contact: Lorraine Griscavage-Frisbee (303) 672-5216 x1515.	Albuquerque, Denver, (Casper, Fargo, Sioux Falls), Dallas, Des Moines, Denver, Ft. Worth, Helena, Houston, Kansas City, Little Rock, Lubbock, Milwaukee, Minneapolis, New Orleans, Oklahoma City, Omaha, Salt Lake City, San Antonio, Shreveport, St. Louis, Tulsa.
Santa Ana Homeownership Center: Mr. Jerrold Mayer, 1600 N. Broadway, Suite 100, Santa Ana, CA 92706-3927, Contact: Rhonda J. Rivera, Chief, x3210, 1-888-827-5605, (714) 796-1200.	Anchorage, Boise, Fresno, Honolulu, Las Vegas and Reno, Los Angeles, Phoenix, Portland, Sacramento, San Diego, San Francisco, Santa Ana, Seattle, Spokane, Tucson.

If you are a National, Regional or Multi-State Housing Counseling Intermediary, send an original and two copies of the completed application to Director, Program Support Division, Office of Single Family Housing, HUD Headquarters, 451 7th Street, S.W., Washington, DC 20410, Room 9166. The envelope should be clearly marked, "FY 1999 Intermediary Application". If you submit an application to HUD using the above procedures, you will avoid having your application disqualified.

*Application Kits.* For an application kit and any supplemental information, please call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Federal Information Relay Service at 1-800-877-8339. The application kit also will be available on the Internet through the HUD web site at <http://www.HUD.gov>. When requesting an application kit, please

refer to the Housing Counseling Program. The SuperNOFA Information Center can provide you with assistance in determining which HUD locations should receive a copy of your application.

*For Further Information and Technical Assistance.* If you are a local housing counseling agency or State housing finance agency, you may call the HUD Homeownership Center serving your area. If you are a national, regional, or multi-State intermediary, you may call HUD Headquarters. Please see above and your application kit for a list of offices and telephone numbers you can call to receive assistance. Before the application deadline, HUD staff will be available to provide general guidance.

**II. Amount Allocated**

Under this SuperNOFA, \$16.6 million of the \$17.5 million appropriated is

made available for eligible applicants. An allocation of \$900,000 of the \$17.5 million total in program funding has been set aside for Housing Counseling support, which may include continuation of the Housing Counseling Clearinghouse, and/or HUD counseling initiatives.

The estimated amount of funds available for sub-allocation is as follows:

—*Local Housing Counseling Agencies (LHCA).* Approximately \$ 5.6 million has been made available for grants to local HUD-approved housing counseling agencies. Funding is allocated to each of the HUD Homeownership Centers by a formula that reflects the increased emphasis on the expansion of homeownership opportunities for first-time homebuyers and HUD's intent to ensure appropriate geographical distribution of program funds. For FY 1999, no individual local housing

counseling agency may be awarded more than \$100,000.  
 —*National, Regional, and Multi-State Intermediaries.* Approximately \$7.5 million is being set aside to fund HUD-approved national, regional and multi-State intermediaries that apply for funding under this SuperNOFA. There is no longer any cap on the

amount that national, regional, or multi-State intermediaries may receive.  
 —*State Housing Finance Agencies (SHFA).* Approximately \$3.5 million is being set aside to fund State housing finance agencies. HUD will fund State housing finance agencies according to the budget submitted

with the application, in an amount not to exceed \$500,000.

The amount of funding available to each of the four HUD Homeownership Center jurisdictions for allocation to local housing counseling agencies and State housing finance agencies is:

Homeownership center	Funding allocation* (LHCA)	Funding allocation** (SHFA)
Atlanta, GA .....	\$1,200,000	\$890,000
Denver, CO .....	1,400,000	890,000
Philadelphia, PA .....	1,700,000	935,000
Santa Ana, CA .....	1,300,000	785,000

\* Each HOC has been allocated a minimum of \$1 million, with the balance being distributed to each HOC based on the number of clients counseled within its jurisdiction during FY 1998.

\*\* Each HOC has been allocated a minimum of \$750,000, with the balance being distributed to each HOC based on the number of SHFAs funded within its jurisdiction under the FY 1998 SuperNOFA.

*Remaining and Deobligated Funds/Reallocations.* If funds remain after HUD has funded all approvable grant applications in its Homeownership Center jurisdictions, or Headquarters, or if any funds become available due to deobligation, that amount will be retained by HUD Headquarters for future housing counseling use.

*Funding Levels.* The Factors for Award will be used to evaluate your application for funding. If you are a successful applicant, HUD requires that you participate in negotiations to determine the specific grant amount and the terms of the grant agreement. HUD will follow the negotiation procedures described in Section III(D) of the General Section of the SuperNOFA. Housing Counseling grants are fundable for a period of twelve (12) calendar months. This period may begin from the date that your award is executed by HUD, or not more than 90 days prior to your award execution date.

**III. Program Description; Eligible Applicants; Eligible Activities**

*(A) Program Description*

HUD-approved housing counseling agencies provide counseling and advice to tenants and homeowners on property maintenance, financial management, and other matters appropriate to assist tenants and homeowners in improving their housing conditions and meeting responsibilities of tenancy and homeownership. In addition, HUD-approved housing counseling agencies conduct community outreach activities and provide counseling to individuals, including persons with visual or hearing impairments or other disabilities, with the objective of increasing awareness of homeownership opportunities and improving access of low and moderate

income households to sources of mortgage credit. HUD believes that this activity is key to the revitalization and stabilization of low income and minority neighborhoods. Agencies assist first-time homebuyers by offering Homebuyer Education and Learning Program (HELP) training sessions. Agencies also meet the counseling needs of eligible persons 62 or older who desire to use the Home Equity Conversion Mortgage (HECM) to convert their equity into a lump sum payment or an income stream that can be used for home improvements, medical costs, and/or living expenses.

*(B) Eligible Applicants*

Under the housing counseling program, HUD contracts with qualified public or private nonprofit organizations to provide housing counseling services. There are three categories of applicants eligible to submit applications:

—HUD-approved national, regional, or multi-State intermediaries.

If you are a HUD-approved national, regional, or multi-State intermediary, your primary activity is to manage the use of HUD housing counseling funds. This includes the distribution of housing counseling funding to affiliated local housing counseling agencies. Your local affiliates are eligible to undertake any or all of the housing counseling activities, described for HUD-approved local housing counseling agencies. Local affiliates receiving funding through your organization do not need to be HUD-approved in order to receive funds from you. However, your intermediary organization must be HUD-approved as of the date of this SuperNOFA. You must identify all of your proposed affiliates in your application. An

affiliate of your organization may also apply to a State housing finance agency for a sub-grant, whether or not it received a sub-grant from you. However, if your affiliate is not HUD-approved, you must certify the quality of services provided will meet, or exceed, standards for local HUD-approved housing counseling agencies.

As a selected intermediary, you must distribute the majority of your award funds to your housing counseling affiliates. HUD will give you wide discretion to implement your housing counseling program with your affiliates. You must execute sub-grant agreements with your affiliates that clearly delineate the mutual responsibilities for program management and appropriate time frames for reporting results to HUD.

You can decide how to allocate funding among your affiliates with the understanding that a written record must be kept of how you determined your funding levels. This record must be made available to your affiliates and to HUD. You should budget an amount which reflects your best estimate of the cost to oversee and fund the housing counseling efforts of your affiliates. You must seek other private and public sources of funding to supplement HUD funding. HUD does not intend for its counseling grant funds to cover all costs incurred by an agency participating in this program.

Your organization, as well as all your affiliates, must meet the Civil Rights Threshold requirements that are listed in Paragraph II.(B) of the General Section of the SuperNOFA.

**Note:** If you are a national, regional, or multi-State intermediary, you must assure that your proposed affiliates are unique to your team, and will *not* undertake a separate application for

funds. Should any duplication occur, both your intermediary organization and the local housing counseling agency requesting separate funds will automatically be ineligible for further consideration to receive FY 1999 housing counseling funds.

—*HUD-approved local housing counseling agencies*

These agencies are private and public non-profit organizations, approved by HUD to provide housing counseling services directly to clients. If you are a HUD-approved private or public non-profit organization, HUD will fund your local housing counseling agency activities according to the budget submitted with your application. The amounts you request should reflect anticipated operating needs for your housing counseling activities, based upon your counseling experience during the previous fiscal year and your current agency capacity.

You may also apply for a sub-grant to a State housing finance agency, whether or not you have a housing counseling grant from HUD. However, you must disclose all funding sources to HUD. If you are a local housing counseling agency that is not currently HUD-approved, you may receive FY 1999 funding only as an affiliate of a HUD-approved national, regional, or multi-State intermediary; or State housing finance agency.

—*State housing finance agencies*

Your primary activity as a State housing finance agency is to provide housing counseling services as a local housing counseling agency and/or manage the use of HUD housing counseling funds, including the distribution of counseling funding to your affiliated local housing counseling organizations. You and your local affiliates are eligible to undertake any or all of the housing counseling activities described for HUD-approved local housing counseling agencies. As either a housing counseling agency or intermediary, you and your local affiliates do not need to be HUD-approved in order to receive these funds. As a State housing finance agency, you can operate as a housing counseling agency and/or as an intermediary for affiliates that perform housing counseling functions in your State or territory. As an intermediary, you must identify all your proposed affiliates in your application. The amount you request should reflect anticipated operating needs for housing counseling activities, based upon the counseling experience during FY 1998 and your current capacity. In your role as an intermediary, the amount you

request should reflect your best estimate of costs to oversee and fund your housing counseling affiliates. HUD will give you wide discretion to implement your housing counseling program with your affiliates. As a State intermediary, you must execute sub-grant agreements with your affiliates that clearly delineate the mutual responsibilities for program management, including appropriate time frames for reporting results to HUD. Your affiliate may be a local housing counseling agency. Local housing counseling agencies may also be affiliates of national, regional, or multi-State intermediaries. You must decide how to allocate funding among your affiliates with the understanding that a written record will be kept of how your determination was made. This record must be made available to the affiliates and to HUD. You must certify that, if your affiliate is not HUD-approved, the quality of services provided will meet, or exceed, standards for local HUD-approved housing counseling agencies.

You must seek other private and public sources of funding to supplement HUD funding. HUD does not expect its counseling grant funds to cover all costs incurred by your organization's participation in this program. You may use the HUD grant to undertake any of the eligible counseling activities.

(C) *Eligible Activities.*

If you are a housing counseling agency funded under this SuperNOFA, you may use HUD funds to deliver comprehensive housing counseling, or you may specialize in delivering of particular housing counseling services. Either way, your activities must reflect the housing needs you submitted in your funding application for your target area and identified in your plan. You may conduct a wide range of housing counseling services that are eligible under this program, including:

(1) *Homebuyer Education Programs* where HUD's Homebuyer Education and Learning Program (HELP) materials are used in sessions consisting of approximately sixteen (16) hours of training. Completion of the training allows graduates to receive first-time homebuyer incentives, such as a reduction in their FHA insurance premium. HUD staff at each HUD Homeownership Center will be available to provide you with the HELP materials.

(2) *Pre-purchase Homeownership Counseling* covering purchase procedures, mortgage financing, down payment/closing cost fund accumulation, accessibility

requirements, and if appropriate, credit improvement, and debt consolidation.

(3) *Post-purchase Counseling* including property maintenance, and personal money management.

(4) *Mortgage delinquency and default resolution counseling* including restructuring debt, arrangement of reinstatement plans, loan forbearance, and loss mitigation.

(5) *Home Equity Conversion Mortgage (HECM) counseling* to assist clients who are 62 years old or older with the complexities of converting the equity in their homes to income to pay living expenses or medical expenses.

(6) *Loss Mitigation Counseling* for clients who may be facing default and foreclosure, and need mortgage default resolution and foreclosure avoidance counseling.

(7) *Marketing and Outreach Initiatives* including providing general information about housing opportunities within your target area and providing housing counseling services and information to persons with disabilities. Under this program, you are required to extend marketing and outreach services to all segments of the population.

(8) *Renter Assistance Counseling* including information about rent subsidy programs, rights and responsibilities of tenants, and lease and rental agreements.

(9) *Fair Housing Assistance* including:

(a) Advocating with lenders, appraisers and developers on behalf of clients to recognize the value of non-traditional lending standards, the vitality of housing values in all areas, and the added value of accessible housing design; and

(b) Advising clients on how to recognize discriminatory acts, and how to file a Fair Housing complaint. (This will require being familiar with the provisions of the Fair Housing Act).

You may elect to offer your services to a wide range of clients, or serve a more limited audience, provided your limited services do not constitute discrimination on the basis of race, color, religion, sex, national origin, disability or familial status. Your potential clients include: first-time homebuyers, homebuyers and homeowners eligible for, and applying for, HUD, VA, FmHA (or its successor agency), State, local, or conventionally financed housing or housing assistance; or persons who occupy such housing and seek the assistance of a housing counseling agency to resolve a housing need. You may elect to offer this assistance in conjunction with any HUD housing program; however, to do this, you must be familiar with FHA's single

family and multifamily housing programs.

#### IV. Program Requirements

##### (A) General Requirements.

The requirements listed in Section II of the General Section of the SuperNOFA apply to this program.

##### (B) Requirements Applicable to Religious Organizations.

Where your organization is, or you propose to contract with, a primarily religious organization, or a wholly secular organization established by a primarily religious organization, to provide, manage, or operate a housing counseling program, you must undertake your responsibilities in accordance with the following principles:

- (1) You will not discriminate against any segment of the population;
- (2) You will not provide religious instruction or religious counseling, conduct religious services or worship, engage in religious proselytizing, and exert religious influence in the provision of assistance under your Housing Counseling Program.
- (3) You will make counseling offices and services accessible to persons with a wide range of disabilities and help such persons locate suitable housing in locations throughout your community, target area or metropolitan area.

##### (C) Performance Measurement.

You are required to complete and submit a form HUD-9902, Fiscal Year Activity Report. The information compiled from this report provides HUD with its primary means of measuring your program performance and program effectiveness.

#### V. Application Selection Process

##### (A) General

Your application will be evaluated competitively, and ranked against all other applicants that applied in the same funding category. However, after selection, the actual amount funded will be based on successful completion of negotiations. National, regional, and multi-State applications will be rated and ranked in HUD Headquarters, and selected for funding in rank order. Local agency and State Housing Finance Agency applications will be rated and ranked by the HUD Homeownership Centers and selected for funding in rank order.

##### (B) Factors for Award Used To Rate and Rank Applications.

The factors for rating and ranking applicants, and maximum points for

each factor, are provided below. The maximum number of points for each applicant is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

##### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)

This factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed activities in a timely manner. Your rating or the rating of your organization and staff for technical merit will include any subcontractors, consultants, subrecipients, and members of consortia that are identified as participants in your proposal. In rating this factor, HUD will consider the extent to which your proposal demonstrates:

- (1) (10 points) The knowledge and experience of your proposed project director and staff, including the day-to-day program manager, consultants and contractors in planning and managing programs for which you are requesting funding. Your experience will be judged in terms of recent, relevant and successful experience of your staff to undertake eligible program activities. You are expected to have sufficient personnel, or be able to quickly access qualified experts or professionals, to deliver the proposed activities in a timely and effective fashion. HUD will assess the readiness and ability of your organization to immediately begin your proposed work program. To demonstrate that you have sufficient personnel, you must submit the proposed number of staff for each task to be conducted, by the employees and experts allocated to each activity you plan to undertake in your program. You must identify their titles and relevant professional background and experience related to the tasks they are to perform. In addition, you must allocate the staff hours for each task of these employees and experts.

- (2) (10 points) Your past experience in terms of your ability to attain measurable progress in the implementation of your most recent activities where your performance has been assessed. HUD will consider your performance as measured by your expenditures and demonstrated progress in achieving the purpose of the activities. HUD will also consider any documented evidence, such as form HUD-9902, of your failure under past awards to comply with grant award provisions.

##### Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for funding your proposed program activities to address a documented problem in your target area. To the extent that the community served by your housing counseling organization has documented the need in the community's Consolidated Plan or Analysis of Impediments to Fair Housing Choice (AI); or requirements of court orders or consent decrees, settlements and voluntary compliance agreements, references to these documents should be included in the response. If your proposed activities are not covered under the scope of the Consolidated Plan or AI, you should indicate such and use other sound data sources to identify the level of need for your proposed program of activities.

In responding to this factor, you will be evaluated on the extent to which you document a critical level of need for your proposed activities in the area where activities will be carried out. The documentation of need should demonstrate the extent of the problem addressed by the proposed activities. Examples of data that might be used to demonstrate need, include economic and demographic data relevant to the target area and your proposed activities. There must be a clear relationship between the proposed activities, community needs and the purposes of this program for an applicant to receive points for this factor.

##### Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and effectiveness of your proposed work plan. In rating this factor, HUD will consider the following:

- (1) The extent to which the design and scope of your activities provide for geographic coverage for target areas as well as persons traditionally underserved, including identification of immediate benefits to be achieved and indicators by which these benefits will be measured;
- (2) The extent to which you have a clear agenda and identify specific activities to be performed, such as:
  - (a) Screening interviews with clients;
  - (b) Setting up a client file with intake information and counseling plan; and
  - (c) Having the client sign an agreement accepting the counseling plan and making a commitment to attend the required counseling sessions;
- (3) The extent to which your proposed tasks use documented, technically competent methodologies for conducting the work to be performed.

HUD will assess the extent to which your proposed work plan identifies documented, proven methodologies for the types of services to be performed.

(4) The extent to which you demonstrate the relationship between the proposed activities, community needs and the purposes of this program.

(5) The extent to which your proposed activities undertake affirmatively furthering fair housing (AFFH). Affirmatively furthering fair housing may be undertaken in a variety of ways, as appropriate to your target area. The following are some suggestions for all housing counseling agencies:

(a) Implementing affirmative marketing strategies to attract all segments of the population regardless of race, color, religion, national origin, sex, familial status, and disability, especially those least likely to request housing counseling services to purchase or retain their homes.

(b) Being pro-active in reducing concentrations of poverty and/or minority populations in the target area. This could include working with, or adopting the counseling practices of, agencies which conduct housing opportunity counseling to encourage low-income and minority persons to move to low-concentration areas, and helping to locate suitable housing in such areas.

(c) Working with local lenders to develop alternative lending criteria. For instance, you may make referrals to lenders of clients with good credit and payment histories, but who do not fit the standard profiles for lending practices, or advocate with financial institutions on behalf of clients with financial patterns which reflect cultural differences (such as family savings pools, which are common among some Asian populations). Your activities should also focus on finding appropriate housing, free from environmental hazards, for all segments of the population in neighborhoods with good transportation, schools, employment opportunities, and other services.

(b) The following are some suggested activities for national, regional, or multi-State intermediaries and State Housing Finance Agencies:

(i) Training affiliates in Fair Housing issues.

(ii) Making national or regional agreements with lenders, insurers, and organizations which train appraisers and loan appraisers on fair housing requirements, accessibility, and financing methods which support your organization's fair housing and housing opportunity efforts.

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure community resources which can be combined with HUD's program resources to achieve your program purposes. In evaluating this factor HUD will consider:

(1) The extent to which you have partnered with other entities to secure additional resources to increase the effectiveness of your proposed program activities. Resources may include funding or in-kind contributions, such as services or equipment, allocated to the purpose(s) of your program. Resources may be provided by governmental entities, public or private nonprofit organizations, for-profit private organizations, or other entities willing to partner with you. You may also partner with other program funding recipients to coordinate the use of housing counseling and support services in your target area.

(2) You must provide evidence of leveraging/partnerships by including in your application letters of firm commitments, memoranda of understanding, or agreements to participate from entities identified as partners in your application. Each letter of commitment, memoranda of understanding, or agreement to participate should include the partnering organization's name, proposed level of commitment and responsibilities as they relate to your proposed program. The commitment letter must also be signed by an official of the organization legally able to make commitments on behalf of the partnering organization.

If you are a local counseling agency, you are expected to seek other private and public sources of funding to supplement HUD funding. HUD never intends for its counseling grant funds to cover all costs incurred by an agency participating in the program.

If you are a local housing counseling agency, you may use your HUD grant to undertake any of the eligible housing counseling activities described in this Housing Counseling Program section of the SuperNOFA. All of your proposed activities and the activities of your partners must be included in your HUD-approved plan. NOTE: HUD housing counseling funding is not intended to fully fund either an intermediary's housing counseling program, or the housing counseling programs of the its local affiliates. All intermediaries and their local affiliates are expected to seek other private and public sources of funding for housing counseling to supplement HUD funding.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you have coordinated your activities with other known organizations, participated or promoted participation in a community's Consolidated Planning process and are working towards addressing identified needs in a holistic and comprehensive manner through linkages with other activities in your community. In evaluating this factor, HUD will consider the extent to which you can demonstrate you have:

(1) Coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support and coordinate all known activities; and, if funded, the specific steps you will take to share information on solutions and outcomes with others. Any written agreements or memoranda of understanding in place should be described.

(2) Taken or will take specific steps to become active in the Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established in your target area to identify and address needs/problems related to the activities you propose in your application. If you reported in your FY 1998 application that you "will take specific steps", describe what steps you have taken.

(3) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded projects/activities outside the scope of those covered by the target area's Consolidated Plan; and

(b) Other Federal, State or locally funded activities, including those proposed or on-going in your target area.

If you reported in your FY 1998 application that you "will take specific steps", describe what steps you have taken.

#### VI. Application Submission Requirements

##### (A) General.

The contents of your application will differ if you are a local housing counseling agency; or a national, regional, or multi-State intermediary; or a State housing finance agency. However, all applicants are expected to submit the forms, certifications and assurances set forth in the General Section of the SuperNOFA. Copies of all form/documents required to be

completed can be found in the application kit. In addition to these certifications and assurances the following are required to be part of your housing counseling application:

(1) *Narrative statement* addressing the five Rating Factors in Section V.(B) of this program section of the SuperNOFA. Your narrative response should be numbered in accordance with the rating factors and subfactors identified in Section V.(B) of this program section of the SuperNOFA.

(2) Form HUD-9902, Housing Counseling Agency Fiscal Year Activity Report, for fiscal year October 1, 1997 through September 30, 1998. If you did not participate in HUD's Housing Counseling Program during FY 1998, this report should be completed to reflect your counseling workload during that period. This form must be fully completed and submitted by every applicant for FY 1999 HUD funding;

(3) *Budget Work Sheet*. A proposed budget for use of the requested HUD funds;

(4) Evidence of Housing Counseling Funding Sources (required by all applicants);

(5) You must provide a descriptive narrative that sets forth your prior fiscal year's performance as related to its goals, objectives and mission. Your narrative must describe the most recent operational and program activities of your organization;

(6) *Current Housing Counseling Plan*. Your Housing Counseling Plan must describe your housing counseling needs, goals, and objectives related to the scope

of services you propose to provide, including a description of all counseling activities to be performed.

(7) Direct-labor and Hourly-labor rate and Counseling Time Per Client for proposed tasks;

(8) The Congressional District in which your proposed activities are to occur;

(9) If you are a State housing finance agency, you must submit your statutory authority to operate as a State housing finance agency.

*(B) National, Regional, and Multi-State Intermediaries; and State Housing Finance Agencies.*

If you are a national, regional, or multi-State intermediary or a State housing finance agency, you must submit an application which covers both your network organization and your affiliated agencies. Your application must include:

(1) *A description of your affiliated agencies*. For each affiliated agency, list the following information:

(a) Organization name;

(b) Address;

(c) Director and contact person (if different);

(d) Phone/FAX numbers (including TTY, if available);

(e) Federal tax identification number;

(f) ZIP code service areas;

(g) Number of staff providing counseling;

(h) Type of services offered (defined by homebuyer education programs, pre-purchase counseling, post-purchase counseling, mortgage default and

delinquency counseling, HECM counseling, outreach initiatives, renter assistance, and other);

(i) Number of years of housing counseling experience.

(2) *Relationship with Affiliates*. You must briefly describe your relationship with your affiliates (i.e. membership organization, field or branch office, subsidiary organization, etc.).

(3) *Oversight System*. You must briefly describe the process that will be used to determine affiliate funding levels, distribute funds, and monitor affiliate performance.

## VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

In accordance with 24 CFR 50.19(b)(9) and (12) of the HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under the related laws and authorities.

## IX. Authority

HUD's Housing Counseling Program is authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), and is generally governed by HUD Handbook 7610.1, REV-4, dated August 9, 1995.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**LEAD-BASED PAINT HAZARD  
CONTROL PROGRAM**



## Funding Availability for the Lead-Based Paint Hazard Control Grant Program

### Program Overview

*Purpose of the Program.* The purpose of the Lead-Based Paint Hazard Control Grant Program is to assist States, Indian Tribes and local governments in undertaking comprehensive programs to identify and control lead-based paint hazards in eligible privately-owned housing for rental or owner-occupants in partnership with community-based organizations.

*Available Funds.* Approximately \$56 million.

*Eligible Applicants.* States, Indian Tribes or local governments. If you are a State or Tribal applicant, you must have a Lead-Based Paint Contractor Certification and Accreditation Program authorized by EPA.

*Application Deadline.* May 26, 1999.

*Match.* A minimum of 10% match in local funds.

### Additional Information

#### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

*Application Due Date.* Submit your original and four copies of your completed application to HUD on or before May 26, 1999.

See the General Section of this SuperNOFA for additional information regarding submitting your application.

*Address for Submitting Applications.* Submit your completed application (original and four copies): Department of Housing and Urban Development, Office of Lead Hazard Control, Room P3206, 451 Seventh Street, SW, Washington, D.C. 20410. Applications which are hand carried or sent via overnight delivery should be delivered to Suite 3206, 490 East L'Enfant Plaza, Washington, D.C. 20024.

*For Application Kits.* You may obtain an application kit from the SuperNOFA Information Center at 1-800-HUD-8929, or the TTY number at 1-800-483-2209.

When requesting an application kit, please refer to the Lead-Based Paint Hazard Control Grant Program. Please be sure to provide your name, address (including zip code), and telephone number (including area code).

*For Further Information.* Contact Ellis G. Goldman, Director, Program Management Division, Office of Lead Hazard Control, at the address above; telephone (202) 755-1785, extension 112 (this is not a toll-free number). If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling

the toll-free Federal Information Relay Service at 1-800-877-8339.

*For Technical Assistance.* Please refer to the General Section of this SuperNOFA for information regarding the provision of technical assistance. The HUD Lead Hazard Control staff that will provide technical assistance for the Lead-Based Paint Hazard Control Program. Please see the "For Further Information" section above for the address and phone number.

#### II. Amount Allocated

(A) Approximately fifty six million dollars (\$56 million) will be available for the Lead-Based Paint Hazard Control Grant Program.

(B) Approximately 20-25 grants of \$1 million-\$4 million will be awarded. If you are an existing grantee or previously unfunded applicant, you are eligible to apply for grants of \$1 million-\$4 million. A maximum of 60% of the funds under this program section of the SuperNOFA shall be available to current Lead-Based Paint Hazard Control grantees. Applications from existing (or previous) grantees will be evaluated and scored as a separate group and will not be in direct competition with applications from previously unfunded applicants.

(C) In the selection process, once available funds have been allocated to meet the requested or negotiated amounts of the top eligible applicants, HUD reserves the right to offer any residual amount as partial funding to the next eligible applicant, provided HUD is satisfied that the residual amount is sufficient to support a viable, though reduced effort, by such applicant(s). If you are an applicant offered a reduced grant amount you will have a maximum of seven (7) calendar days to accept such the reduced award. If you fail to respond within the seven day limit, you shall be considered to have declined the award.

#### III. Program Description, Eligible Applicants, and Eligible Activities

##### (A) Program Description.

The Lead-Based Paint Hazard Control Grant Program assists States, Indian Tribes and local governments in undertaking programs for the identification and control of lead-based paint hazards in eligible privately-owned housing units for rental and owner-occupants. The application kit for this program section of the SuperNOFA lists HUD-associated housing programs which also meet the definition of eligible housing.

(1) Because lead-based paint is a national problem, these funds will be awarded to:

(a) Maximize both the number of children protected from lead poisoning and housing units where lead-hazards are controlled;

(b) Target lead hazard control efforts at housing in which children are at greatest risk of lead poisoning;

(c) Stimulate cost-effective approaches that can be replicated;

(d) Emphasize lower cost methods of hazard control;

(e) Build local capacity to safely and effectively address lead hazards during lead hazard control, renovation, remodeling, and maintenance activities; and

(f) Affirmatively further fair housing and environmental justice.

(2) The objectives of this program include:

(a) Implementation of a national strategy, as defined in Title X, to build the community's capacity necessary to eliminate lead-based paint hazards in all housing, as widely and quickly as possible by establishing a workable framework for lead-based paint hazard identification and control;

(b) Mobilization of public and private resources, involving cooperation among all levels of government, the private sector, and community-based organizations to develop, cost-effective methods for identifying and controlling lead-based paint hazards;

(c) Development of comprehensive community approaches which result in integration of all community resources (governmental, community-based, and private businesses) to address lead hazards in housing;

(d) Integration of lead-safe work practices into housing maintenance, repair, weatherization, rehabilitation, and other programs which will continue beyond your grant period;

(e) Establishment of a public registry (listing) of lead-safe housing; and

(f) To the greatest extent feasible, promotion of job training, employment, and other economic opportunities for low-income and minority residents and businesses that are owned by and/or employ low-income and minority residents as defined in 24 CFR 135.5 (See 59 FR 33881, June 30, 1994).

##### (B) Eligible Applicants.

(1) To be eligible to apply for funding under this program, you must be a State, Indian Tribe, or unit of local government. Multiple units of a local government (or multiple local governments) may apply as part of a consortium; however, you must identify a single lead government or agency as "the applicant." You may submit only one application. In the event you submit multiple applications, this will be

considered a curable (minor) defect and the application review process delayed until you notify HUD in writing which application should be reviewed. Your other applications will be returned unevaluated.

(2) As an applicant, you must meet all of the threshold requirements of Section II (B) of the General Section of the SuperNOFA.

(3) Consolidated Plans.

(a) If your jurisdiction has a current HUD approved Consolidated Plan, you must submit documentation of the HUD approval of the current program year Consolidated Plan. You must submit, as an appendix, a copy of the lead-based paint element included in the approved Consolidated Plan.

(b) If your jurisdiction does not have a currently approved Consolidated Plan, but it is otherwise eligible for this grant program, you must include your jurisdiction's abbreviated Consolidated Plan, which includes a lead-based paint hazard control strategy developed in accordance with 24 CFR 91.235.

(4) If you are a local government, your application must provide written documentation of partnerships or contractual relationships with community-based organizations to carry out the proposed work plan. Such relationships may include program planning; public awareness, education, and outreach; inspection and hazard control; relocation; and other related services.

If you are a State government, you must provide written documentation of partnerships or contractual relationships with community-based organizations prior to grant award. This requirement does not apply to Indian Tribes.

(5) If you are a State government or an Indian Tribal government, you must have an authorized EPA Lead-Based Paint Contractor Certification and Accreditation Program to be eligible.

(6) If you were funded under the FY 1998 Lead-Based Paint Hazard Control NOFA issued March 31, 1998 (63 FR 15555), you are not eligible for funding under this program section of the SuperNOFA.

(7) The eligibility factors discussed in (1) through (6) above are threshold requirements. If you do not satisfy the appropriate eligibility requirements stated in these paragraphs, your HUD will not review your application.

### *(C) Eligible Activities*

HUD will provide considerable latitude to grantees in designing and implementing the methods of lead-based paint hazard control to be used in their jurisdictions. Experience and data

from past and ongoing evaluations have identified effective approaches. HUD is interested in promoting lead hazard control approaches that result in the reduction of this health threat for the maximum number of low-income residents, and that demonstrate techniques which are cost-effective, efficient, and can be used elsewhere. HUD will allow flexibility within the parameters established below.

(1) Generally, funds will be available only for projects conducted by contractors, risk assessors, inspectors, workers and others engaged in lead-based paint activities who meet the requirements of an EPA authorized State or Tribal Lead-Based Paint Contractor Certification and Accreditation Program under the requirements of section 404 of the Toxic Substances Control Act (TSCA). However, low level hazard interventions (e.g., dust control and minor paint stabilization) do not require certified personnel.

(2) Direct Project Elements that you may undertake directly or through subrecipients, include:

(a) Performing dust testing, hazard screens, inspections, and risk assessments of eligible housing constructed before 1978 to determine the presence of lead hazards from paint, dust, or soil.

(b) Conducting pre-hazard control blood lead testing of children under the age of six residing in units undergoing inspection, risk assessment, or hazard control.

(c) Conducting lead hazard control, which may include any combination of the following: interim control of lead-based paint hazards in housing (which may include intensive cleaning techniques to address lead dust); abatement of lead-based paint hazards using different methods for each unit (based on the condition of the unit and the extent of hazards); and abatement of lead-based paint hazards, including soil and dust, by means of removal, enclosure, encapsulation, or replacement methods. Complete abatement of all lead-based paint or lead-contaminated soil is not acceptable as a cost effective strategy unless justification is provided and approved by HUD. Abatement of lead-contaminated soil should be limited to areas with bare soil in the immediate vicinity of the structure, i.e., dripline or foundation of the structure being treated, and children's play areas.

(d) Carrying out temporary relocation of families and individuals during the period in which hazard control is conducted and until the time the affected unit receives clearance for reoccupancy.

(e) Performing blood lead testing and air sampling to protect the health of the hazard control workers, supervisors, and contractors.

(f) Undertaking minimal housing rehabilitation activities that are specifically required to carry out effective hazard control, and without which the hazard control could not be completed and maintained. Hazard Control grant funds may be used for lead hazard control work done in conjunction with other housing rehabilitation programs. HUD strongly encourages integration of this grant program with housing rehabilitation.

(g) Conducting clearance dust-wipe testing and laboratory analysis.

(h) Engineering and architectural activities that are required for, and in direct support of, lead hazard control.

(i) Providing lead-based paint worker or contractor certification training and/or licensing to low-income persons.

(j) Providing free training on lead-safe, essential maintenance practices to homeowners, renters, painters, remodelers, and apartment maintenance staff working in low-income private housing.

(k) Providing cleaning supplies for lead-hazard control to community/neighborhood-based organizations, homeowners, and renters in low-income private housing.

(l) Conducting general or targeted community awareness, education or outreach programs on lead hazard control and lead poisoning prevention. This includes educating owners of rental properties on the Fair Housing Act and training on lead-safe maintenance and renovation practices. Upon request, this also would include making all materials available in alternative formats to persons with disabilities (e.g.; Braille, audio, large type).

(m) Securing liability insurance for lead-hazard control activities.

(n) Supporting data collection, analysis, and evaluation of grant program activities. This includes compiling and delivering such information and data as may be required by HUD. This activity is separate from administrative costs.

(o) Conducting applied research activities directed at demonstration of cost effective methods for lead hazard control.

(p) Purchasing or leasing equipment having a per unit cost under \$5,000, except for X-ray fluorescence (XRF) analyzers.

(q) Purchasing or leasing up to two (2) X-ray fluorescence analyzers for use by the Lead-Based Paint Hazard Control Grant Program.

(r) Preparing a final report at the conclusion of grant activities.

(3) Support Elements.

(a) Administrative costs. There is a 10% maximum for administrative costs. The application kit contains specific information on administrative costs in Annex 7.

(b) Program planning and management costs of sub-grantees and other sub-recipients.

(D) Ineligible Activities

You may not use grant funds for any of the following:

(1) Purchase of real property.

(2) Purchase or lease of equipment having a per unit cost in excess of \$5,000, except for X-ray fluorescence analyzers.

(3) Chelation or other medical treatment costs related to children with elevated blood lead levels. Non-Federal funds used to cover these costs may be counted as part of the required matching contribution.

(4) Lead hazard control activities in publicly owned housing, or project-based Section 8 housing. A table listing eligibility of various HUD programs is included in Annex 5 of the application kit.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, you, the applicant, must comply with the following requirements:

(A) *Budgeting.* (1) Matching Contribution. You must provide a matching contribution of at least 10% of the requested grant sum. This may be in the form of a cash or in-kind (non-cash) contribution or a combination of both. With the sole exception of Community Development Block Grant (CDBG) funds, Federal funds may not be used to satisfy the statutorily required ten (10) percent matching requirement. Federal funds may be used, however, for contributions above the statutory requirement. If you do not show a minimum 10% match in your application, you will be rated lower during the evaluation process, and, if selected, you will be required to provide the matching contribution before being given the grant.

(2) Applied Research Activities. You may identify a maximum of five (5%) percent of the total grant request for applied research activities.

(3) Administrative Costs. There is a 10% maximum for administrative costs.

(B) *Period of Performance.* The period of performance is 36 months.

(C) *Certified Performers.* You may use grant funds only for projects conducted

by certified contractors, risk assessors, inspectors, workers and others engaged in lead-based paint activities.

(D) *Coastal Barrier Resources Act.* Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), you may not use grant funds for properties located in the Coastal Barrier Resources System.

(E) *Flood Disaster Protection Act.* Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), you may not use grant funds for lead-based paint hazard control of a building or mobile home that is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59-79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(F) *National Historic Preservation Act.* The National Historic Preservation Act of 1966 (16 U.S.C. 470) and the regulations at 36 CFR part 800 apply to the lead-based paint hazard control activities that are undertaken pursuant to this program. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out activities under this program.

(G) *Waste Disposal.* You must handle waste disposal according to the requirements of the appropriate local, State and Federal regulatory agencies. You must handle disposal of wastes from hazard control activities that contain lead-based paint but are not classified as hazardous in accordance with the HUD Guidelines for the Evaluation and Control of Lead-Based Hazards in Housing (HUD Guidelines).

(H) *Worker Protection Procedures.* You must observe the procedures for worker protection established in the HUD Guidelines, as well as the requirements of the Occupational Health and Safety Administration (OSHA) (29 CFR 1926.62—Lead Exposure in Construction), or the State or local occupational safety and health regulations, whichever are most

protective. If other applicable requirements contain more stringent requirements than the HUD Guidelines, the more rigorous standards shall be followed.

(I) *Prohibited Practices.* You must not engage in practices that are not allowed because of health and safety risks. Methods that generate high levels of lead dust shall be undertaken only with requisite worker protection, containment of dust and debris, suitable clean-up, and clearance. Prohibited practices include:

- (1) Open flame burning or torching;
- (2) Machine sanding or grinding without a high-efficiency particulate air (HEPA) exhaust control;
- (3) Uncontained hydroblasting or high pressure wash;
- (4) Abrasive blasting or sandblasting without HEPA exhaust control;
- (5) Heat guns operating above 1100 degrees Fahrenheit;
- (6) Chemical paint strippers containing methylene chloride; and
- (7) Dry scraping or dry sanding, except scraping in conjunction with heat guns or around electrical outlets or when treating no more than two (2) square feet in any one interior room or space, or totaling no more than 20 square feet on exterior surfaces.

(J) *Proposed Modifications From Current Procedures.* Proposed methods that differ from currently approved standards or procedures will be considered on their merits through a separate HUD review and approval process after the grant award is made and a specific justification has been presented. When you make such a request, either in the application or during the planning phase, HUD may consult with experts from both the public and private sector as part of its final determinations and will document its findings in an environmental assessment. HUD will not approve proposed modifications that, in HUD's opinion, involve a lowering of standards with potential to adversely affect the health of residents, contractors or workers, or the quality of the environment.

(K) *Written Policies and Procedures.* You must have clearly established, written policies and procedures for all phases of lead hazard control, including risk assessment, inspection, development of specifications, pre-hazard control blood lead testing, financing, relocation and clearance testing. Grantees, subcontractors, sub-grantees, sub-recipients, and their contractors must adhere to these policies and procedures.

(L) *Continued Availability of Lead Safe Housing to Low-Income Families.*

Units in which lead hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income residents as required by Title X. You must maintain a registry (listing) of units in which lead hazards have been controlled for distribution and marketing to agencies and families as suitable housing for children under six.

(M) *Testing.* In developing your application budget, include costs for inspection, risk assessment, and clearance testing for each dwelling that will receive lead hazard control, as follows:

(1) Testing.

(a) General. All testing and sampling shall conform to the current HUD Guidelines. It is particularly important to provide this full cycle of testing for lead hazard control, including interim controls.

(b) Pre-Hazard Control. A combined inspection and risk assessment is recommended. You should ensure that the results of the pre-hazard control investigation are sufficient to support hazard control decisions. When appropriate, you may elect to perform a lead hazard screen in lieu of an inspection or risk assessment.

(c) In the event you propose to conduct lead hazard control work without identification of lead hazards from paint, dust, and soil, you must fully justify the technical and other rationale for such a proposal. HUD must approve such proposals. Approval is subject to HUD environmental review under 24 CFR part 50.

(d) Clearance Testing. Clearance dust testing must be conducted according to the HUD Guidelines. You are required to meet the current post-hazard control dust-wipe test clearance thresholds contained in the HUD Guidelines (these are also provided in the application kit). Wipe tests shall be conducted by a certified inspector who is independent of the lead hazard control contractor. Dust-wipe and soil samples, and any paint samples to be analyzed by a laboratory, must be analyzed by a laboratory recognized by the EPA National Lead Laboratory Accreditation Program (NLLAP). Units treated shall not be reoccupied until clearance is achieved.

(2) Blood lead testing. Before lead hazard control work begins, each occupant who is under six years old must be tested for lead poisoning within six months prior to the housing intervention. Any child with an elevated blood lead level must be referred for appropriate medical follow-up.

(N) *Cooperation With Related Research and Evaluation.* You shall cooperate fully with any research or evaluation sponsored by HUD and associated with this grant program, including preservation of project data and records and compiling requested information in formats provided by the researchers, evaluators or HUD. This also may include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in your original proposal. Participant data shall be subject to Privacy Act protection.

(O) *Data collection.* You will be required to collect and maintain the data necessary to document the various lead hazard control methods used in order to determine the effectiveness and relative cost of these methods.

(P) *Section 3 Employment Opportunities.* Please see the General Section of this SuperNOFA. The Section 3 requirements are applicable to the Lead-Based Paint Hazard Control Program.

(Q) *Certifications and Assurances.* In addition to the certifications and assurances listed in the General Section of the SuperNOFA, a single certification form is included in the application kit for your signature. This includes:

(1) Assurance of your compliance with the environmental laws and authorities described in 24 CFR part 58.

(2) Certification of your compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 49 CFR part 24; and HUD Handbook 1378 (Tenant Assistance, Relocation and Real Property Acquisition).

(3) Assurance that your financial management system meets the standards for fund control and accountability described in 24 CFR 85.20.

(4) Assurance that you will conduct testing associated with pre-hazard control and clearance conducted by certified performers.

(5) Assurance that, to the extent possible, you will conduct the blood lead testing, blood lead level test results, and medical referral and follow up for children under six years of age occupying affected units according to the recommendations of the Centers for Disease Control and Prevention (CDC) publication Preventing Lead Poisoning in Young Children (1991).

(6) Assurance that you will not use Lead-Based Paint Hazard Control Grant Program funds to replace existing resources dedicated to any ongoing project.

(7) Assurance that the housing units in which lead hazards have been

controlled under this program will be occupied by and/or continue to be available to low-income residents as required by Title X. You are required to maintain a registry of units in which lead hazards have been controlled for distribution and marketing to agencies and families as suitable housing for children under six.

(8) Certification that you will carry out your lead hazard control program under an EPA authorized State lead-based paint contractor certification and accreditation program that is at least as protective as the training and certification program requirements cited in the application kit for this program section of the SuperNOFA.

(R) *Davis-Bacon Act.* The Davis-Bacon Act does not apply to this program. However, if you use grant funds in conjunction with other Federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other Federal programs.

## V. Application Selection Process

### (A) Rating and Ranking

HUD intends to fund the highest ranked applications within the limits of funding, but reserves the right to advance other eligible applicants in funding rank. A decision to advance an applicant will be based on programs that: foster local approaches or lead hazard control methods that have not been employed before, or provide lead hazard control services to populations or communities that have high need (as measured by the "Need" factor for award) and have never received funding under this grant program.

### (B) Factors for Award Used To Evaluate and Rate Applications

The factors for rating and ranking applicants, and maximum points for each factor, are stated below. The maximum number of points to be awarded is 102. This maximum includes two EZ/EC bonus points as described in the General Section of the SuperNOFA. Also, Section III(C)(2) of the General Section, which addresses a court-ordered consideration, is applicable to this program. The application kit will provide additional guidance for responding to these factors. The application kit also contains definitions and references that will be incorporated into your grant award.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 points for previously unfunded applicants; 25 points for existing grantees)

This factor addresses your organizational capacity necessary to successfully implement the proposed activities in a timely manner. The rating of the "applicant" or the "applicant's staff" for technical merit or threshold compliance, unless otherwise specified, includes any community-based organizations, sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to your project. In rating this factor, HUD will consider:

(1) Your recent, relevant and successful demonstrated experience (including governmental and community-based partners) to undertake eligible program activities. You must describe the knowledge and experience of the proposed overall project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially involving housing rehabilitation, public health, or environmental programs. You must demonstrate that you have sufficient personnel or will be able to quickly retain qualified experts or professionals, to immediately begin your proposed work program and to perform your proposed activities in a timely and effective fashion. In the narrative response for this factor, you should include information on your program staff, their experience, commitment to the program, salary information, and position titles. Resumes (for up to three key personnel), position descriptions, and a clearly identified organizational chart for the lead hazard control grant program effort must be included in an appendix. Indicate the percentage of time that key personnel will devote to your project. We recommend using a full-time day-to-day program manager. Describe how other principal components of your agency or other organizations will participate in or otherwise support the grant program. You may demonstrate capacity by prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health, or housing projects and should be thoroughly described. You should indicate how this prior experience will be used in carrying out your proposed comprehensive Lead-Based Paint Hazard Control Grant Program.

(2) If you have received previous HUD Lead Hazard Control Grant funding, your past experience will be evaluated

in terms of progress under the most recent previous grant. You must provide a description of your progress in implementing your most recent grant award within the period of performance, including the total number of housing units completed as of the most recent calendar quarter.

Rating Factor 2: Needs/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for the proposed program activities to address a documented problem in the target area.

(1) Document a critical level of need for your proposed activities in the area where activities will be carried out. Since the principal objective of the program is to prevent at-risk children from being poisoned, specific attention must be paid to documenting such need as it applies to the targeted areas, rather than the entire locality or state. If the target area is an entire locality or state, then documenting need at this level is appropriate.

(2) Document the extent of the problem which will be addressed by your proposed activities. Examples of data that you might use to demonstrate need, include, but are not limited to:

(a) Numbers and proportions of children with elevated blood lead levels;

(b) Economic and demographic data relevant to the target area, including poverty and unemployment rates;

(c) Housing market data available from HUD, or other data sources, including the Consolidated Plan/AI, Public Housing Authority's Five Year Comprehensive Plan, State or local Welfare Department's Welfare Reform Plan; or

(d) Lack of other Federal, State or local funding that could be, or is used, to address lead hazard control.

(3) To the extent that statistics and other data contained in your community's Consolidated Plan or Analysis of Impediments to Fair Housing Choice (AI) support the extent of the problem, you should include references to the Consolidated Plan and the AI in your response.

(4) Provide information on your jurisdiction, or preferably, the areas targeted for the lead hazard control activities (data may be available in your currently approved Consolidated Plan, derived from 1990 Census Data, or special local studies):

(a) The age and condition of housing;

(b) The number and percentage of very-low (income less than 50% of the area median) and low (income less than 80% of the area median) income families, as determined by HUD, with

adjustments for smaller and larger families;

(c) The number and proportion of children under six years (72 months) of age at risk of lead poisoning;

(d) The extent of the lead poisoning problem in children under six years of age in target areas;

(e) The health and economic impacts of Superfund or Brownfields sites on the targeted neighborhoods or communities; and

(f) Other socioeconomic or environmental factors that demonstrate a need to establish or continue lead hazard control work in your jurisdiction.

(5) You also must provide documentation of the priority that the community's Consolidated Plan has placed on addressing the needs you described.

(6) If your application addresses needs that are in the Consolidated Plan, Analysis of Impediments to Fair Housing Choice, court orders or consent decrees, settlements, conciliation agreements, and voluntary compliance agreements, you will receive more points than applicants that do not relate their program to identified needs.

(7) For you to receive maximum points for this factor, there must be a direct relationship between your proposed activities, community needs, and the purpose of the program funding.

Rating Factor 3: Soundness of Approach (45 points for previously unfunded applicants and 35 points for existing grantees)

This factor addresses the quality and cost-effectiveness of your proposed work plan. You should present information on your proposed lead-based paint hazard control program and describe how it will satisfy the identified needs. To the extent possible, describe a comprehensive strategy to address the need to protect entire neighborhoods rather than individual units or homes. Your response to this factor should include the following elements:

(1) *Lead Hazard Control Strategy* (35 points for previously unfunded applicants; 25 points for existing grantees). Describe your strategy to plan and execute your lead hazard control grant program. You should provide information on:

(a) *Implementing a Lead Hazard Control Program* (15 points for previously unfunded applicants; 10 points for existing grantees). Describe your overall strategy for your proposed lead hazard control program. The description must include information on:

(i) Your previous experience in reducing or eliminating lead-based paint hazards in conjunction with other Federal, State or locally funded programs.

(ii) Your overall strategy for the identification, selection, prioritization, and enrollment of units of eligible privately-owned housing for lead hazard control. Describe the proposed activities that will occur in a high performing Empowerment Zone or Enterprise Community (EZ/EC). Provide estimates of the total number of owner occupied and/or rental units which will receive lead hazard control.

(iii) The degree to which the work plan focuses on eligible privately-owned housing units with children under six years (72 months) old. Describe your planned approach to control lead hazards before children are poisoned and/or to control lead hazards in units where children have already been identified with an elevated blood lead level. Describe your process for referring and tracking children with elevated blood lead levels for medical case management. Provide estimates of the number of children you will assist through this program.

(iv) The financing strategy, including eligibility requirements, terms, conditions, and amounts available, you will use in carrying out lead hazard control activities. You must discuss the way these funds will be administered (e.g. use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.), as well as the agency that will administer the financing process.

(v) You should describe how your proposed program will satisfy the stated needs or will assist in addressing the impediments in the AI. Describe how your proposed program will further and support the policy priorities of the Department, including promoting healthy homes; providing opportunities for self-sufficiency, particularly for persons enrolled in welfare to work programs; or providing educational and job training opportunities.

(b) *Lead Hazard Control Outreach and Community Involvement* (5 points for all applicants). Your application must describe:

(i) Proposed methods of community education. These may include community awareness, education, training, and outreach programs in support of the work plan and objectives. This description should include general and/or targeted efforts undertaken to assist your program in reducing lead exposure. Programs should be culturally sensitive, targeted, and linguistically appropriate. Upon request, this

approach would include making all materials available in alternative formats to persons with disabilities (e.g., Braille, audio, large type), to the extent possible.

(ii) How you intend to involve neighborhood or community-based organizations in your proposed activities. Your activities may include outreach, community education, marketing, inspection (including dust lead testing), and the conduct of lead hazard control activities. HUD will evaluate the level of substantive involvement during the review process.

(iii) Outreach strategies and methodologies to affirmatively further fair housing and provide lead-safe housing to all segments of the population: homeowners, owners of rental properties, and tenants; especially for occupants least likely to receive its benefits. Once the population to which outreach will be "targeted" is identified, outreach strategies directed specifically to them should be multifaceted. This criterion goes beyond testing and hazard control; it concerns what happens to the units after lead hazard control activities and tries to ensure, for the long term, that all families will have adequate, lead-safe housing choices.

(iv) Describe the ways you will train individuals and contractors in housing related trades, such as painters, remodelers, renovators, and maintenance personnel, in lead-safe practices. Describe how you will integrate such practices into lead hazard control activities.

(c) *Technical Approach for Conducting Lead Hazard Control Activities* (15 points for previously unfunded applicants; 10 points for existing grantees).

(i) Describe your process for risk assessment and/or inspection of units of eligible privately-owned housing in which you will undertake lead hazard control. You may include in the inventory of housing to receive lead hazard control housing having a risk assessment or inspection already performed by certified inspectors or risk assessors, in accordance with the HUD Guidelines and identified with lead-based paint hazards.

(ii) Describe your testing methods, schedule, and costs for performing blood lead testing, risk assessments and/or inspections to be used. If you propose to use a more restrictive standard than the HUD thresholds (e.g., 0.5% or 1.0 mg/cm<sup>2</sup>), identify the lead-based paint threshold for undertaking lead hazard control which will be used. All testing shall be performed in accordance with the HUD Guidelines.

(iii) Describe the lead hazard control methods you will undertake and the number of units you will treat for each method selected (interim controls, hazard abatement, and complete abatement). Provide an estimate of the per unit costs (and a basis for those estimates) for each lead hazard control method proposed and a schedule for initiating and completing lead hazard control work in the selected units. Discuss efforts to incorporate cost-effective lead hazard control methods. If you propose complete abatement, provide HUD with a detailed rationale for that decision.

(iv) Describe how you will integrate proposed lead hazard control activities with rehabilitation activities.

(v) Describe your contracting process, including development of specifications for selected lead hazard control methods. Describe the management processes you will use to ensure the cost-effectiveness of your lead hazard control methods. Your application must include a discussion of the contracting process for the conduct of lead hazard control activities in the selected units.

(vi) Describe your plan for occupant protection or the temporary relocation of occupants of units selected for lead hazard control work. This discussion should address your use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc.

(vii) If you are an existing grantee, you must describe the actions you will take to ensure that your proposed lead hazard control work will occur concurrently with other ongoing HUD lead hazard control grant work. Your application must provide the detail necessary to assure HUD that you will implement the proposed work immediately and perform it concurrently with existing lead hazard control grant work.

(viii) If you are an existing grantee, you must describe your progress in implementing your most recent lead hazard control grant award. If the production achieved is below the performance values (percentages of units completed) provided in the application kit, and no changes are proposed, you should explain why the strategy in the earlier grant remains appropriate.

(2) *Economic Opportunity* (5 points for all applicants)

Describe the methods to be used to provide economic opportunities for residents and businesses in the community. This discussion should include information on how you will promote training, employment, business development, and contract

opportunities as part of your lead hazard control program. Describe how you will accomplish the requirements of Section 3 of the Housing and Community Development Act of 1992 to give preference to hiring of low- and very low-income persons or contracting with businesses owned by or employing low- and very low-income persons.

(3) *Program Evaluation, Data Collection, and Research* (5 points for all applicants).

Identify and discuss the specific methods and measures you will use (in addition to HUD reporting or data collection forms) to measure progress, evaluate program effectiveness, and make program changes to improve performance. Describe how you will obtain, document and report the information. Describe your plans to develop and maintain a registry of publicly available information on lead-safe units, so that families (particularly those with children under age six) can make informed decisions regarding their housing options. In addition, provide a detailed description of any proposed applied research activities.

(4) *Budget* (not scored) HUD will evaluate your proposed budget (for 36 month period) to determine if it is reasonable, clearly justified, and consistent with the intended use of grant funds. HUD is not required to approve or fund all proposed activities. You may devote up to 36 months for the planning, implementation, and completion of lead hazard control activities. You must thoroughly document and justify all budget categories and costs (Part B of Standard Form 424A) and all major tasks. Describe in detail the budgeted costs for each program element (major task) included in the overall plan (the program elements are: administration; program management; marketing, community awareness, education and outreach; lead hazard control (including testing); relocation; program evaluation (including data collection); and applied research).

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to obtain other community resources (financing is a community resource) that can be combined with HUD's program resources to achieve program objectives.

(1) In evaluating this factor, HUD will consider the extent to which you have established working partnerships with other entities to get additional resources or commitments to increase the effectiveness of the proposed program activities. Resources may include cash or in-kind contributions (such as

services or equipment) allocated to the proposed program. Resources may be provided by governmental entities, public or private organizations, or other entities partnering with you.

Partnership relationships with community-based organizations are a requirement for State and local government applicants. State applicants which do not have such partnerships at the time of application will be required to establish partnership relationships between the state and/or local subgrantees and community-based organizations immediately following grant award (this requirement does not apply to you if you are an Indian Tribe applicant). You also may partner with other program funding recipients to coordinate the use of resources in your target area.

(2) You may not include funding from any Federally funded program (except the CDBG program) as part of your required 10% match. Other resources committed to the program that exceed the required 10% match will provide points for this rating factor and may include funds from other Federally funded programs. You must support each source of contributions, cash or in-kind, both for the required minimum and additional amounts, by a letter of commitment from the contributing entity, whether a public or private source. This letter must describe the contributed resources that you will use in the program. Staff in-kind contributions should be given a monetary value. If you do not provide letters specifying details and the amount of the actual contributions, those contributions will not be counted.

(3) You must provide evidence of leveraging or partnerships by including letters of firm commitment, memoranda of understanding, or agreements to participate from those entities identified as partners in your application. Each letter of commitment, memorandum of understanding, or agreement to participate should include the organization's name, the proposed level of commitment and responsibilities as they relate to your proposed program. The commitment must be signed by an official of the organization legally able to make commitments on behalf of the organization. Describe the role of community-based organizations in specific program activities, such as hazard evaluation and control; monitoring; and awareness, education, and outreach within the community.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which your program reflects a

coordinated, community-based process of identifying needs and building a system to address the needs by using available HUD and other community resources. In evaluating this factor, HUD will consider how you have:

(1) Coordinated your proposed activities with those of other groups or organizations to best support and coordinate all known activities and, the specific steps you will take to share information on solutions and outcomes with others. Any written agreements or memoranda of understanding in place or proposed should be described.

(2) Become actively involved (or if not currently active, the specific steps it will take to become active) in your community's Consolidated Planning process established to identify and address a need/problem that is related in whole, or part, directly, or indirectly to the activities you propose.

(3) Developed linkages, or the specific steps you will take to develop linkages with other activities, programs or projects through meetings, information networks, planning processes or other mechanisms to coordinate your activities so solutions are comprehensive, including linkages with:

- (a) Other HUD funded projects/activities outside the scope of those covered by the Consolidated Plan; and
- (b) Other HUD, Federal, State or locally funded activities, including those proposed or on-going in the community(s) served.

(4) Coordinated and integrated lead hazard control work with housing rehabilitation, housing and health codes, other related housing programs, or including work of community development corporations and childhood lead poisoning prevention programs.

(a) Described the degree to which lead hazard control work will be done in conjunction with other housing-related activities (i.e., rehabilitation, weatherization, correction of code violations, and other similar work), and your plan for the integration and coordination of lead hazard control activities into those activities.

(b) Described plans to incorporate lead-based paint maintenance, essential maintenance practices, and hazard control standards with the applicable housing codes and health regulations.

(c) Described plans to generate and use public subsidies or other resources (such as revolving loan funds) to finance future lead hazard control activities.

(d) Described plans to develop public-private lending partnerships to finance lead hazard control as part of acquisition and rehabilitation financing

including the use of Community Reinvestment Act "credits" by lending institutions.

(e) Evidenced firm commitments from participating organizations by describing:

- (i) The name of each organization;
- (ii) The capabilities or focus of each organization;
- (iii) The proposed level of effort of each organization; and
- (iv) The resources and responsibilities of each organization, including the applicant's clearly proposed plans for the training and employment of low-income residents.

(f) Described plans to implement a registry of lead-safe housing.

(g) Detailed the extent to which the policy of affirmatively furthering fair housing for all segments of the population is advanced by the proposed activities. Detail how your proposed work plan will support the community's efforts to further housing choices for all segments of the population. If you have an existing grant, you should discuss activities which have contributed to enhanced lead safe housing opportunities to all segments of the population.

(h) Described plans to adapt or amend statutes, regulations, or policies which will more fully integrate lead hazard control into community policies and priorities.

(5) Coordinated and cooperated with other organizations which will lead to a reduction in lead risks to community residents. This could include such activities as free training on lead-safe repainting and remodeling; promotion of essential maintenance practices; and provision of lead dust testing to low-income, privately-owned homes which may not receive lead hazard control assistance under this grant program.

## VI. Application Submission Requirements

### (A) Applicant Information

#### (1) Application Format

The application narrative response to the Rating Factors is limited to a maximum of 25 pages. Your response must be typewritten on one (1) side only on 8½" × 11" paper using a 12 point (minimum) font with not less than ¾" margins on all sides. Appendices should be referenced and discussed in the narrative response. Materials provided in the appendices should directly apply to the rating factor narrative.

#### (2) Application Checklist

In addition to the certifications and assurances listed in the General Section

of the SuperNOFA, you must submit the following:

(a) Transmittal Letter that identifies "the applicant" (or applicants) submitting the application, the dollar amount requested, what the program funds are requested for, and the nature of involvement with community-based organizations.

(b) The name, mailing address, telephone number, and principal contact person of "the applicant." If you have consortium associates, sub-grantees, partners, major subcontractors, joint venture participants, or others contributing resources to your project, you must provide similar information for each of these partners.

(c) Lead-Based Paint Contractor Certification and Accreditation Program

(i) If you are a State or Indian Tribe, the EPA authorization of the state program (Section 402 and 404 of TSCA) must be included.

(ii) If you are a local government in States which do not have an EPA authorized lead-based paint contractor certification program, you must provide assurances that you will use only performers certified under EPA-authorized state programs in conducting lead hazard control work.

(d) A detailed budget with supporting cost justifications for all budget categories of your grant request. You must provide a separate estimate for the overall grant management element (Administrative Costs), which is more fully defined in the application kit for this program section of the SuperNOFA. The budget shall include not more than 10% for administrative costs and not less than 90% for direct project elements. In the event of a discrepancy between grant amounts requested in various sections of the application, the amount you indicate on the SF-424 will govern as the correct value.

(e) An itemized breakout (using the SF-424A) of your required matching contribution, including:

(i) Values placed on donated in-kind services;

(ii) Letters or other evidence of commitment from donors; and

(iii) The amounts and sources of contributed resources.

(f) Memoranda of Understanding or Agreement, letters of commitment or other documentation describing the proposed roles of agencies, local broad-based task forces, participating community or neighborhood-based groups or organizations, local businesses, and others working with the program.

(g) A copy of your approval notification for the current program year for your jurisdiction's Consolidated

Plan. You also should include a copy of the lead hazard control element included in your current program year's Consolidated Plan.

(h) Narrative responses to the five rating factors.

### (B) Proposed Activities

All applications must, at a minimum, contain the following items:

(1) A description of the affected housing and population you will serve.

(a) Describe the size and general characteristics of the target housing within the jurisdiction, including a description of the housing's location, condition, and occupants, and a current estimate of the number of children under the age of six in these units. You should provide other characteristics described in Rating Factor 2 (Need). If you are targeting specific area(s) (neighborhoods, census tracts, etc.) within your jurisdiction for lead hazard control activities, describe these same characteristics for the area. You should also include vacant housing that subsequently will be occupied by low-income renters or owners in this description. You may include maps as an appendix.

(b) Provide information on the magnitude and extent of the childhood lead poisoning problem within your jurisdiction and for any area(s) you will include in your lead hazard control program.

(c) Narrative statement addressing the rating factors for award of funding under this program section of the SuperNOFA. Your narrative statement must be numbered in accordance with each factor for award (Factor 1 through 5).

## VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

In accordance with HUD regulations in 24 CFR part 58, recipients of lead-based paint hazard control grants will assume Federal environmental review responsibilities. Recipients of a grant under this NOFA will be given guidance in these responsibilities.

## IX. Authority

The Lead-Based Paint Hazard Control Program is authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).

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**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**RESEARCH TO IMPROVE  
EVALUATION AND CONTROL  
OF RESIDENTIAL  
LEAD-BASED PAINT HAZARDS**



## Notice of Funding Availability for Research to Improve the Evaluation and Control of Residential Lead-Based Paint Hazards

### Program Overview

**Purpose of the Program.** To fund research to improve methods for detecting and controlling residential lead-based paint hazards.

**Available Funds.** Approximately \$2.5 million.

**Eligible Applicants.** Academic and not-for-profit institutions located in the U.S., and State and local governments. For-profit firms also are eligible; however, they are not allowed to earn a fee (i.e., no profit can be made from the project).

**Application Deadline.** May 26, 1999.  
**Match.** None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Submit an original and four copies of your completed application on or before 12:00 midnight Eastern time on May 26, 1999.

See the General Section of this SuperNOFA for specific procedures that you must follow for the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.**  
**For Mailed Applications.** The address for mailed applications is: Department of Housing and Urban Development, 451 7th Street, S.W., Room P3206, Washington, D.C. 20410.

**For Overnight/Express Mail or Hand Carried Applications.** The address for overnight/express mail or hand carried applications is: HUD Office of Lead Hazard Control, 490 L'Enfant Plaza, SW, Suite 3206, Washington, DC 20024.

**For Application Kits.** You may obtain an application kit from the SuperNOFA Information Center at 1-800-HUD-8929, or the TTY number at 1-800-483-2209. When requesting an application kit, please refer to the Lead Hazard Control Research grant program. Please be sure to provide your name, address (including zip code), and telephone number (including area code).

**For Further Information and Technical Assistance.** For further information, you may contact: Dr. Peter Ashley, Office of Lead Hazard Control,

at the address above; telephone (202) 755-1785, extension 115, or Ms. Karen Williams, Grants Officer, extension 118 (these are not toll-free numbers). Hearing- and speech-impaired persons may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

### II. Amount Allocated

Approximately \$2.5 million will be available to fund research proposals in FY 1999. Grants or cooperative agreements will be awarded on a competitive basis according to the Rating Factors described in section V(B). HUD anticipates that individual awards will range from approximately \$250,000 to approximately \$1,000,000.

### III. Program Description; Eligible Applicants; Eligible Activities

#### (A) Program Description

**Background.** HUD has been actively engaged in a number of activities relating to lead-based paint as a result of the Lead-Based Paint Poisoning Prevention Act (LBPPA) of 1971, as amended, 42 U.S.C. 4801-4846. Sections 1051 and 1052 of the Lead Based Paint Hazard Reduction Act of 1992 ("Title X") (42 U.S.C. 4854 and 4854a) state that the Secretary of HUD, in cooperation with other Federal agencies, shall conduct research on specific topics related to the evaluation and subsequent mitigation of residential lead hazards. This research program also implements, in part, HUD's Departmental Strategy for Achieving Environmental Justice pursuant to Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations).

The HUD-sponsored research also responds to recommendations that were made by the Task Force on Lead-Based Paint Hazard Reduction and Financing, which was established pursuant to section 1015 of Title X. The Task Force presented its final report to HUD and the Environmental Protection Agency (EPA) in July 1995. The Task Force Report, entitled "Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing" (see Appendix A of this program section of the SuperNOFA), recommended research be conducted on a number of key topics to address significant gaps in our knowledge of lead exposure and hazard control. Research findings will be used in part to update HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint in Housing* ("Guidelines"), which were published in June, 1995 (see

Appendix A of this program section of the SuperNOFA). The *Guidelines* are a report on state-of-the-art procedures for all aspects of lead-based paint hazard evaluation and control. The *Guidelines* reflect the Title X framework for lead hazard control, which distinguishes three types of control measures: interim controls, abatement of lead-based paint hazards, and complete abatement of all lead-based paint. Interim controls are designed to address hazards quickly, inexpensively, and temporarily, while abatement is intended to produce a permanent solution. While the *Guidelines* recommend procedures that are effective in identifying and controlling lead hazards while protecting the health of abatement workers and occupants, HUD recognizes that targeted research and field experience will result in future changes to the *Guidelines*.

#### (B) Eligible Applicants

Academic and not-for-profit institutions located in the U.S., and State and local governments are eligible under all existing authorizations. Nonprofit institutions must submit proof of their nonprofit status. For-profit firms also are eligible; however, they are not allowed to earn a fee (i.e., no profit can be made from the project). Federal agencies and Federal employees are not eligible to submit applications. The General Section of the SuperNOFA provides additional eligibility requirements.

#### (C) Eligible Activities

(1) **General Goals and Objectives.** The overall goal of this research is to gain knowledge to improve the efficacy and cost-effectiveness of methods for lead-based paint hazard evaluation and control. Specific research topics for which applications are being solicited include:

(a) Treatment of lead-contaminated residential soils;

(b) Efficacy of the current guidance on conducting risk assessments of multifamily housing; and,

(c) Other areas of research that are consistent with the overall goals of this program section of the SuperNOFA.

Research objectives for the specific research topics listed above are provided separately in the expanded discussion of these topic areas that follows in Section III(C)(2). Although HUD is soliciting proposals for research on these specific topics, the Department will also consider funding applications for research on topics which are relevant under the overall goals and objectives of this research, as described above. In such instances, the applicant

should describe how the proposed research activity addresses these overall goals and objectives.

(2) *Background and Objectives for Specific Research Topic Areas.*

(a) *Treatment of Lead-Contaminated Soils.*

(i) *General.* Soils can become lead contaminated as a result of the shedding of leaded paint from the exterior of structures and by the deposition of airborne particulate lead. Before the removal of lead from gasoline, vehicular emissions were a significant source of airborne lead, especially in urban areas. Children can be exposed to lead in soil and exterior dust through direct contact and incidental ingestion, and indirectly as a result of soil or dust being tracked or blown into the home and becoming incorporated into house dust. The degree to which soil-lead is a hazard depends upon the potential for contact and the lead concentration of the soil.

The HUD *Guidelines* (Chapter 5) indicate that bare soils should be considered hazardous if they exceed 400 ppm Pb in "high contact" areas (e.g., play areas) and if they exceed 2,000 ppm Pb in other areas of the yard. The *Guidelines* further indicate that outside of high contact areas, hazard control measures are not required unless the surface area for bare soils exceeds 9 ft<sup>2</sup>. Requirements for soil-lead hazard assessment and controls in HUD's proposed rule implementing sections 1012 and 1013 of Title X (evaluation and control of lead hazards in federally assisted housing) are generally consistent with the HUD *Guidelines*. The *Guidelines* are also generally consistent with interim guidance for lead in soil published by the U.S. EPA (Guidance on the Identification of Lead-Based Paint Hazards, 60 FR 47247; September 11, 1995).

The EPA has also recently proposed soil-lead standards, as required by section 403 of the Toxic Substances Control Act (TSCA) (63 FR 30302-55; June 3, 1998). Soil-lead hazards can be mitigated using approaches that can be described as either interim controls or long term abatement measures (i.e., interventions that remain effective for at least 20 years). Interim controls include various means of covering bare soil, such as with grass, gravel, or mulch. Land use controls can also be employed and include measures such as fencing and changing the location of play equipment. Interim controls are generally low cost and relatively easy to employ; however, they require periodic monitoring to ensure that they remain effective.

Current HUD guidance calls for residential soils to be abated if soil-lead

levels exceed 5,000 ppm. Soil abatement includes such measures as covering soil with impervious materials like concrete or asphalt, or removing contaminated soils for off-site disposal. Another, more experimental approach, includes removing soil for on-site treatment that removes lead, followed by replacing the "cleaned" soil. Because of the high cost of soil abatement methods, in conjunction with other barriers to their implementation (e.g., disposing of lead-contaminated soils), these methods are currently impractical for widespread adoption.

Other approaches to reducing soil-lead hazards cannot be readily characterized as either interim controls or soil abatement. An example, which has not been evaluated scientifically, is tilling the soil to reduce the lead concentration at the soil surface. Another example is the untested concept of treating soil with a substance (e.g., ground phosphate rock) that would be expected to reduce the biological availability (i.e., the degree to which the lead is absorbed into the bloodstream following ingestion) of the soil-lead to humans.

Relatively little research has been reported on the effectiveness of residential soil treatments in reducing children's lead exposures. Some studies have reported significant reductions in the blood-lead levels of children following the implementation of interim soil hazard reduction measures in conjunction with other lead hazard control measures performed on dwelling interiors. However, this type of study design makes it difficult to parse out the effect of the soil hazard controls in reducing lead exposure.

The EPA-funded "Three City Study" assessed the impact of residential or neighborhood soil and dust abatement on children's blood lead levels (USEPA 1996). A small decline in the mean blood lead of children was observed following soil abatement at one of the three study sites.

The major goals of this research are to improve methods for assessing potential risks from soil-lead exposure, to determine the effectiveness of various interim control methods of reducing residential soil-lead hazards, and to identify novel, cost-effective approaches to reducing or eliminating residential soil-lead hazards.

(ii) *Specific Research Objectives.* Specific research objectives include the following:

(1) Assess the effectiveness of selected interim control methods at reducing or eliminating residential soil-lead hazards;

(2) Develop and assess novel, cost-effective methods for reducing or eliminating residential soil-lead hazards;

(3) Assess the adequacy of the current EPA (1994 interim guidelines and 1998 proposed rule) and HUD *Guidelines* for identifying residential soil-lead hazards (e.g., area of bare soil for a hazardous condition, soil sampling guidelines); and

(4) Improve knowledge regarding the relative importance of exterior dust and soil as lead exposure sources for children in various residential environments.

(b) *Lead Hazard Risk Assessment of Multifamily Housing.*

(i) *General.* For the purpose of assessing residential housing for lead-based paint hazards, Title X defines a lead-based paint hazard risk assessment as an on-site investigation of a dwelling for the purpose of identifying any lead-based paint hazards. Risk assessments include, but are not limited to, a visual assessment and limited environmental sampling, and creation of a written report with results and recommendations. It is also suggested that a risk assessor, to the extent feasible, conduct an investigation of the history and management of a dwelling and the age of the residents. Chapter 5 of the HUD *Guidelines* provides guidance on conducting risk assessments in single and multifamily housing, and addresses painted surfaces, dust, and soil. The described approaches for conducting lead hazard risk assessments in multifamily housing include methods that are based on: (a) targeted, worst case, and random sampling of housing units and common areas when assessing painted surfaces and/or dust for lead-based paint hazards, and (b) sampling of selected locations of building properties when assessing soil for lead hazards. These aspects of risk assessment are addressed by the *Guidelines* as follows:

*Painted surfaces and dust*

Targeted sampling involves the selection of housing units and common areas deemed most likely to contain lead-based paint hazards. These units and common areas are identified primarily through information that is supplied by the owner (i.e., verbally and/or through written records). Examples of criteria for selecting units to be sampled include condition (e.g., select if "poor"), the presence of children under age 6, and recent preparation for reoccupancy. One limitation of condition-based targeting is that most owners have little knowledge of lead risk assessment, and

may unintentionally fail to identify the units most likely to have LBP hazards; another arises from the potential conflict of interest of a risk assessor's reliance on the owner's characterization of the units and common areas. The *Guidelines* also provide a minimum number of units to be sampled in conducting risk assessments of similar multifamily units in developments of various sizes. The values provided were in part derived from a public housing risk assessment/insurance program.

The other approaches discussed in the *Guidelines* for choosing units to be assessed, worst case and random sampling, are suggested for use when there is not adequate information on which to select a target sample. They would be more costly than the targeted approach in most cases. The worst-case sampling approach requires an initial visual inspection of all units and common areas with subsequent selection of those in poorest condition, while the random sampling method requires the random selection of a statistically based sample, as is required for conducting lead-based paint inspections. The statistically based random sample generally requires the selection of many more units than targeted sampling.

A focused research effort is needed to assess the adequacy of the current HUD guidance for conducting risk assessments of multifamily developments. Research efforts could include the analysis of existing data from past risk assessments of multifamily developments (e.g., public housing) and/or the generation and analysis of new data generated from the assessment of a limited number of multifamily developments. As part of an evaluation of multifamily risk assessment guidance, consideration should be given as to how an assessor should characterize the results of a multifamily risk assessment in a manner that would maximize its utility to the client. If no lead hazards are identified, or if a clear pattern in the occurrence of lead hazards emerges, the reporting of results is straightforward. Other findings, however, such as the situation in which some lead hazards are detected with no apparent pattern of occurrence, are more difficult to characterize.

#### Soil

Chapter 5 of the HUD *Guidelines* recommends that bare soils be sampled during a risk assessment of multifamily housing; however, no additional guidance specific to multifamily housing is provided. The general guidance for soil sampling is to collect a minimum of two composite samples

per building, with one sample collected from the children's play area and the other sample collected from the front or back yard and/or an additional sample from the foundation drip line. It would be useful to expand this guidance to cover a wider range of conditions, such as large-area properties with a few high-occupancy buildings and multiple areas of bare soil, or small properties for which play areas may not be distinct from other areas. Improving the clarity of identification and characterization of play areas would also improve the existing guidance. Another question relates to the possible sampling of exterior dust. Should exterior dust be sampled, and if so, using what protocol, and how should results be interpreted?

(ii) *Specific Research Objectives.* The major objective is to assess the utility of the current HUD guidance on conducting lead-based paint hazard risk assessments in multifamily developments and to identify changes that could be made to improve this guidance. Specific research objectives include:

(1) Assess the utility of a "targeted sampling" approach in identifying lead hazards in multifamily housing in contrast to other approaches (e.g., random sampling).

(2) Evaluate the current guidance on the minimum number of units to be assessed in targeted risk assessments of multifamily housing.

(3) Develop guidance to risk assessors on cost effective methods of determining the location of hazards in unsampled units when the pattern of hazard occurrence is uncertain based on sampled units.

(4) Improve the guidance for conducting soil sampling in conjunction with risk assessments for a wide variety of multifamily housing.

(c) *Other Relevant Research.* HUD will also consider funding applications for research on topics which, although not specifically identified in this program section of the SuperNOFA, are relevant under the overall objective of improving the efficacy and cost-effectiveness of methods for the evaluation and control of lead-based paint hazards. All applications must comply with all requirements of this program section of the SuperNOFA.

Other research topics that are of interest to HUD include, but are not limited to:

(i) Assessment of the level of worker protection required for typical lead hazard abatement and control activities (i.e., as determined by personal exposure monitoring) with respect to evaluations of the type of work, properties of the work surfaces, training

and experience of workers and supervisors, etc.

(ii) The degree to which it is necessary to follow the approach recommended in the HUD *Guidelines* (Chapter 14) for clean-up (e.g., washing walls and ceilings, use of a HEPA vacuum and high phosphate detergents) following the completion of various lead hazard control interventions.

#### IV. Program Requirements.

The threshold requirements are listed in Section II.B of the General Section of this SuperNOFA.

#### V. Application Selection Process

##### (A) Submitting Applications for Grants

Your application must conform to the formatting guidelines specified in the application kit. This program section of the SuperNOFA specifies the sections to be included in the application and the application kit provides related formatting and content guidelines.

Applications that meet all of the threshold requirements will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors described below in section V(B). Your application must receive a total score of at least 65 points to remain in consideration for funding.

HUD intends to make awards to qualifying applications in the following order:

STEP 1 An award will be made to the highest ranked application in each of the three topic areas (including the "other" area) listed at sections III(C)(1)(a) through (c) of this program section of the SuperNOFA, within the limits of funding availability. If there are insufficient funds to award in all topic areas, HUD will make awards in topics (a) through (c) in rank order;

STEP 2 If funding remains available, an award will be made to the second highest ranked application in each of the three topic areas listed at sections III.(C)(1)(a) through (c), within the limits of funding availability.

STEP 3 If funding remains available, awards will be made in rank order regardless of topic area.

You may address more than one of the research topic areas within your proposal; however, each topic area will be rated and ranked separately. Separate budgets should also be included for each of the topic areas, with the total cost not to exceed the total amount to be awarded. Projects need not address all of the objectives within a given topic area. While you will not be penalized for not addressing all of the specific objectives for a given topic area, if two applications for research in a given

topic have equal scores, HUD will select the applicant whose project addresses the most objectives.

You are encouraged to plan projects that can be completed over a relatively short time period (e.g., 12 to 24 months from the date of award) so that any useful information that is generated from the research can be available for policy or program decisions and be disseminated to the public as quickly as possible.

(B) *Rating Factors*. The factors for rating and ranking applicants, and maximum points for each factor, are provided below. The maximum number of points to be awarded is 102. This maximum includes two EZ/EC bonus points as described in the General Section of the SuperNOFA. Also, Section III(C)(2) of the General Section, which addresses a court-ordered consideration, is applicable to this program. The application kit contains additional guidance for responding to these factors.

**Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)**

This factor addresses the extent to which you have the ability and organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of you, the "applicant," will include any sub-grantees, consultants, sub-recipients, and members of consortia which are firmly committed to the project (generally, "subordinate organizations"). In rating this factor HUD will consider the extent to which your application demonstrates:

(1) *The capability and qualifications of the principal investigator and key personnel* (10 points). Qualifications to carry out the proposed study as evidenced by academic background, relevant publications, and recent (within the past 10 years) relevant research experience. Publications and research experience are considered relevant if they required the acquisition and use of knowledge and skills that can be applied in the planning and execution of the research that is proposed under this program section of the SuperNOFA.

(2) *Past performance of the research team in managing similar research* (10 points). Demonstrated ability to successfully manage the various aspects of a complex research study in such areas as logistics, research personnel management, data management, quality control, community research involvement (if applicable), and report writing, as well as overall success in project completion (i.e., research

completed on time and within budget). You should also demonstrate that the project would have adequate administrative support, including clerical and specialized support in areas such as accounting and equipment maintenance.

**Rating Factor 2: Need/Extent of the Problem (15 Points)**

(1) You must demonstrate responsiveness to solicitation objectives. You should explain in detail the likelihood that the research would make a significant contribution towards achieving some or all of HUD's stated goals and objectives for one or more of the topic areas described in sections III(C)(2)(a)-(c) of this program section of the SuperNOFA. You also should explain how the proposed research could lead to improvements or additions to the HUD Guidelines.

(b) If you are seeking funding for "other" research, as is described in section III(C)(2)(c), you must provide an explanation which demonstrates the importance and need for the research with respect to addressing the overall goal of this program section of the SuperNOFA (see section III(C)(1)).

**Rating Factor 3: Soundness of Approach (45 Points)**

This factor addresses the quality of your proposed research plan. Specific components include the following:

(1) *Soundness of the study design* (25 points). The study design must be thorough and feasible, and reflect your knowledge of the relevant scientific literature. You should include a plan for analyzing and archiving data.

(2) *Project management plan* (10 points). The proposal should include a management plan that provides a schedule for the completion of major tasks and deliverables, with an indication that there will be adequate resources (e.g., personnel, financial) to successfully meet the proposed schedule. Projects with a duration of 24 months or less will be awarded more points in this category than projects with a longer duration.

(3) *Quality assurance mechanisms* (5 points). You must describe the quality assurance mechanisms which will be integrated into your research design to ensure the validity and quality of the results. Areas to be addressed include acceptance criteria for data quality, procedures for selection of samples/sample sites, sample handling, measurement and analysis, and any standard/nonstandard quality assurance/control procedures to be followed. Documents (e.g., government reports, peer-reviewed academic

literature) which provide the basis for the quality assurance mechanisms should be cited.

(4) *Budget Proposal* (5 Points). The budget proposal should be thorough in the estimation of all applicable direct and indirect costs, and should be presented in a clear and coherent format in accordance with the requirements listed in the General Section of this SuperNOFA.

**Rating Factor 4: Leveraging Resources (10 Points)**

The extent to which you can demonstrate that the effectiveness of the HUD research grant funds is being increased by securing other public and/or private resources or by structuring the research in a cost-effective manner, such as integrating the project into an existing research effort. Resources may include funding or in-kind contributions (such as services, facilities or equipment) allocated to the purpose(s) of the research. Staff and in-kind contributions should be given a monetary value.

You must provide evidence of leveraging/partnerships by including in the application letters of firm commitment, memoranda of understanding, or agreements to participate from those entities identified as partners in the application. Each letter of commitment, memorandum of understanding, or agreement to participate should include the organization's name, proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must also be signed by an official of the organization legally able to make commitments on behalf of the organization.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

You should describe how the results of your proposed research efforts will support planning, policy development, implementation of lead hazard control programs, and/or public education in the area of residential lead hazard control.

**VII. Application Submission Requirements**

**(A) Applicant Data**

Applications should be submitted in accordance with the format and instructions contained in this program section of the SuperNOFA. The following are required elements of the application (the application kit provides all necessary details and information):

(1) Transmittal Letter that identifies what the program funds are requested

for, the dollar amount requested, and the applicant or applicants submitting the application.

(2) The name, mailing address, telephone number, and principal contact person of the applicant. If the applicant has consortium associates, sub-grantees, partners, major subcontractors, joint venture participants, or others contributing resources to the project, similar information shall also be provided for each of these entities.

(3) Completed Forms HUD-2880, Applicant/Recipient Disclosure/Update Report; Certification Regarding Lobbying; and SF-LLL, Disclosure of Lobbying Activities, where applicable.

(4) Standard Forms SF-424, 424A, 424B, and other certifications and assurances listed in the General Section of the SuperNOFA and in section VII(B) of this program section of the SuperNOFA.

(5) A detailed total budget with supporting cost justification for all budget categories of the Federal grant request.

(6) A one-page abstract containing the following information: The project title, the names and affiliations of all investigators, and a summary of the objectives, expected results, and study design described in the proposal.

(7) A project description that does not exceed 25 pages for each research topic area.

(8) Any important attachments, appendices, references, or other relevant information may accompany the project description, but must not exceed fifteen (15) pages for the entire application.

(9) A narrative statement addressing the rating factors for award of funding under this program section of the SuperNOFA. The narrative statement must be numbered in accordance with each factor for award (Factor 1 through 5). The response to the rating factors should not exceed a total of 20 pages for each research topic area. (See application kit for format and required elements.)

(10) The résumés of the principal investigator and other key personnel. Resumes shall not exceed three pages, and are limited to information that is relevant in assessing the qualifications of key personnel to conduct and/or manage the proposed research.

(11) Copy of State Clearing House Approval Notification (see application kit to determine if applicable).

(B) *Certifications and Assurances.* The following certifications and assurances are to be included in all applications:

(1) Compliance with all relevant State and Federal regulations regarding

exposure to and proper disposal of hazardous materials.

(2) Assurance that the financial management system meets the standards for fund control and accountability (24 CFR 84.21 or 24 CFR 85.20, as applicable);

(3) Assurance, to the extent possible and applicable, that any blood lead testing, blood lead level test results, and medical referral and follow-up for children under six years of age will be conducted according to the recommendations of the Centers for Disease Control and Prevention (CDC) (*Preventing Lead Poisoning in Young Children*, See Appendix A of this program section of the SuperNOFA);

(4) Assurance that HUD research grant funds will not replace existing resources dedicated to any ongoing project; and

(5) Certification of compliance with the Drug-Free Workplace Act of 1988 in accordance with the requirements set forth at 24 CFR part 24.

(6) Assurance that laboratory analysis covered by the National Lead Laboratory Accreditation Program (NLLAP) is conducted by a laboratory recognized under the program.

(7) Assurance that human research subjects will be protected from research risks in conformance with the Common Rule (Federal Policy for the Protection of Human Subjects, codified by HUD at 24 CFR part 60).

#### VIII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### IX. Environmental Requirements

In accordance with 24 CFR 50.19(b)(1) and (5) of the HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and are not subject to environmental review under the related laws and authorities.

#### X. Authority

These grants are authorized under sections 1051 and 1052 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992.

#### Appendix A—Relevant Publications and Guidelines

To secure any of the documents listed, call the listed telephone number (generally, the telephone numbers are not toll-free).

#### Regulations

1. Worker Protection: OSHA publication—Telephone: 202-693-1888 (OSHA

Regulations) (available for a charge)—Government Printing Office—Telephone: 202-512-1800 (not a toll-free number):

—General Industry Lead Standard, 29 CFR 1910.1025; (Document Number 869022001124)

—Lead Exposure in Construction, 29 CFR 1926.62, and appendices A, B, C, and D; (Document Number 869022001141)

2. Waste Disposal: 40 CFR parts 260-268 (EPA regulations) (available for a charge)—Telephone 1-800-424-9346, or, from the Washington, DC, metropolitan area, 1-703-412-9810 (not a toll-free number).

3. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule: 40 CFR Part 745, Subparts L and Q (EPA) (State Certification and Accreditation Program for those engaged in lead-based paint activities)—Telephone: 1-202-554-1404 (Toxic Substances Control Act Hotline) (not a toll-free number).

4. Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Proposed Rule: 24 CFR Parts 35, 36 and 37 (HUD)—Telephone: 1-202-755-1785 (Office of Lead Hazard Control) (not a toll-free number).

5. U.S. Environmental Protection Agency. Lead; Identification of Dangerous Levels of Lead; Proposed Rule. **Federal Register**: 63 FR 30302-30355, June 3, 1998. TSCA Hotline: 202-554-1404 (not a toll-free number).

#### Guidelines

1. Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; HUD, June 1995 (available for a charge)—Telephone: 800-245-2691:

2. Preventing Lead Poisoning in Young Children; Centers for Disease Control, October 1991: Telephone: 888-232-6789.

3. Screening Young Children for Lead Poisoning; Guidance for State and Local Public Health Officials, November 1997; Centers for Disease Control and Prevention (CDC): Telephone: 888-232-6789.

#### Reports

1. Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing, (Summary and Full Report); HUD, July 1995 (available for a charge)—Telephone 800-245-2691.

2. Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing; Report to Congress; HUD, December 7, 1990 (available for a charge)—Telephone 800-245-2691.

3. A Field Test of Lead-Based Paint Testing Technologies; Summary Report (Summary also available); U.S. Environmental Protection Agency, May 1995. EPA 747-R-95-002a (available at no charge)—Telephone 800-424-5323.

4. Urban Soil Lead Abatement Demonstration Project. EPA Integrated Report, U.S. Environmental Protection Agency, April, 1996. EPA/600/P-93-001AF (available from National Technical Information Service (NTIS) for a charge)—Telephone 800-553-6847.

BILLING CODE 4210-32-P



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**MOLD AND MOISTURE CONTROL  
IN INNER CITY HOUSING**



## Funding Availability for Interventions to Control Mold and Moisture Problems in Inner-City Housing

### Program Overview

Purpose of the Program. The purpose of the program is to assist State and local governments in undertaking demonstration projects of preventive measures to correct mold and moisture problems in inner-city housing occupied by families with young children in communities where exposure to toxigenic molds has been linked to cases of acute pulmonary hemorrhage and death in infants.

*Available Funds.* Approximately \$4.0 million.

*Eligible Applicants.* State or local governments.

*Application Deadline.* May 26, 1999.

*Match.* None.

### Additional Information

#### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

*Application Due Date.* Submit an original and four copies of your completed application on or before 12:00 midnight Eastern Time on May 26, 1999.

The General Section of the SuperNOFA provides additional information regarding the delivery methods for the applications.

*Address for Submitting Applications. For Mailed Applications.* The address for mailed applications is: Department of Housing and Urban Development, 451 Seventh Street, SW, Room P3206, Washington, D.C. 20410.

*For Overnight/Express Mail or Hand Carried Applications.* The address for applications that are hand carried or sent via overnight delivery is: HUD Office of Lead Hazard Control, Suite 3206, 490 L'Enfant Plaza SW, Washington, D.C. 20024.

*For Application Kits.* You may obtain an application kit from the SuperNOFA Information Center at 1-800-HUD-8929, or the TTY number at 1-800-483-2209. When requesting an application kit, please refer to "Interventions to Control Mold and Moisture." Please be sure to provide your name, address (including zip code), and telephone number (including area code). Alternatively, you may obtain an application kit by downloading it from the internet at <http://www.hud.gov>.

*For Further Information Contact.* Dr. Peter Ashley, Planning and Standards Division, Office of Lead Hazard Control, at the address above; telephone (202) 755-1785, extension 115, or Ms. Karen Williams, Grants Officer, extension 118

(these are not toll-free numbers). Hearing- and speech-impaired persons may access the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### II. Amount Allocated

Approximately \$4.0 million will be available to fund demonstration projects in FY 1999. Grants will be awarded on a competitive basis following evaluation of all proposals according to the Rating Factors described in section V(B). HUD anticipates that approximately 1 to 3 grants will be awarded, ranging from approximately \$1,500,000 to approximately \$4,000,000.

#### III. Program Description, Eligible Applicants, and Eligible Activities

##### (A) Program Description

(1) *Background.* (a) Molds (filamentous fungi) can grow on and within various substrates within a home following water intrusion as a result of events such as flooding and plumbing and roof leaks. Of particular concern is the growth of molds that are capable of forming toxic substances (i.e., toxigenic molds). Exposure to molds and their toxic byproducts can be hazardous to humans through direct contact with the skin, ingesting mold-contaminated foods, or by inhaling mold particles. Such exposures have been associated with a variety of symptoms, including rashes, fever, headache, upper respiratory infection, asthma, chronic fatigue, and in severe cases, death (Croft et al. 1986, Johanning et al. 1996).

One of the most hazardous of the toxigenic molds is *Stachybotrys chartarum*. *Stachybotrys* is a greenish-black mold that grows on water-soaked, cellulose-containing materials such as wood paneling, ceiling tiles, paper products, and some types of insulation. An association was found between the presence of this mold in water-damaged homes in a large, midwestern city, and the occurrence of acute pulmonary hemorrhage in infants, leading to death in some cases (Etzel et al. 1998; MMWR 1994, 1997). Air sampling conducted in the homes of the disease cases also identified considerably higher concentrations of other varieties of mold in the homes of victims as compared to control homes. The cases were found to be geographically clustered in an area of the city with housing that is old and often times inadequately maintained, with evidence of water damage and chronic moisture problems. A cluster of cases of acute infant pulmonary hemorrhage was also reported in another U.S. city; however, no

epidemiological study of potential causative environmental agents has been published (MMWR 1995).

Inspection of homes for mold problems can include visual survey for mold and water damage, bulk and surface sampling of contaminated materials, and air monitoring. Mold is especially serious when substantial amounts are found to occur in air ducts that are part of the home heating system. Heating ducts provide a means for the wide distribution of mold particulates throughout the house. To be effective, any remediation strategy must include elimination of moisture intrusion into the home. Because water damage and mold growth are most likely to occur in older housing, as has been reported, it is likely that the affected dwellings also contain lead-based paint which could be in a deteriorated condition. Therefore, any remediation strategy for mold growth should include the identification and control of lead-based paint hazards. Remediation workers must be trained to work safely in mold-contaminated environments as well as in safe methods for lead hazard control. Precautions also must be taken to adequately protect occupants during interventions.

(b) *References.* See Appendix A.

(2) *Goals and Objectives.* The primary goal of this program is to protect children by supporting one or more demonstration projects employing cost-effective, replicable interventions to remediate moisture intrusion and associated mold growth in inner-city housing occupied by families with young children in communities where toxic mold exposure has been linked to acute pulmonary hemorrhage in infants ("eligible housing").

Objectives include the following:

(a) Developing a cost-effective survey protocol for identifying homes that are candidates for moisture control interventions, identifying lead-based paint and other hazards associated with moisture intrusion, and screening out homes where structural or other condition factors make interventions infeasible or impractical.

(b) Developing a flexible set of intervention strategies that take into account the range of conditions likely to be encountered in older inner-city housing, and the need to maximize the number of housing units that receive an intervention.

(c) Developing an efficient strategy for evaluating the effectiveness of interventions in preventing moisture intrusion and controlling mold growth.

(d) Building local capacity to develop a sustainable program that will continue to prevent and, where they occur, minimize and control toxic mold

hazards in low and very-low income residences when HUD funding is exhausted.

(e) Affirmatively furthering fair housing and environmental justice.

(f) Mobilizing public and private resources, involving cooperation among all levels of government, the private sector, and community-based organizations to develop the most promising, cost-effective methods for identifying and controlling moisture problems and associated mold hazards in inner city housing.

(g) Integrating mold- and lead-safe work practices into housing maintenance, repair, and improvements.

(h) To the greatest extent feasible, promoting job training, employment, and other economic opportunities for low-income and minority residents and businesses which are owned by and/or employ low-income and minority residents as defined in 24 CFR 135.5 (See 59 FR 33881, June 30, 1994).

#### (B) Eligible Applicants

To apply for funding under this announcement, you must be a State or unit of local government. Multiple units of local government (or multiple local governments) may apply as part of a consortium; however, a single lead government or agency must be identified and that agency will be considered "the applicant." Only one application may be submitted from each applicant. If your name appears as lead agency in multiple applications, this will be considered a curable (minor) defect. HUD will request that you clarify which application you want HUD to consider as your application. If you fail to respond, any application in which you are identified as the lead agency will be returned unevaluated.

#### (C) Eligible Activities

You will be afforded considerable latitude in designing and implementing the interventions to prevent moisture intrusion and remediate existing mold hazards. However, in developing a strategy, you should use all reasonably available sources of information on controlling moisture and associated mold problems in buildings and protecting workers and occupants during and after the intervention process. HUD is interested in promoting housing intervention approaches that result in the reduction of this health threat for the maximum number of residents, and in particular low-income residents, and that demonstrate replicable techniques which are cost-effective and efficient.

The following direct and support activities are eligible under this grant program.

(1) Direct Project Elements (activities conducted by you and any sub-recipients):

(a) Performing evaluations of eligible housing to determine the presence of moisture intrusion and related conditions (e.g., mold growth, damaged lead-based paint) through the use of generally accepted testing procedures.

(b) Conducting medical examinations of young children for conditions caused or exacerbated by mold exposure where this is considered essential to your project, and there are no alternative sources to cover these costs.

(c) Conducting housing interventions to remediate existing mold growth and address conditions that could result in the recurrence of mold growth by preventing the intrusion of moisture into a dwelling. Any lead hazard evaluation and control work shall be conducted in accordance with the HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* ("Guidelines").

(d) Carrying out temporary relocation of families and individuals during the period in which intervention is conducted and until the time the affected unit receives clearance for reoccupancy.

(e) Performing medical testing recommended by a physician or applicable occupational or public health agency for individuals working with toxic molds and air sampling to protect the health of the intervention workers, supervisors, and contractors.

(f) Undertaking housing rehabilitation activities that are specifically required to carry out effective control of moisture intrusion and mold hazards, and without which the intervention could not be completed and maintained. Grant funds under this program may also be used to control immediate lead-based paint hazards.

(g) Conducting clearance testing and analysis for lead and/or mold, as appropriate.

(h) Carrying out architectural, engineering and work specification development and other construction management services necessary to, and in direct support of, activities to control moisture problems and remediate existing mold and/or lead hazards.

(i) Providing training on safe maintenance practices to homeowners, renters, painters, remodelers, and housing maintenance staff working in low- or very-low income housing.

(j) Providing cleaning supplies for mold-hazard intervention and lead-hazard control to community/

neighborhood-based organizations for use by homeowners and renters in low income housing, or to such homeowners, and renters directly, in conjunction with training under section III.(C)(1)(i), or as part of research activities under section III.(C)(1)(n) of this program section of this SuperNOFA.

(k) Conducting general or targeted community awareness or education programs on environmental health hazards associated with moisture intrusion. This activity would include training on safe maintenance and renovation practices. It would also include making materials available, upon request, in alternative formats for persons with disabilities (e.g., Braille, audio, large type), and in languages other than English that are common in the community, whenever possible.

(l) Securing liability insurance for mold-intervention and lead-hazard evaluation and control activities to be performed.

(m) Supporting data collection, analysis, and evaluation of project activities. This activity is separate from administrative costs.

(n) Conducting applied research activities directed at demonstration of cost-effective evaluation and intervention methods for preventing moisture intrusion into dwellings and abating associated mold hazards, particularly in conjunction with concurrently evaluating and controlling other moisture-related environmental health hazards.

(o) Presenting research findings at a scientific conference in each project year after the first.

(p) Maintaining a registry (updated at least monthly) of housing units in which moisture problems, mold hazards and lead hazards were not found during evaluation, or in which such problems and hazards have been controlled.

(q) Preparing quarterly progress reports, interim and final research reports, and an overall final grant report detailing activities, findings, conclusions and recommendations, at the conclusion of grant activities.

(2) Support Elements.

(a) Your administrative costs.

(b) Program planning and management costs of sub-grantees and other sub-recipients.

#### (D) Ineligible Activities

Program funds shall not be used for:

(1) Purchase of real property.

(2) Purchase or lease of equipment having a per unit cost in excess of \$5,000, except upon approval by HUD.

(3) Medical treatment costs for children with illness associated with

exposure to molds or for children with elevated blood lead levels, except as part of research activities under section III.(C)(1)(n), above, in this program section of the SuperNOFA.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, applicants are subject to the following requirements:

(A) *Budgeting*. Administrative Costs. There is a 10% maximum for administrative costs. The application kit contains specific information on allowable administrative costs.

(B) *Period of Performance*. The period of performance cannot exceed 36 months.

(C) *Coastal Barrier Resources Act*. Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), funds may not be used for properties located in the Coastal Barrier Resources System.

(D) *Flood Disaster Protection Act*. Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), funds may not be used for construction, reconstruction, repair or improvement of a building or mobile home which is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59-79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). You are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(E) *National Historic Preservation Act*. The National Historic Preservation Act of 1966 (16 U.S.C. 470) (NHPA) and the regulations at 36 CFR part 800 apply to the mold intervention and related hazard control activities that are undertaken pursuant to this program. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out any lead hazard control activities under this program.

(F) *Waste Disposal*. Waste disposal will be handled according to the requirements of OSHA (e.g., 29 CFR part 1910 and/or 1926, as applicable), the

Environmental Protection Agency (EPA) (e.g., 40 CFR parts 61, 260-299, 300-399, and/or 700-799, as applicable), the Department of Transportation (e.g., 49 CFR parts 171-177), and/or appropriate State or local regulatory agency(ies). Disposal of wastes from intervention activities that contain lead-based paint but are not classified as hazardous will be handled in accordance with the HUD *Guidelines*.

(G) *Worker Protection Procedures*. You must comply with the requirements of the Occupational Health and Safety Administration (OSHA; e.g., 29 CFR part 1910 and/or 1926, as applicable), or the State or local occupational safety and health regulations, whichever are most stringent.

(H) *Written Policies and Procedures*. You must have written policies and procedures for all phases of intervention, including evaluation, development of specifications, financing, occupant relocation, independent project inspection, and clearance testing (for mold and/or lead, as applicable). You and all your subcontractors, sub-recipients, and their contractors must comply with these policies and procedures.

(I) *Continued Availability of Safe Housing to Low-Income Families*. Units in which mold hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income residents.

(J) *Data collection and provision*. You must collect, maintain and provide to HUD the data necessary to document the various approaches used to evaluate and control mold and lead hazards, including evaluation and control methods, building conditions, medical and familial information (with confidentiality of individually-identifiable information ensured) in order to determine the effectiveness and relative cost of these methods.

(K) *Section 3 Employment Opportunities*. Please see Section II(E) of the General Section of this SuperNOFA. The requirements of Section 3 are applicable to this program.

(L) *Certifications and Assurances*. In addition to the certifications and assurances listed in the General Section of the SuperNOFA, a single certification form is included in the application kit. This includes:

(1) An assurance in accordance with 24 CFR 50.3(h) that the applicant will carry out its responsibilities regarding HUD's environmental review.

(2) A certification of compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 49 CFR 24; and HUD

Handbook 1378 (Tenant Assistance, Relocation and Real Property Acquisition).

(3) An assurance that the applicant's financial management system meets the standards for fund control and accountability described in 24 CFR 85.20.

(4) An assurance that any pre-intervention and clearance evaluation for lead will be conducted by certified performers.

(5) An assurance that project funds obtained through this SuperNOFA will not replace existing resources dedicated to any ongoing project.

(6) Assurance that human research subjects will be protected from research risks in conformance with the Common Rule (Federal Policy for the Protection of Human Subjects, codified by HUD at 24 CFR part 60).

(M) *Davis-Bacon Act*. The Davis-Bacon Act does not apply to this program. However, if program funds are used in conjunction with other Federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other Federal programs.

#### V. Application Selection Process

##### (A) Rating and Ranking

HUD intends to fund the highest ranked applications within the limits of funding. Once available funds have been allocated to meet the requested or negotiated amounts of the top eligible applicants, HUD reserves the right, in successive order, to offer any residual amount as partial funding to the next eligible applicant provided HUD, in its sole judgment, is satisfied that the residual amount is sufficient to support a viable, though reduced effort.

##### (B) Factors for Award Used to Evaluate and Rate Applications

This section provides the factors for rating and ranking your application and the maximum points for each factor. The application kit provides additional instructions for responding to these factors. The maximum number of points to be awarded is 102. This maximum includes two EZ/EC bonus points as described in the General Section of the SuperNOFA. Also, Section III(C)(2) of the General Section, which addresses a court-ordered consideration, is applicable to this program.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)

This factor addresses your organizational capacity necessary to

successfully implement your proposed activities in a timely manner. The rating of you or your staff includes any community-based organizations, sub-contractors, consultants, sub-recipients, and members of consortia that are firmly committed to your project. In rating this factor HUD will consider:

(1) Your recent, relevant and successful demonstrated experience in undertaking eligible program activities. You must describe the knowledge and experience of the proposed overall project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially those involving housing rehabilitation, public health, or environmental programs. In your narrative response for this factor, you should include information on your program staff, their experience, commitment to the program, and position titles. Resumes of up to three (3) pages each and position descriptions for up to three personnel in addition to the project director and program manager, and a clearly delineated organizational chart for your project must be included as an appendix. Copies of job announcements (including salary range) should be included for any key positions that are currently vacant. Indicate the percentage of time that key personnel will devote to your project and any salary costs to be paid by funds from this program.

(2) Whether you have sufficient personnel or will be able to quickly retain qualified experts or professionals to begin your proposed program immediately and to perform your proposed activities in a timely and effective fashion. Describe how other principal components of your agency or other organizations will participate in or support your project. You should thoroughly describe capacity, as demonstrated by experience in initiating and implementing related environmental, health, or housing projects.

#### Rating Factor 2: Need/Extent of the Problem (15 Points)

This factor addresses the extent to which there is a need for your proposed program activities to address a documented problem in your target inner city area(s).

(1) Document a critical level of need for your proposed activities in the inner city area where activities will be carried out. You should pay specific attention to documenting need as it applies to your target area(s), rather than the larger geographic area.

(2) Your documentation of need should summarize available data linking

toxigenic mold growth with cases of acute pulmonary hemorrhage in infants in your target area(s). Examples of supporting data that might be used to demonstrate need, include:

(a) Economic and demographic data relevant to your target area(s), including poverty and unemployment rates;

(b) Rates of childhood illnesses (e.g., asthma) that could be caused or exacerbated by mold exposure, among children residing in your target area(s), and rates of environmental intervention blood lead levels in your target area(s);

(c) Lack of other Federal, State or local funding that could be, or is used, to address the problem HUD program funds are designed to address.

(3) For the areas targeted for your project activities, provide data available in your jurisdiction's currently approved Consolidated Plan, or derived from 1990 Census Data, or derived from other sources (all data should be documented):

(a) The age and condition of housing;

(b) The number and percentage of very-low and low income families with incomes less than 80% of the median income, as determined by HUD, for the area, with adjustments for smaller and larger families (See application kit for additional information.);

(c) The number and proportion of children under six years old.

(4) Describe how proposed research activities would help HUD achieve its goals for this program area of this SuperNOFA.

(5) There must be a direct relationship between the proposed activities, community needs, and the purpose of the program.

#### Rating Factor 3: Soundness of Approach (45 Points)

This factor addresses the quality and cost-effectiveness of your proposed work plan. You should present information on the proposed approach for controlling moisture intrusion and remediating existing mold problems. The response to this factor should include the following elements:

(1) *Intervention Strategy* (30 points). Describe the strategy you will use in planning and executing the moisture control and mold hazard interventions in inner city housing. You should provide information on:

(a) *Strategy for Implementing the Demonstration Project* (10 points). Describe your overall strategy for your proposed demonstration project. The description must include a discussion of:

(i) Your previous experience in reducing or eliminating mold and

moisture problems in urban housing (if any).

(ii) Your overall strategy for identifying, selecting, prioritizing, and enrolling units of eligible housing in which you will undertake mold and moisture control. Describe the extent to which your proposed activities will occur in an Empowerment Zone or Enterprise Community (EZ/EC), if applicable.

(iii) The estimated total number of owner occupied and/or rental units in which you will conduct interventions.

(iv) The degree to which your work plan focuses on eligible privately-owned and/or publicly-owned housing units with young children. Describe your planned approach to control moisture, mold and other environmental health problems associated with moisture intrusion before children are affected; and/or to control these hazards in units where children have already been treated for illnesses associated with mold exposure (e.g., acute pulmonary hemorrhage, asthma). Describe the process for your referral of ill children for medical case management if this is not ongoing.

(v) The financing strategy, including eligibility requirements, terms, conditions, and amounts available, to be employed in conducting mold and moisture control activities. You must discuss the way funds will be administered (e.g., use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.) as well as the agency which will administer the process. Describe how your proposed project will further and support the policy priorities of the Department, including promoting Healthy Homes; providing opportunities for self-sufficiency, particularly for persons enrolled in welfare-to-work programs; or providing educational and job training opportunities.

(b) *Outreach and Community Involvement* (5 points). You must describe:

(i) Proposed methods of community education. These should include community awareness, education, training, and outreach programs in support of your work plan and objectives. This should include general and/or targeted efforts undertaken to assist your efforts in reducing exposure to residential mold hazards. To the extent possible, programs should be culturally sensitive, targeted, and linguistically appropriate.

(ii) Proposed involvement of neighborhood or community-based organizations in the proposed activities. These activities may include outreach, community education, marketing,

inspection, and housing evaluations and interventions.

(c) *Technical Approach for Conducting Mold and Moisture Interventions* (15 points)

(i) Describe your process for evaluating units of eligible housing in which you will undertake moisture control and mold removal.

(ii) Describe any specialized testing or visual inspection that you will conduct during unit inspection with reference to source(s) of the protocol(s). Describe qualifications and experience requirements for laboratories, which shall include, as applicable, successful participation in the Clinical Laboratory Program, National Lead Laboratory Accreditation Program, and/or National Voluntary Laboratory Accreditation Program.

(iii) Describe the mold and moisture control interventions you will undertake. Provide an estimate of the per unit costs (and a basis for those estimates) for the type of interventions that are planned. Provide a schedule for initiating and conducting interventions in the selected units. Discuss efforts to incorporate cost-effective control methods to address other environmental health hazards resulting from water damage (e.g., deteriorating lead-based paint, damaged asbestos-containing materials). Work should be conducted in accordance with the HUD *Guidelines* in units where lead hazards are identified.

(iv) Describe your process for the development of work specifications for selected interventions. Describe your management processes to be used to ensure the cost-effectiveness of the housing interventions. Discuss your contracting process to obtain contractors to conduct interventions in selected units.

(v) Describe your plan for the temporary relocation of occupants of units selected for intervention, and how you will determine the need for relocation. Address the use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc.

(2) *Economic Opportunity* (5 points) Describe methods that will result in economic opportunities for residents and businesses in the community where activities will be carried out. Include information on how you will provide employment, business development, and contract opportunities. Describe how you or your partners will satisfy the requirements of Section 3 of the Housing and Community Development Act of 1992 to give preference to hiring low- and very low-income persons or contracting with businesses owned by

or employing low-and very-low income persons.

(3) *Program Evaluation and Research* (10 points).

(a) Identify and discuss the specific methods you will use to measure progress, and evaluate the effectiveness of interventions. Describe how the information will be obtained, documented, and reported.

(b) Provide a detailed description of your proposed applied research activities. Your research designs should be feasible and display thorough knowledge of relevant scientific literature. They should include an appropriate plan for managing, analyzing and archiving data. Also, quality assurance mechanisms must be well integrated into your research design to ensure the validity and quality of collected data.

(4) *Budget* (Not Scored). Your proposed budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of program funds. HUD is not required to approve or fund all proposed activities. You must thoroughly document and justify all budget categories and costs (Part B of Standard Form 424A) and all major tasks. Describe in detail your budgeted costs for each required program element (major task) included in your overall plan. The four required program elements are: administration; education and outreach; control of mold and moisture-related hazards (including sampling); and program evaluation and applied research.

(5) *Court-Ordered Consideration*. Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, HUD will award up to two (2) additional points to an application submitted by the City of Dallas, Texas, to the extent the application's proposed activities will eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure other community resources (such as financing, supplies or services) which can be combined with HUD's resources to achieve project purposes.

(1) In evaluating this factor, HUD will consider the extent to which you have partnered with other entities to secure additional resources to increase the effectiveness of your proposed project. Resources may include funding or in-kind contributions (such as services or equipment) allocated to your proposed program. Resources may be provided by

governmental entities, public or private organizations, or other entities willing to be your partner in this effort.

(2) Each source of contributions must be supported by a letter of commitment from the contributing entity, whether a public or private source, which must describe the contributed resources that will be used in your program. Staff in-kind contributions should be given a market-based monetary value. If you fail to provide letters of commitment with specific details including the amount of the actual contributions, you will not get rating points for this factor. Each letter of commitment, memorandum of understanding, or agreement to participate shall include the organization's name and the proposed level of commitment and responsibilities as they relate to the proposed program. The commitment must be signed by an official legally able to make commitments on behalf of the organization.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which your program reflects a coordinated, community-based process of identifying needs and building a system to address the needs by using available HUD and other community resources. In evaluating this factor, HUD will consider:

(1) The degree of coordination of your proposed project with those of other groups or organizations to best support and coordinate all activities, and the specific steps you will take to share information on solutions and outcomes with others. Any written agreements or memoranda of understanding in place must be described.

(2) The extent to which you have developed linkages, or the specific steps you will take to develop linkages, to coordinate your activities so solutions are holistic and comprehensive. Linkages include linkages with other HUD, Federal, State or locally funded activities through meetings, information networks, planning processes, or other means.

(3) The degree of coordination with housing rehabilitation, housing and health codes, and other related housing programs.

(a) Describe your plan for integrating and coordinating mold and moisture control interventions with other housing-related activities (e.g., lead hazard control, rehabilitation, weatherization, removal of code violations, and other similar work).

(b) Describe your plans to incorporate mold and moisture control interventions

with applicable housing codes and health regulations.

(c) Describe your plans to generate and use public subsidies or other resources (such as revolving loan funds) to finance future interventions to prevent and control mold hazards, particularly in low- and very-low-income housing.

(d) Detail the extent to which you will ensure that the needs of minorities and persons with disabilities will be addressed adequately during your intervention activities; and that housing in which mold and moisture problems have been addressed will still be available and affordable for low income minority and disabled individuals.

## VI. Application Submission Requirements

### (A) Applicant Information

You should submit your application in accordance with the format and instructions contained in this program section of this SuperNOFA. The following is a checklist of required application contents:

(1) Transmittal letter that summarizes your proposed program, provides the dollar amount requested, and identifies you and your partners in the application.

(2) The name, mailing address, telephone number, and principal contact person. If you are a consortium of associates, sub-recipients, partners, major subcontractors, joint venture participants, or others contributing resources to the project, similar information shall also be provided for each of these entities and you must specify the lead entity.

(3) Completed Forms HUD-2880, Applicant/Recipient Disclosure/Update Report; Certification Regarding Lobbying; and SF-LLL, Disclosure of Lobbying Activities, where applicable.

(4) Standard Forms SF-424, 424A, 424B, and other certifications and assurances listed in the General Section of the SuperNOFA and in this program section of the SuperNOFA (see application kit).

(5) A narrative statement addressing the rating factors for award. The narrative statement must be numbered in accordance with each factor for award (Factor 1 through 5). The response to the rating factors should not exceed a total of 30 pages.

(6) Any attachments, appendices, references, or other relevant information may accompany the project description, but must not exceed fifteen (15) pages for your entire application.

(7) A detailed budget with supporting cost justification for all budget categories of your funding request.

(8) The resumes and position descriptions of your project director and program manager and up to three additional key personnel.

## VII. Corrections to Deficient Applications

The General Section to this SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

Activities assisted under this program are subject to HUD environmental review to the extent required under 24 CFR part 50. An award under the Mold and Moisture Control Program does not constitute approval of specific sites where activities may be carried out. Following award execution, HUD will perform environmental reviews for activities to be carried out on properties proposed by your organization. You may not rehabilitate, convert, repair or construct a property, or commit or expend program funds or non-HUD funds for program activities for any eligible property until you receive

written notification from the appropriate HUD official that HUD has completed its environmental review and the property has been approved. The results of environmental reviews may require that proposed activities be modified or proposed sites rejected.

## IX. Authority

This program is authorized by the Fiscal Year 1999 Appropriations Act.

## Appendix A

### References

- Centers for Disease Control and Prevention. Acute pulmonary hemorrhage/hemosiderosis among infants: Cleveland, January 1993–November 1994. *MMWR Morb. Mortal. Wkly. Rep.* 1994; 43(48):881–883.
- Centers for Disease Control and Prevention. Acute pulmonary hemorrhage among infants—Chicago, April 1992–November 1994. *MMWR Morb. Mortal. Wkly. Rep.* 1995; 44(4):67.
- Centers for Disease Control and Prevention. Update: Pulmonary hemorrhage/hemosiderosis among infants—Cleveland, Ohio, 1993–1996. *MMWR Morb. Mortal. Wkly. Rep.* 1997; 46(2):33–35.
- Croft, W.A., B.B. Jarvis and C.S. Yatawara. 1986. Airborne outbreak of trichothene toxicosis. *Atmospheric Environment.* 20: 549–552.
- Etzel, R.A., E. Montana, W.G. Sorenson, G. Kullman, T.M. Allan, and D.G. Dearborn. 1998. Acute pulmonary hemorrhage in infants associated with exposure to *Stachybotrys chartarum* and other fungi. *Arch. Pediatr. Adolesc. Med.* 152: 757–762.
- Johanning, E., R. Biagini, D. Hull, P. Morey, et al. 1996. Health and immunology study following exposure to toxigenic fungi (*Stachybotrys chartarum*) in a water-damaged office environment. *Int. Arch. Occup. Environ. Health.* 68:207–218.

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**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**HOPE VI REVITALIZATION  
AND DEMOLITION**



**Funding Availability for the Demolition and Revitalization of Severely Distressed Public Housing (HOPE VI)**

*Program Overview*

*Purpose of the Program.* The purpose of this program is to provide Revitalization Grants to enable public housing agencies (PHAs) to improve the living environment for public housing residents of severely distressed public housing projects and Demolition Grants to expedite the demolition of obsolete and/or severely distressed public housing units.

*Available Funds.* Approximately \$583 million, as allocated in accordance with Section II.(A) of this program section of the SuperNOFA, below.

*Eligible Applicants.* PHAs that own public housing units, in accordance with the requirements at Section III.(B) of this program section of the SuperNOFA, below.

*Application Deadlines.* Revitalization grant applications are due on May 27, 1999. Demolition grant applications are due on May 6, 1999. (See Section V.(D)(2)(c), below, for important information regarding the application deadline and deficiency cure period for Demolition grants.)

*Match.* For Revitalization grants only, 5 percent of total grant amount plus an additional match for Community and Supportive Services, as described in Section IV.(B)(4) of this program section of the SuperNOFA, below. No match is required for Demolition grants.

*Additional Information*

If you are interested in applying for a HOPE VI grant, please review the following information, the General Section of this SuperNOFA, and the HOPE VI Application Kit.

*I. Application Due Date, Application Kits, Further Information, and Technical Assistance*

*Application Due Date.* HUD must receive your Revitalization grant application at HUD Headquarters no later than 12:00 midnight Eastern time on May 27, 1999. HUD must receive your Demolition grant application at

HUD Headquarters on or before 12:00 midnight Eastern time on May 6, 1999. See Section V.(D)(2)(c) below for important information regarding the application deadline and deficiency cure period for Demolition grants.

*Address for Submitting Applications.* Send one copy of your completed application to HUD Headquarters, 451 Seventh Street, SW, Room 4138, Washington, DC 20410, Attention: Elinor Bacon, Deputy Assistant Secretary for Public Housing Investments. In addition, send two copies of your completed application to your local HUD Field Office. HUD will determine whether your application is timely filed based on the date and time of receipt at HUD Headquarters, not the date and time that copies are received in your local Field Office.

*Mailed Applications.* HUD will consider your application to be timely filed if it is postmarked no later than 12:00 midnight on the application due date and if HUD receives it at HUD Headquarters on or within ten days of the application due date.

*Applications Sent by Overnight/Express Mail Delivery.* If you send your application by overnight delivery or express mail, HUD will consider it to be timely filed if HUD receives it at Headquarters on or before the application due date. HUD will also consider it to be timely filed if HUD does not receive it on the due date, but you can provide documentary evidence that you placed the application in transit with the overnight delivery service by no later than the application due date.

*Hand Carried Applications.* If you wish to hand carry your application to HUD Headquarters, you may bring it to Room 4138 of the HUD Headquarters Building in Washington, DC any time between 8:45 am and 5:45 pm Eastern Time before or on the application due date. You may also hand carry your application to HUD Headquarters between 5:15 pm and 12:00 midnight Eastern Time by delivering it to the South Lobby of the HUD Headquarters Building.

*Applications Submitted to HUD Field Offices.* If you wish to hand carry the required two copies of your application to your local HUD Field Office, you may do so during normal business hours before the application due date. On the application due date, business hours will be extended to 6:00 pm. (Please see the Appendix A of the General Section of the SuperNOFA for the hours of operation of the HUD Field Offices.)

*For Application Kits, Further Information and Technical Assistance.* If you are planning to apply for a HOPE VI grant under this program section of the SuperNOFA, your application must conform to the requirements of the Fiscal Year (FY) 1999 HOPE VI application kit. The kit provides specific instructions, data forms to complete, certification forms, and other information required in every application. Each Revitalization application must contain no more than 75 pages of narrative and 100 pages of attachments. HUD will mail a copy of the application kit to every eligible PHA. You may also obtain copies of application kits and any supplementary information by contacting the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, please refer to HOPE VI and provide your name, address (including zip code), and telephone number (including area code). The application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov>.

*For answers to your questions,* you may call Mr. Robert Prescott, Acting Director, Office of Urban Revitalization, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4142, Washington, DC 20410; telephone (202) 708-2822 (this is not a toll free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

*II. Amount Allocated*

Type of assistance	Allocation of appropriation	Announced in this program section of the SuperNOFA
Revitalization .....	\$523,050,000	\$523,050,000
Demolition .....	60,000,000	60,000,000
Section 8 .....	26,950,000	.....
Technical Assistance .....	15,000,000	.....
<b>Total .....</b>	<b>625,000,000</b>	<b>583,050,000</b>

*(A) Revitalization Grants*

Approximately \$523 million of the FY 1999 HOPE VI appropriation has been allocated to fund HOPE VI Revitalization grants and will be awarded in accordance with this program section of the SuperNOFA. The total amount you may request is limited to the sum of the amounts in Section (1) below or the amount in Section (2) below, whichever is lower.

(1)(a) *Total Development Cost.* The total cost of development, including relocation costs, is limited to the sum of:

(i) HUD's Total Development Costs (TDCs) up to 100 percent of HUD's published TDC limits for the costs of demolition and new construction, multiplied by the number of HOPE VI Replacement Units; and/or

(ii) 90 percent of the TDC limits, multiplied by the number of public housing units after substantial rehabilitation and reconfiguration.

TDCs are limited by the HUD-published TDC Cost Tables, which are issued for each fiscal year for the building type and bedroom distribution for the public housing replacement units. You may not request funds to replace units if you have previously received HOPE VI or other public housing funds to replace those same units. However, you may use any non-HUD funds to supplement HUD funds for any project cost. Your application must disclose all prior HUD grant assistance received for the project(s) you have targeted for revitalization.

(b) *Community and Supportive Services.* You may request an amount up to 15 percent of the total HOPE VI grant to pay the costs of Community and Supportive Services. These costs are in addition to the TDC calculation in section II.(A)(1)(a) of this program section of the SuperNOFA, above.

(c) *Demolition and Site Remediation Costs of Unreplaced On-site Units.* You may request an amount necessary for demolition and site remediation costs of units that will not be replaced on-site. This cost is in addition to the TDC calculation in section II.(A)(1)(a) of this program section of the SuperNOFA, above.

(d) *Extraordinary Site Costs.* You may request an amount necessary to pay extraordinary site costs necessary to complete the project. These costs are in addition to the TDC calculation in section II.(A)(1)(a) of this program section of the SuperNOFA, above.

(2) *Total Grant Amount.* (a) You may submit one or two separate Revitalization applications. The total amount you may request in one or both applications may not exceed \$35

million. If you submit two applications, each application will be reviewed separately.

(b) Each of the one or two applications you submit may request funds for only one public housing development. For the purposes of this program section of the SuperNOFA, the definition of one "development" may also include more than one project, as long as those projects are contiguous, immediately adjacent to one another, or within a quarter-mile of each other at their closest. If you include more than one project in a single application, you must provide clear documentation that the projects are within a quarter-mile of each other.

(3) Within the grant limitations above, you may request funds for as few or as many units as you wish in a single application. HUD will review requests for small numbers of units on an equal basis with requests for large numbers of units.

*(B) Demolition Grants*

Approximately \$60 million of the FY 1999 HOPE VI appropriation has been allocated to fund HOPE VI Demolition grants and will be awarded in accordance with this program section of the SuperNOFA. If all of these funds are not needed for demolition of obsolete and/or severely distressed public housing, unused funds will be reallocated for HOPE VI Revitalization grants.

(1) You may submit multiple applications;

(2) You may target units in only one public housing project per application;

(3) You may submit more than one application targeting units in a single housing project;

(4) You may request funds for as many or as few units in an application as you wish, subject to the following provisions:

(a) *Per Unit Limitation.* You may receive no more than:

(i) \$5,000 per vacant unit;

(ii) \$6,500 per unit occupied as of the date of HOPE VI demolition funding application submission. This amount includes relocation costs; and

(iii) Reasonable costs for demolition of significant nondwelling facilities related to the demolition of dwelling units, such as heating plants, community buildings, or streets. These costs must be included in an application for funding of demolition of public housing units; you may not apply for them in a separate application.

(b) *Overall Limitation.* The sum of all Demolition funding applications from a single applicant may not exceed \$12.5 million, in accordance with the evaluation procedures provided in

section V.(D) of this NOFA, below. It is recognized that the HOPE VI grant may not pay for the total costs of relocation, abatement and demolition in all cases, and that the PHA may have to provide additional funding from other sources.

(2) You may apply for both HOPE VI Revitalization and Demolition funding to demolish the same units. If HUD determines that both applications are eligible for funding, HUD will use its discretion to determine whether the demolition will be funded under a Revitalization or a Demolition grant.

*(C) Section 8*

If necessary, HUD reserves the right to allocate up to \$26,950,000 (approximately 3,500 units) for Section 8 tenant-based assistance for public housing relocation or public housing replacement (including units associated with HOPE VI grants). If any funds allocated for Section 8 tenant-based assistance are not needed for such assistance, those funds will be reallocated for HOPE VI Revitalization grants. If you have already received Section 8 assistance to relocate residents from obsolete or severely distressed units, you may still apply for HOPE VI funds to physically replace those same units. If you will need Section 8 assistance in order to carry out the proposed revitalization, you must indicate the number of certificates needed in your HOPE VI application. HUD will award Section 8 certificates needed for HOPE VI sites after the HOPE VI selections have been made.

(D) *Technical Assistance.* The FY 1999 appropriation allocated \$15 million to provide Technical Assistance in the planning, development, and implementation of the HOPE VI program.

**III. Program Description; Eligible Applicants; Eligible Activities***(A) Program Description*

(1) *HOPE VI Revitalization grants* enable public housing agencies (PHAs) to:

(a) Improve the living environment for public housing residents of severely distressed public housing projects through the demolition, substantial rehabilitation, reconfiguration, and/or replacement of severely distressed units;

(b) Revitalize the sites on which severely distressed public housing projects are located and contribute to the improvement of the surrounding neighborhood;

(c) Lessen isolation and reduce the concentration of low-income families;

(d) Build sustainable mixed-income communities; and

(e) Provide well-coordinated, results-based community and supportive

services that directly complement housing redevelopment and that help residents to achieve self-sufficiency, young people to attain educational excellence, and the community to secure a desirable quality of life.

(2) *HOPE VI Demolition Grants* enable PHAs to expedite the demolition of obsolete and/or severely distressed public housing units. Any subsequent new construction or revitalization of any remaining units must be funded from other resources.

(B) *Eligible Applicants*

An eligible applicant for any HOPE VI grant is:

(1) Any PHA that is not designated as "troubled" pursuant to section 6(j)(2) of the United States Housing Act of 1937 (1937 Act);

(2) Any PHA for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 6(j)(3) of the 1937 Act; and

(3) Any PHA that is designated as "troubled" pursuant to section 6(j)(2) of the 1937 Act and that:

(a) Was designated as troubled principally for reasons that will not affect its capacity to carry out the proposed revitalization or demolition;

(b) Is making substantial progress toward eliminating the deficiencies that resulted in its troubled status; or

(c) Has sufficiently demonstrated to HUD that it is capable of carrying out the proposed revitalization or demolition.

(C) *Eligible Activities*

(1) *Revitalization Grants*. Eligible activities are those eligible under the Appropriations Acts for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, for the Fiscal Years 1993, 1994, 1995, 1997, 1998 and 1999; and the Omnibus Consolidated Rescissions and Appropriations Act of 1996. In addition, eligible HOPE VI activities are those included in the 1937 Act, including Section 24 of the 1937 Act, as amended by Section 535 of the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105-276, 112 Stat. 2461, approved October 21, 1998) (QHWRA).

Revitalization activities using HOPE VI funds must be for severely distressed Public Housing projects. Accordingly, certain proposed activities are subject to statutory requirements applicable to public housing projects under the 1937 Act, other statutes, and the Annual Contributions Contract (ACC). Within such restrictions, HUD seeks innovative solutions to the long-standing problems of severely distressed public housing

projects. You may request, for the revitalized development, a waiver of HUD regulations (that are not statutory requirements) governing rents, income eligibility, or other areas of public housing management that will permit you to undertake measures that enhance the long-term viability of a development revitalized under this program.

The following is a list of specific activities that are eligible using HOPE VI Revitalization grant funds. Other activities may also be eligible with HUD approval. If HOPE VI Revitalization funds are used for any of the following activities, you must conduct them in accordance with the following program requirements unless HUD has provided written approval to follow other requirements.

(a) *Total or partial demolition of buildings*. Section 24 of the 1937 Act provides that severely distressed public housing demolished in conjunction with a revitalization plan with HOPE VI funds is not subject to Section 18 of the 1937 Act or regulations at 24 CFR Part 970. Instead, if you are selected to receive a HOPE VI Revitalization grant, HUD will use information in your application to determine whether the proposed demolition can be approved. If you are not selected to receive a HOPE VI Revitalization grant, the information in your application will *not* be used to process a request for demolition. Please note that demolition is not a required element of a HOPE VI Revitalization application.

(b) *Disposition of property*, in accordance with Section 18 of the 1937 Act and regulations at 24 CFR part 970;

(c) *Public housing development through the acquisition of land*, or acquisition of off-site units with or without rehabilitation to be used as public housing, in accordance with 24 CFR part 941;

(d) *Major rehabilitation and other physical improvements of housing and community facilities* primarily intended to facilitate the delivery of self-sufficiency, economic development, or other community and supportive service opportunities for residents of the targeted development, in accordance with 24 CFR 968.112(b), (d), (e), and (g)-(o), 24 CFR 968.130, and 24 CFR 968.135(b) and (d);

(e) *Construction of replacement rental housing*, both on-site and off-site, and community facilities primarily intended to facilitate the delivery of self-sufficiency, economic development, or other supportive services for residents of the targeted development and off-site replacement housing, in accordance with 24 CFR part 941, including mixed-

finance development in accordance with subpart F;

(f) *Homeownership activities*, including: (i) Development of replacement homeownership units that meet the regulatory requirements of the Section 5(h) Program at 24 CFR part 906;

(ii) Development of replacement homeownership units that meet the statutory requirements of the HOPE II program (42 U.S.C. 12871-80; Pub. L. 101-625, secs. 421-31; 104 Stat. 4079, 4162-72);

(iii) Development of replacement homeownership units that meet the statutory requirements of the HOPE III program (42 U.S.C. 12891-98; Pub. L. 101-625, secs. 441-48; 104 Stat. 4079, 4172-80);

(iv) Replacement homeownership units that are made available through housing opportunity programs for construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as the Nehemiah Program; and

(v) Other appropriate replacement homeownership activities, including downpayment assistance for displaced residents and the provision of closing costs.

(g) *Management improvements*;

(h) *Reasonable costs for administration*, planning, and technical assistance, including fees and costs as specifically approved by HUD;

(i) *Well-integrated Community and Supportive Services programs* designed to assist residents to attain educational excellence, gain employment, and become self-sufficient, and related support programs such as day care, after school activities, etc.;

(j) *Economic development activities*, including the costs of infrastructure and site improvements associated with developing retail/commercial facilities, but excluding hard development costs;

(k) *Leveraging other resources*, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site; and

(1) *Relocation*, conducted in accordance with 24 CFR 970.5 (demolition) or 24 CFR 968.108 (rehabilitation), as appropriate.

(2) *Demolition Grants*. The following is a list of specific activities that are eligible using HOPE VI Demolition grant funds. Other activities may also be eligible with HUD approval. If HOPE VI Demolition funds are used for any of the following activities, you must conduct them in accordance with the following program requirements unless HUD has

provided written approval to follow other requirements.

(a) *Demolition*, including any required asbestos and/or lead-based paint abatement, of dwelling units and nondwelling facilities, in accordance with Section 18 of the 1937 Act and regulations at 24 CFR part 970;

(b) *Minimal site restoration* after demolition and subsequent site improvements to benefit the remaining portion of the project, to provide project accessibility, or to make the site more saleable;

(c) *Demolition of nondwelling facilities*, only where related to the demolition of dwelling units;

(d) *Necessary administrative costs*; and

(e) *Relocation* and other assistance related to the permanent relocation of families under the approved demolition, conducted in accordance with 24 CFR 970.5.

#### IV. Program Requirements

In addition to the requirements listed in section II. of the General Section of this SuperNOFA, you must also meet the following requirements.

##### (A) Program Requirements—All HOPE VI Applications

(1) *Flood Insurance*. In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), HUD will not approve your application for a grant that proposes to provide financial assistance for acquisition or construction (including rehabilitation) of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(a) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(b) Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of execution of a Grant Agreement and approval of any subsequent demolition or disposition application.

(2) *Coastal Barrier Resources Act*. In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), HUD will not approve your grant application if it targets properties in the Coastal Barrier Resources System.

(3) *Internet Access*. If you are selected for funding, you must have access to the Internet and provide HUD with email addresses of key staff and contact people.

(4) *Labor Standards*. Davis-Bacon or HUD-determined wage rates apply to development or operation of revitalized housing to the extent required under Section 12 of the U.S. Housing Act of 1937. In the case of demolition, Davis-Bacon wage rates apply to demolition followed by construction on the site; HUD-determined wage rates apply to demolition followed only by filling in the site and establishing a lawn. Under Section 12, the wage rate requirements do not apply to individuals who: perform services for which they volunteered; do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and are not otherwise employed in the work involved (24 CFR part 70). In addition, if other Federal programs are used in connection with your HOPE VI Program, labor standards requirements apply to the extent required by the other Federal programs, on portions of the project that are not subject to Davis-Bacon rates under the Act.

(5) *Lead-Based Paint Testing and Abatement*. All property assisted under your HOPE VI Program is covered by the Lead-Based Paint Poisoning Prevention Act (24 U.S.C. 4821 *et seq.*) and 24 CFR part 35; 24 CFR part 965, subpart H; and 24 CFR 968.110(k).

(6) *Building Standards*. (a) All activities that include construction, rehabilitation, lead-based paint removal, and related activities must meet or exceed local building codes. New construction must comply with the latest HUD-adopted Model Energy Code issued by the Council of American Building Officials. In addition, HUD encourages you to set higher standards for energy and water efficiency in HOPE VI new construction, which can achieve utility savings of 30 to 50 percent with minimum extra cost. Upon request, HUD will provide technical assistance and training in design and financing to assist your authority, architects, and contractors in improving resource efficiency.

(b) You are encouraged to design programs that incorporate sustainable construction and demolition practices, such as the dismantling or “deconstruction” of public housing units, recycling demolition debris, and reusing salvage materials in new construction.

(7) *Program Income*. If you expect to receive program-related income prior to grant closeout (e.g., from sale of homeownership Replacement Units or the disposition of improved land), this income must be reflected in your HOPE VI budget and used for program purposes.

(8) *Environmental Review*. (a) Under 24 CFR part 58, the responsible entity, as defined in 24 CFR 58.2(a)(7), must assume the environmental responsibilities for projects being funded by HOPE VI. If your organization objects to the responsible entity conducting the environmental review, on the basis of performance, timing or compatibility of objectives, HUD will review the facts and determine who will perform the environmental review. At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with 24 CFR 58.77(d)(1). If a responsible entity objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review or may conduct the environmental review in accordance with the provisions of 24 CFR part 50. After selection by HUD for Joint Review, you must provide any documentation to the responsible entity (or HUD, where applicable) that is needed to perform the environmental review.

(b) If the environmental review is completed before HUD approval of the HOPE VI Revitalization Plan (RP) and you have submitted your request for release of funds (RROF), the RP approval letter will require any conditions, modifications, prohibitions, etc. arising from the environmental review.

(c) If the environmental review is not completed and/or you have not submitted the RROF before HUD approval of the RP, the RP approval letter will require you to refrain from undertaking, or obligating or expending funds on, physical activities or other choice-limiting actions, until HUD approves your RROF and the related certification of the responsible entity (or HUD has completed the environmental review). The RP approval letter will also tell you that the approved RP may be modified on the basis of the results of the environmental review.

##### (B) Program Requirements—Revitalization Applications

(1) *Severe Distress*. The targeted public housing project or building in a project must be severely distressed. The term “severely distressed public housing” means a public housing project or building in a project that fits the description of either all of the elements in paragraph (a) of this section, or is described by paragraph (b) of this section, as follows:

(a)(i) The public housing requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project;

(ii) The condition of the public housing project is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(1) The public housing is occupied predominantly by families who are very low-income families with children, are unemployed, and are dependent on various forms of public assistance; or

(2) The public housing has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(iv) The public housing cannot be revitalized with funds from other programs because the costs are much greater than the amounts that are available;

(v) If only individual buildings of the project are targeted for revitalization, they must be sufficiently separated from the remainder of the project to make use of the building feasible; or

(b) Public housing that has been legally vacated or demolished is deemed severely distressed if it met the description in paragraph (a) of this section, above, and has not yet been replaced other than with Section 8 certificates.

(c) To demonstrate that the targeted public housing project, or buildings in a project, meets the severe distress requirement you must:

(i) Sign a certification, included in the HOPE VI Revitalization Certifications as provided in Appendix A below, that the public housing targeted in the application meets the definition of severe distress provided in paragraphs (a) or (b) of this section, above; and

(ii) Include in your application a certification by an independent engineer, signed on or before the application deadline date, that the project meets the severe distress requirement in paragraph (a)(1) of this section, above.

(2) *Public Meetings.* (a) You must conduct at least one training session for residents on the HOPE VI development process and at least three public meetings with residents and community members to involve them in the process of planning the revitalization and

preparing the application. At least one meeting must be held after the publication date of this HOPE VI NOFA.

(b) You must cover the following issues in the public meetings:

(i) The HOPE VI planning and implementation process;

(ii) The proposed physical plan, including site and unit design;

(iii) The extent of proposed demolition;

(iv) Community and supportive services;

(v) Relocation issues; and

(vi) Other proposed revitalization activities.

(c) To demonstrate that you have conducted the required public meetings, you must include the following evidence of each meeting in your application:

(i) The notices announcing the meetings. In addition to other means of notification, at least one notice for each meeting must be placed in a commercial newspaper or journal that serves both the public housing project and the broader community;

(ii) A copy of the meeting sign-in sheets; and

(iii) A signed and notarized copy of the meeting minutes, describing in detail the resident training and/or discussion regarding the proposed plan.

(d) Submission of the documentation required of the meetings is a curable item and is not rated. If you fail to properly document that you have conducted all of the required meetings, after being provided with the opportunity to correct any deficiencies in accordance with section V of the General Section of this SuperNOFA, your application cannot be considered for funding. You may not conduct a required meeting after the application due date in order to cure a deficiency identified by HUD.

### (3) *Community and Supportive Services.*

(a) Each HOPE VI Revitalization application must propose a program of Community and Supportive Services that meets the needs of residents, and self-sufficiency programs that are designed to promote upward mobility, independence, and improved quality of life for residents of the targeted public housing development.

(b) Community and Supportive Services must be designed to serve existing residents of the severely distressed project, residents who have been displaced by revitalization activities, and new residents of the revitalized units.

(c) Community and Supportive Services may also be provided to non-public housing residents, as long as the

primary users of the services are residents as described in paragraph (b) of this section, above.

(d) Community and Supportive Service Programs may include, but are not limited to:

(i) Substance/alcohol abuse treatment and counseling;

(ii) Health care services;

(iii) Domestic violence prevention;

(iv) Transportation as necessary to enable any participating family member to receive available services or to commute to his or her place of employment;

(v) On-site credit unions;

(vi) "Life skills" courses on topics such as parenting, family budgeting, consumer education;

(vii) Child care that provides sufficient hours of operation and serves appropriate ages as needed to facilitate parental access to education and job opportunities and that stimulates children to learn and be responsible citizens;

(viii) Employment training and counseling, such as the Step-Up and Youthbuild Programs, that includes job training, preparation, counseling, development, placement, and follow-up assistance after job placement;

(ix) Motivational and self-empowerment training;

(x) Computer skills training;

(xi) Education, including remedial education, literacy training, completion of secondary or post-secondary education, assistance in the attainment of certificates of high school equivalency, and the integration of modern computer technology into the education program;

(xii) Programs that promote learning for children from infancy, created with strong partnerships with public and private educational institutions;

(xiii) Mentoring for children, non-literate adults, potential entrepreneurs, and English as a Second Language (ESL), as needed;

(xiv) Job placements for residents who complete adult education and job training programs, as provided through partnerships with local businesses;

(xv) Services and programs provided through results-oriented partnerships with Empowerment Zones and Enterprise Community Boards and economic development agencies and non-profit organizations; and

(xvi) Business development training, with the goal of establishing resident-owned businesses.

### (4) *Match.*

(a) *Overall Match.* The HOPE VI Revitalization Applicant Certifications (Appendix A to this NOFA, below) include a certification that if you are

selected for funding, you will provide resources other than HOPE VI funds in an amount that is at least 5 percent of the HOPE VI grant amount.

(b) *Additional Community and Supportive Services Match.* In addition to the match requirement in paragraph (a) of this section, above, if you use more than 5 percent of the HOPE VI grant for Community and Supportive Services programs described in section IV.(B)(3) of this program section of the SuperNOFA, above, you must certify that you will provide resources other than HOPE VI funds in an amount that is equal to the amount used over 5 percent.

(c) *Matching Funds.* Your matching funds may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided. Active involvement of the city government in your HOPE VI plan is key to the success of the program. Providing a strong city match is one way for a city to demonstrate its commitment to the proposed development.

(5) *Replacement Units.*

(a) Rental units will be deemed Replacement Units and qualify for operating subsidy only if they are to be placed under Annual Contributions Contract and operated as Public Housing.

(b) Homeownership units will be deemed Replacement Units only if they meet the requirements listed in Section III(C)(1)(f) of this program section of the SuperNOFA, above.

(c) HOPE VI funds may not directly support mixed-finance units, including tax credit units, which are not themselves to be placed under ACC or to be sold as homeownership units as specified above.

(6) *Timeliness of Construction.* If selected, you will be held to strict schedules and performance measures. If you fail to obligate construction funds within the timeframes provided below, HUD may withdraw grant funds. HUD will take into consideration those delays caused by factors beyond your control when enforcing these schedules.

(a) You must enter into a binding General Contractor (GC) Contract within 18 months from the date of HUD's approval of the Revitalization Plan (RP). In no event may this time period exceed 24 months from the date the Grant Agreement is executed.

(b) You must complete construction under the GC Contract within 48

months from the date of HUD's approval of the RP. In no event may the time period for completion exceed 54 months from the date the Grant Agreement is executed.

(C) *Program Requirements—Demolition Applications*

(1) *Eligible Units.* Public housing units to be demolished with HOPE VI Demolition grant funds must meet one of the following criteria:

(a) The units must be targeted in an approved or submitted Conversion Plan (i.e., a plan for removal of the obsolete and/or severely distressed project from the public housing inventory in accordance with the requirements at 24 CFR 971.7(b)). To meet this requirement, you must have submitted a Conversion Plan to HUD on or before the HOPE VI Demolition funding application due date. You must meet the requirements of 24 CFR part 971 to meet this requirement; or

(b) The units must have been targeted in a HOPE VI Demolition funding application that you submitted in FY 1998 but that HUD did not fund solely because of a lack of funds; or

(c) The units must be approved by HUD for demolition in accordance with 24 CFR part 970 on or before the application due date, but the approved units have not yet been demolished. The demolition application must be approved:

(i) If you have merely submitted a demolition application, your HOPE VI application does not meet this requirement.

(ii) If HUD has approved your demolition application but HUD later rescinded the approval at your request, your HOPE VI application does not meet this requirement.

(2) *Previous Demolition.* You must not have an executed demolition contract for or have previously demolished any of the targeted units.

(3) *Previous Funding.* You may not submit a HOPE VI Demolition application for units that have been previously funded for demolition with HOPE VI funds. HUD will determine whether the units have been previously funded by looking at the most recent HUD-approved budget for any HOPE VI Revitalization or Demolition grant for the same development. If that grant budget shows that HOPE VI funds have been budgeted for demolition of the units you have targeted in your HOPE VI Demolition application, even if you have subsequently made an internal decision not to fund the demolition with HOPE VI funds, your HOPE VI Demolition application will not be considered for funding.

(4) *Timeliness of Demolition.* You must procure a demolition contractor within six months from the date of ACC Amendment execution, and complete the demolition within two years from the date of ACC Amendment execution.

**V. Application Selection Process**

(A) *Revitalization Threshold Criteria*

In addition to any applicable threshold requirements listed in the General Section of this SuperNOFA, your application must meet the following threshold requirements to be considered for funding.

(1) *Eligible Applicant.* You must be an eligible Public Housing Agency, as defined in Section III.(B) of this program section of the SuperNOFA, above. If HUD has designated your housing authority as troubled pursuant to section 6(j)(2) of the 1937 Act, HUD's Troubled Agency Recovery Center will use documents and information available to it to determine whether you meet the eligibility criteria in this program section of the SuperNOFA.

(2) *Severe Distress.* The targeted public housing project, or buildings in a project must be severely distressed, as defined in section IV.(B)(1) of this program section of the SuperNOFA, above.

(3) *Public Meetings.* You must conduct at least one training session and at least three public meetings in accordance with section IV.(B)(2) of this program section of the SuperNOFA, above.

(B) *Revitalization Application Evaluation*

HUD's selection process is designed to ensure that HOPE VI Revitalization grants are awarded to PHAs with the most meritorious applications.

(1) *Threshold and Completeness Review.* HUD will screen each application to determine if it is complete and meets the Threshold Criteria in Section V.(A) of this program section of the SuperNOFA, above. If necessary, HUD will contact you to provide missing information, in accordance with the provisions of section V. of the General Section of this SuperNOFA.

(2) *Preliminary Rating and Ranking.*  
(a) HUD will preliminarily review, rate and rank each eligible application on the basis of the rating factors described in Section V.(C) of this program section of the SuperNOFA, below.

(b) After preliminary review, the following applications will be deemed "competitive:"

(i) Applications with a preliminary score above a base score that

encompasses all applications that represent approximately twice the amount of funds available, and

(ii) Applications that propose revitalization of public housing that was targeted in HOPE VI Revitalization applications submitted to HUD in both the FY 1997 and 1998 HOPE VI Revitalization competitions but were not selected for funding.

(3) *Final Panel Review.* (a) A Final Review Panel will:

(i) Assess each competitive application;

(ii) Assign the final scores; and

(iii) Recommend for funding the most highly-rated eligible applications up to the amount of available funding.

(b) If two or more applications have the same score and there are insufficient funds to select all of them, HUD will select for funding the application(s) with the highest score for Rating Factor 3, Soundness of Approach. If a tie still remains, HUD will select for funding the application(s) with the highest score for the Capacity rating factor. HUD will select further tied applications on the basis of their scores in the Need, Leveraging Resources, and Comprehensiveness and Coordination rating factors, in that order.

(c) HUD reserves the right to make adjustments to funding in accordance with Section III.(E) of the General Section of this SuperNOFA.

(d) HUD may not give competitive advantage to applications that propose to use HOPE VI grant funds to pay judgments or undertake HOPE VI revitalization activities in order to settle litigation.

### (C) *Revitalization Application Rating Factors.*

The following are the factors HUD will use to rate and rank your HOPE VI Revitalization application and the maximum points for each factor. The maximum number of points for each Revitalization application is 102, which includes two Empowerment Zone/Enterprise Community (EZ/EC) bonus points, in accordance with section III.(C)(1) of the General Section of this SuperNOFA.

#### Rating Factor 1: Capacity (20 Points Total)

This factor measures the capability and record of the applicant PHA or any alternative entity you choose to serve as your representative for managing large-scale redevelopment or substantial rehabilitation projects and administering Community and Supportive Services and management improvements. To ensure that revitalization efforts will take place

without delays due to problems in administration and management, HUD will award the most points to applications that demonstrate the highest degree of capacity to implement revitalization in a timely manner upon grant award.

If you are selected for funding, HUD may require you to use an outside entity as directed by HUD to carry out the revitalization activities. HUD does not require you to select a developer and/or Program Manager, if any, prior to submission of your application, although you may choose to do so. Rather, you must demonstrate (1) your current capacity to manage a large scale redevelopment and/or substantial rehabilitation project, or (2) your ability to identify needs in your current staffing and fill such gaps in order to successfully implement your proposed program, and/or (3) your proposed method for securing a program manager, and/or development partner to implement your plan. The rating of the "applicant" or the "applicant's organization and staff," unless otherwise specified, will include any sub-contractors, consultants, subrecipients, and members of consortia that are firmly committed to the project.

HUD will evaluate the information you provide in your application when rating subfactors (1)–(3) below.

(1) *Revitalization Capacity and Experience:* 7 Points. To receive maximum points, you and/or your proposed partners, including the overall proposed development director and staff of the PHA, the developer (if any), program manager (if any), consultants, and contractors, must convincingly demonstrate your team's knowledge and recent, successful experience in planning, implementing, and managing large scale revitalization activities as described in the first two paragraphs above, and meeting construction timetables.

(2) *Community and Supportive Services Experience:* 5 Points. To receive maximum points, you and/or your proposed partners, including the overall proposed development director and staff of the PHA, the developer (if any), program manager (if any), consultants, and contractors, must convincingly demonstrate your team's knowledge and recent, successful experience in planning, implementing, and managing the Community and Supportive Service Programs proposed in your application.

(3) *Property Management Experience:* 5 Points. To receive maximum points, you and/or your proposed partners, including the overall proposed development director and staff of the

PHA, the developer (if any), program manager (if any), consultants, and contractors, must convincingly demonstrate your team's knowledge and recent, successful experience in property management of public housing. You must thoroughly evaluate the obstacles, if any, that previously prevented good management, as well as other problems that contributed to the severe distress of the targeted project, and develop a new management plan that will protect against such obstacles and problems in the future and will improve the efficiency and economy of management.

(4) *Obligation of Modernization Funds:* 3 Points. To receive maximum points, you must have obligated at least 90 percent of your FY 1997 and prior year Modernization (e.g., Comprehensive Improvement Assistance Program or Comprehensive Grant Program) amounts by the HOPE VI application submission date. HUD will use the LOCCS disbursement system as of the application due date to verify your obligation rate.

#### Rating Factor 2: Need (20 Points Total)

This factor addresses the extent to which you have demonstrated that the targeted public housing project, or portion of the project, is severely distressed.

To be considered for funding, your application must earn at least 12 of the 14 points available for elements (1)–(4) of this rating factor, and your application must earn all 5 points for element (1), Physical Distress.

For all elements under this factor, HUD will consider the extent to which the information you provide is documented by objective, measurable indicators.

In rating this factor, HUD will consider:

(1) *Physical Distress:* 5 Points. To receive maximum points, the targeted project or portion of the project must be severely distressed as defined in Section IV.(B)(1) of this SuperNOFA, above. If a targeted site has been demolished or approved by HUD for demolition (including sites approved for demolition under 24 CFR Part 970 (demolition) and 24 CFR Part 971 (Mandatory Conversion)) on or before the HOPE VI application due date, your application will receive full points for this subfactor. Indications of physical distress may include:

(a) Major structural deficiencies, including settlement, leaking roofs, electrical systems not meeting code, high levels of lead based paint, high levels of deferred maintenance, and

units that do not meet Housing Quality Standards;

(b) Major site deficiencies, including lack of reliable and efficient heat and hot water, poor soil conditions, inadequate drainage, deteriorated laterals and sewers, and inappropriate topography;

(c) Design deficiencies, including inappropriately high population density, isolation, indefensible space, inaccessibility for persons with disabilities with regard to individual units, entrance ways, and/or common areas;

(d) Environmental conditions that make the current site or a portion of the site and its housing structures unsuitable for residential use.

(2) *Impact on the Neighborhood*: 5 Points. To receive maximum points, the public housing must be a significant current or potential contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood. If the surrounding neighborhood is not currently distressed, you must demonstrate that the targeted project is causing deterioration in the neighborhood which will become worse if the project remains in its current condition and that its revitalization would have a positive effect on the neighborhood. It is critical to show concretely how the public housing revitalization through HOPE VI will spur reinvestment in the surrounding community and/or how the redevelopment will positively impact and support the surrounding community. You should include a careful strategy for comprehensive revitalization with housing redevelopment as the impetus.

(3) *Demographic Distress*: 3 Points. To receive maximum points, the public housing must:

(a) Be occupied predominantly by families who are very low-income families with children, are unemployed and dependent on various forms of public assistance; or

(b) Have high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area.

(4) *Need for Funding*: 2 Points. To receive maximum points, the public housing cannot be revitalized with funds from other programs because the costs are much greater than available funds. Indications that you have inadequate funds are:

(a) If you receive Comprehensive Grant Program (CGP) funds and you will use 50 percent or more of your CGP funds for one year to fund a combination of emergency needs and

critical needs at other public housing projects. A critical need is defined as a modernization need that is a threat to health and safety of residents but that does not qualify as an emergency since there is no immediate threat to resident health or safety. An example of a critical need is the repair of roofs and plumbing in cases where failure to repair the problem would result in a significant increase in the expenditure of funds in the future.

(b) If you receive CIAP funds and you do not have adequate leftover CIAP funds (i.e., funds remaining from previous modernization programs that are subject to reprogramming after completion of all approved work items in the program) to perform the revitalization activities without affecting current emergency or critical needs.

(5) *Need for Affordable Housing in the Community*: 2 Points. To receive maximum points, there must be a need for affordable housing in the community, and there must be an inadequate supply of other housing available and affordable to accommodate families receiving tenant-based assistance under Section 8. HUD will make this determination based on your analysis of the need for affordable housing in the community on the basis of the rental apartment listings in a newspaper of general circulation in the community over the most recent complete month prior to the HOPE VI application deadline, supplemented by additional relevant data, if any.

(6) *Documentation of Need*: 3 Points. To receive maximum points, you must document the level of need for your proposed activities and the urgency in meeting the need with statistics and analyses contained in a data source(s) that is sound and reliable. If your community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice identify the level of the problem and the urgency in meeting the need, you must include references to these documents in your response in order to receive maximum points. If these documents are not applicable to your jurisdiction or do not address the level of problem and the urgency in meeting the need, specifically state as such.

If your proposed activities are not covered under the scope of the Consolidated Plan and Analysis of Impediments to Fair Housing Choice, explain why they are not covered and use other sound data sources to identify the level of need and the urgency in meeting the need. Types of other sources include, but are not limited to, Census reports, Continuum of Care gaps analysis, law enforcement agency crime

reports, Public Housing Authorities' Five Year Comprehensive Plan, and other sound and reliable sources.

Rating Factor 3: Soundness of Approach (40 Points Total)

This factor addresses the quality of your design and planning and the cost-effectiveness of your proposed revitalization activities; your plan's appropriateness in the context of the broader community; the degree to which housing and non-housing aspects of your strategy are integrated and well-segmented; how your plan fits into needs of the local housing market; and the likelihood that a HOPE VI grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents. HUD will award full points to applications that demonstrate a clear relationship between the proposed activities, community assets and needs, and the purpose of HOPE VI funding.

(1) *Vision*: 5 Points. To receive maximum points, you must present the most innovative physical, social, and economic development approach possible given your local conditions, constraints, and opportunities. HUD will evaluate your Executive Summary to make this determination.

(2) *Feasibility*: 4 Points Total.

(a) *Market*. 1 Point. To receive this point there must be a demonstrated considerable market for the revitalized and/or replacement units of the type and size proposed. HUD will use a preliminary market assessment letter prepared by an independent, third party, recognized market resource firm or professional to make this determination.

(b) *Development Costs*. 2 Points. To receive maximum points, you must show that:

(i) Hard costs are comparable to industry standards for the kind of construction to be performed in the proposed geographic area;

(ii) Soft costs (developers' fees, PHA administration costs, legal fees, program manager's fees, consultants' fees, etc.) are reasonable, comparable to industry standards, and justified. HUD is particularly concerned that soft costs be minimized and will review carefully the proposed soft cost structure (i.e., is your reliance on outside entities at an appropriate level given the scope of your project and your in-house capacity), total soft costs as a percentage of overall development costs, and any innovative means you propose to keep such costs at a minimum so that as many HOPE VI resources as possible

can go into hard development and transforming the lives of the residents;

(iii) Costs are realistic and developed through the use of technically competent methodologies; and

(iv) Cost estimates represent a cost-effective plan for designing, organizing and carrying out your proposed activities.

(c) *Coherence and Consistency.* 1 Point. To receive this point, the information and strategies described in the application must be coherent and internally consistent, particularly the data provided for types and numbers of units, budgets and other financial estimates, and other numerical information. It is critical that you carefully review all numbers for unit mix, costs, etc. to make sure that all numbers are consistent throughout the application. HUD will make this determination based on your entire application.

(3) *Lessen Concentration: 9 Points Total.* The activities you propose must lessen concentration of low-income households, create opportunities for desegregation, and offer viable housing choices.

(a) *Physical Plan and Design.* 6 Points. To receive maximum points, you must show that:

(i) The physical plan and design of the proposed on-site housing will significantly reduce the isolation of low-income residents and/or significantly promote mixed-income communities in well-functioning neighborhoods;

(ii) Any plans for off-site housing will lessen concentration of low-income residents and create opportunities for desegregation by actively ensuring that locations of housing will not be in neighborhoods with high levels of poverty and/or high concentrations of minorities. (You do not have to have selected the precise location of off-site units in your application to receive full points for this element.);

(iii) For both on-site and any off-site units, the plan will increase access to municipal services, jobs, mentoring opportunities, transportation, and educational facilities; i.e., the physical plan and services strategy are integrated;

(iv) Proposed new units and buildings are designed in a creative way that ensures that they blend into and enrich the surrounding neighborhood. Design elements and amenities present in houses in the broader community are incorporated into the revitalized homes and will appeal to the market segments for which they are intended.

(b) *Section 8.* 3 Points. To receive maximum points, you must propose to provide assistance to residents of the targeted development receiving Section

8 certificates and vouchers with relocation assistance and smooth the transition from public to private housing for relocatees and members of their new communities. Such activities include:

(i) Helping Section 8 assistance holders find housing in non-poverty areas;

(ii) Conducting programs designed to prepare residents for the transition to private rental housing;

(iii) Involving faith-based, non-profit and/or other institutions and/or individual members of the community that relocatees choose to move into, in order to ease the transition and minimize the impact on the neighborhood. HUD will view favorably innovative programs such as community mentors, support groups, and the like;

(iv) Tracking families receiving Section 8 assistance;

(v) Providing Community and Supportive Service program support to Section 8 relocatees to achieve self-sufficiency;

(vi) Offering eligible residents who have been given Section 8 relocation assistance as a result of HOPE VI revitalization opportunities to return to the revitalized units.

(4) *Community and Supportive Services:* 5 Points

This factor evaluates the quality of your proposed Community and Supportive Services Programs, as required and described in Section IV.(B)(3) of this program section of the SuperNOFA, above, and gauges the probability that the Community and Supportive Services Programs you propose will result in "living wage" jobs, economic development, and educational advancements which are quantifiable and long-lasting. You are encouraged to be innovative and to create results-based programs which break new ground and can serve as national models.

You must implement public housing revitalization in tandem with the principles of welfare reform, self-sufficiency, and educational achievement. Not only must the physical environment meet the needs of residents, but the social environment must encourage and enable low-income residents to achieve long-term self-sufficiency, particularly for persons enrolled in welfare-to-work programs.

To that end, it is crucial that local welfare agencies are part of your HOPE VI partnership. Many HOPE VI residents are directly affected by Temporary Assistance to Needy Families (TANF), making these self-sufficiency efforts critical to their success. You must design your Community and Supportive

Services Programs not only for residents remaining on-site, but also for residents who have relocated to other PHA units or to Section 8 housing, and for new residents of the revitalized units.

To receive maximum points, your proposed Community and Supportive Services Programs must:

(a) Identify objectives that are results-oriented, with measurable goals and outcomes that will result in "living wage" jobs and educational advancements;

(b) Demonstrate consistency with state and local welfare reform requirements and goals;

(c) Be well integrated with the development process, both in terms of timing and the provision of facilities to house on-site service programs;

(d) Be of an appropriate scale, type, and variety of services to meet the needs of residents remaining on-site, residents who have relocated to other PHA units or Section 8 housing, and new residents of the revitalized units;

(e) Demonstrate an effective use of technology;

(f) Incorporate the enforcement of Section 3, both in the area of hiring residents from the HOPE VI site and in contracting with Section 3 firms;

(g) Be developed in response to a rigorous resident needs identification process and directly respond to the identified needs;

(h) Be coordinated with the efforts of other service providers and agencies in your locality; and

(i) Be sustainable after the grant term has expired.

(5) *Evaluation:* 2 Points

To receive maximum points, you must propose to work with local universities and other institutions of learning, foundations, and/or others to evaluate the performance and impact of your proposed HOPE VI revitalization. Where possible, HUD encourages you to form partnerships with Historically Black Colleges and Universities (HBCUs) and Hispanic-Serving Institutions (HBIs), Community Outreach Partnership Centers (COPCs), others in HUD's University Partnerships Program. Areas for evaluation might include such issues as:

(a) The impact of your HOPE VI effort on the lives of the residents;

(b) The nature and extent of economic development generated;

(c) The effect of the revitalization effort on surrounding communities, including spillover revitalization activities, property values, etc.;

(d) Your success at integrating physical and non-physical (Services) aspects of your strategy.

(6) *Resident and Community Outreach and Involvement:* 5 Points

In addition to the Threshold requirement for public meetings provided in Section IV.(B)(2) of this program section of the SuperNOFA, above, this rating subfactor evaluates the nature, extent, and quality of the resident and community outreach and involvement you have done by the time your application is submitted, as well as your plans for continued and/or additional outreach and involvement. HUD will evaluate your efforts to include affected residents and members of the surrounding community in the planning and development of your application.

To receive maximum points, you must demonstrate that you have:

(a) Communicated regularly with affected residents and members of the surrounding community about your application and that you have:

(i) Included all interested parties, especially affected residents and members of the surrounding community, in the development of your application;

(ii) Developed specific plans for continued or different involvement and participation in the planning and implementation of revitalization activities if your application is successful;

(iii) Scheduled informational and planning meetings with affected residents and other interested parties during the development of your application at frequent and convenient times; and

(iv) Announced meetings in ways that are designed to generate the most participation. Methods of announcing upcoming meetings include, but are not limited to:

(1) Publishing notices of meetings in newspapers of local distribution;

(2) Hand distributing flyers to residences and locations likely to attract notice;

(3) Posting meeting information in adequate time to allow participants to plan to attend;

(4) Addressing the language needs of affected residents;

(5) Making meetings and information available to persons with disabilities.

(b) Communicated effectively with affected residents and members of the surrounding community and that you have:

(i) Provided training and technical assistance on the HOPE VI development process and general principles of development to affected residents to enable them to participate meaningfully in the development of your application, and developed plans to provide further training and technical assistance if your application is successful;

(ii) Provided information to affected residents and other interested parties about your planned revitalization;

(iii) Provided affected residents with substantive opportunities to participate in the development of your HOPE VI plan;

(iv) Incorporated input and recommendations of interested parties, especially affected residents, into your application;

(v) Generated support for your application among interested parties;

(vi) Recognized and addressed dissenting viewpoints among affected residents and other interested parties. Your application will not lose points if there has been opposition to your plan, but may lose points if you do not demonstrate that any such opposition has been addressed; and

(vii) Provided status reports on the development of your application.

(7) *Operation and Management Principles and Policies*: 5 Points.

(a) *Self Sufficiency and Economic Diversity*. To receive maximum points, you must propose operation and management principles and policies to be applied to on-site public housing and any on-site or adjacent assisted housing that will encourage residents to move in, move up, and move on. Such principles must:

(i) Complement self-sufficiency programs and result in a mix of residents in the revitalized development who have a range of incomes, including substantial numbers of working residents;

(ii) Reward work and promote family stability by promoting positive incentives such as income disregards and ceiling rents;

(iii) Promote economic and demographic diversity by instituting a system of local preferences; and

(iv) Encourage self-sufficiency by including lease requirements that promote resident involvement in the tenants association, community service, self-sufficiency, and transition from public housing.

(b) *Safety and Security*. To receive maximum points, you must demonstrate that your proposed operation and management principles and policies will provide greater safety and security by:

(i) Instituting tough screening requirements;

(ii) Enforcing tough lease and eviction provisions;

(iii) Enhancing on-going efforts to eliminate drugs and crime from neighborhoods through collaborative efforts with local law enforcement agencies and local United States Attorneys and program policy efforts

such as "One Strike and You're Out," the "Officer Next Door" initiative, the Department of Justice "Weed and Seed" programs, or HUD's "Operation Safe Home" and Drug Elimination programs;

(iv) Improving the safety and security of residents through the implementation of defensible space principles, anti-crime measures, and the installation of physical security systems such as surveillance equipment, control engineering systems, etc.;

(v) Improving the safety of children by promoting the concept of healthy homes. Healthy homes activities are described in Section VI(D) of the General Section of this SuperNOFA.

(8) *Affirmatively Furthering Fair Housing*: 5 Points. To receive maximum points, you must affirmatively further fair housing through the physical design of the revitalized units, the location of new units, and marketing of housing that will encourage diversity. You are encouraged to work with local advocacy groups which represent individuals with disabilities, the elderly, and other special needs populations to further these goals.

(a) *Accessibility*. (i) *Accessibility Requirements*. The design of your proposed new construction and/or rehabilitation of housing must conform to the civil rights statutes and regulations required in Section II.(B) of the General Section of this SuperNOFA.

(ii) *Accessibility Priorities*. HUD encourages you to promote greater opportunities for housing choice by implementing the following accessibility activities:

(1) Make at least 5 percent of for-sale units accessible to individuals with mobility disabilities and 2 percent of for-sale units accessible to individuals who have visual or hearing disabilities;

(2) Provide one-bedroom accessible rental units for single individuals with disabilities so that they too can live in the revitalized community;

(3) Implement innovative designs and room configurations, particularly for homeownership housing, which are both accessible to disabled residents and marketable to non-disabled households;

(4) Provide for accessibility modifications, where necessary, to Section 8 units of residents who have been relocated out of the targeted project due to revitalization activities.

(iii) *Visitability*. HUD encourages you to meet the visitability standards adopted by HUD that apply to units not otherwise covered by the accessibility requirements. The elements of visitability are described in Section VI.(C) of the General Section of this

SuperNOFA and in the HOPE VI Application Kit Glossary.

(iv) *Adaptability.* HUD encourages you to meet the adaptability standards adopted by HUD at 24 CFR 8.3 that apply to those units not otherwise covered by the accessibility requirements. The elements of adaptability are included in the HOPE VI Application Kit Glossary.

(b) *Diversity.* To receive maximum points, program activities must aid a broad diversity of eligible residents, including the elderly, the disabled, etc. HUD will also evaluate your efforts to increase community awareness in a culturally sensitive manner through education and outreach, as applicable. Describe specific steps to address the elimination of impediments to fair housing that were identified in your jurisdiction's Analysis of Impediments to Fair Housing Choice, remedy discrimination in housing, or promote fair housing rights and fair housing choice. Your marketing and outreach activities should be targeted to all segments of the population on a nondiscriminatory basis, promote housing choice and opportunity throughout your jurisdiction, and contribute to the deconcentration of minority and low-income neighborhoods.

#### Rating Factor 4: Leveraging Resources (10 Points Total)

In accordance with Section IV(B)(4) of this program section of the SuperNOFA, above, all HOPE VI Revitalization grant funds are subject to a matching requirement. By signing the HOPE VI Revitalization Applicant Certifications (Appendix A to this NOFA, below), you are certifying that, if selected, you will provide matching funds which can be combined with HUD funds to carry out revitalization activities, including Community and Supportive Services Programs. Although firm commitments for these matching resources are not required in your application, if funded you will be required to show evidence of matching resources through your quarterly reports as your project proceeds.

Although you will provide evidence of matching resources during the course of the grant term, you must provide evidence of any currently-available funds in order to earn points under this rating factor. Your application will be rated based on the extent to which you have secured additional resources now for proposed activities which can be added to HUD funds to achieve program purposes, and will secure additional resources. It is important that you do not just seek endorsements from

organizations or describe vendor relationships, but actively enlist individuals and/or entities who will provide significant financial and/or other assistance to the revitalization effort.

In rating this factor, HUD will evaluate the strength of your partnerships and relationships with other entities, and the extent those other entities will provide significant, *firm* funding commitments and other resources if HOPE VI funds are awarded.

In your application, you must provide evidence of each proposed resource by including letters of firm commitments, memoranda of understanding, agreements to participate, or letters of support. If you cannot secure firm commitments, the entity must describe why the firm commitment cannot be made at the current time and affirm that your PHA and your HOPE VI project meet all eligibility criteria for receiving the resource. This is particularly important with regard to Low Income Housing Tax Credits (LIHTC). All such documentation must include the donor organization's name, the specific resource proposed, and the purpose of that resource. Letters providing only general support of the revitalization effort, and letters offering to provide vendor services will not count toward this rating factor. The commitment must be signed by an official of the organization legally authorized to make commitments on behalf of the organization. HUD will evaluate the strength of commitment that the letters articulate.

If you propose to use Low Income Housing Tax Credits (LIHTC) as a part of your financing, provide in your application a letter from your State Housing Finance Agency that provides information from the state allocation plan regarding the total amount and type (4 percent vs. 9 percent) of tax credits available, any set-asides available for PHAs, per project funding limits, the schedule of funding rounds, verification that your project meets eligibility criteria, and other pertinent information.

(1) *Development Resources:* 6 Points. HUD seeks to fund mixed-finance development that will use HOPE VI funds to leverage other development funds, resulting in revitalized public housing, other types of assisted and market rate housing, and retail and economic development. To receive full points, you must actively enlist other stakeholders who are vested in and can provide significant financial assistance to your revitalization effort. In rating this factor, HUD will consider the

amount, breadth, and firmness of financial commitments for development purposes.

Sources of development resources may include public and private non-profit and for-profit entities with experience in the development and/or management of low- and moderate-income housing; foundations; LIHTC syndicators; State Housing Finance Agencies; nonprofit organizations; private debt and equity; and banks or insured loans. If your PHA is also a redevelopment agency or otherwise has citywide responsibilities, HUD will consider the City's housing and/or redevelopment agency or other functional area to be a separate entity with which you are partnering.

(2) *Community and Supportive Services Program Resources:* 4 Points. It is critical that you form partnerships to achieve quantifiable self-sufficiency goals and that you leverage scarce HOPE VI self-sufficiency funds with other funds. It is essential that you provide for the sustainability of Community and Supportive Services programs so that they may continue after the HUD funds have been expended.

HUD encourages you to create public/private partnerships with hard commitments from and accountability to organizations skilled in the delivery of services to residents of public housing. It is particularly important to create partnerships with local Boards of Education which will provide the foundation for young people from infancy through high school graduation to succeed in academia, the professional world, and mainstream society. You are encouraged to form partnerships with organizations such as local businesses, faith-based organizations, non-profit organizations, foundations, banks, welfare departments, Private Industry Councils, Departments of Transportation, Police, and economic development agencies, charitable, fraternal, and business organizations, Weed and Seed programs, and individual employers. Identify prospective employers, the number and types of jobs they propose to make available, the kind and level of training needed to prepare residents for such jobs and how such training will be provided.

Resources may include financial resources such as Federal, State, or local government grants or private contributions. Resources may also include in-kind contributions such as the value of any donated material or building; the value of any lease on a building; the value of the time and services contributed by volunteers, staff, supplies, municipal or county

government services and infrastructure; and the value of any other in-kind services or administrative costs provided which are critical to the successful transformation of the project and the lives of its residents.

In rating this factor, HUD will consider the amount, breadth and firmness of financial and in-kind commitments for Community and Supportive Services Programs, and the sustainability of such programs during the life of the grant and after HOPE VI funds have been expended.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points Total)**

This factor evaluates your efforts to address the need for revitalized public housing in a holistic and comprehensive manner by creating linkages with other activities in the community, incorporating the revitalization of public housing into the overall plans for revitalization of the broader community, and participating or promoting participation in the community's Consolidated Planning process.

(1) *Coordination*: 5 Points. To receive maximum points, you must indicate that you have and/or will:

(a) Coordinate your proposed activities with related activities of other groups or organizations prior to submission in order to best complement, support and coordinate all known related activities. For example, it is important to know about changes in transportation, infrastructure, land use, and other revitalization issues when planning the locations of revitalized housing to prevent future site problems.

(b) Take specific steps to share information about solutions and outcomes with others.

(c) Take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan, such as civil rights organizations; Local Area Agency on Aging, if applicable; local agencies and organizations serving persons with disabilities; Local Weed and Seed task force if the targeted project is located in a designated Weed and Seed area; HUD drug elimination, welfare-to-work, and self-sufficiency programs; other Federal, State or locally funded activities, including those proposed or on-going in the community; and Local law enforcement agencies and the local United States Attorney.

(d) Forge relationships with local Boards of Education, institutions of higher learning, non-profit or for-profit educational institutions and public/

private mentoring programs that will lead to new or improved educational facilities and improved educational achievement of young people in the revitalized development from birth through higher education.

(2) *Community Planning*: 5 points. To receive maximum points, you must indicate that you have or that you will take specific steps to become active in the community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address the need for revitalized public housing, that your plans are tied to revitalization plans for the broader community and the jurisdiction as a whole, and that your plans are consistent with plans or organizing efforts in the immediate, surrounding neighborhoods.

**(D) Demolition Application Evaluation**

(1) *Demolition Funding Categories*. HUD will select Demolition applications on a first-come, first-served basis, by an application's Funding Tier, Priority Group, and Ordinal. Demolition applications are not rated.

(a) *Funding Tiers*. If you wish to request more than \$7.5 million for HOPE VI Demolition grants, you must divide your applications and identify each of your applications as either Tier 1 or Tier 2. If funds remain after all Tier 1 applications are funded, HUD will begin to fund Tier 2 applications, in accordance with the procedures in Section V.(D)(3) of this program section of the SuperNOFA, below.

(i) The total amount requested in all of your Tier 1 applications may not equal more than \$7.5 million.

(ii) The total amount requested in all of your Tier 2 applications may not equal more than \$5 million.

(iii) The total amount requested in all your applications, both Tier 1 and Tier 2, may not exceed \$12.5 million.

(b) *Priority Groups*. You must also identify each of your applications by its appropriate Priority Group, as described below. Each application must target units of a single Priority Group, e.g., do not include Priority Group 1 units in the same application as Priority Group 2 units.

(i) *Priority Group 1*: HOPE VI Demolition funding applications that target units included in a Conversion Plan (i.e., plan for removal of the obsolete and/or severely distressed development from the public housing inventory in accordance with the requirements at 24 CFR 971.7(d)) that HUD has approved on or before the HOPE VI Demolition funding application due date under this program section of the SuperNOFA. Please note

that the term "Conversion Plan" used in this program section NOFA is the plan required by 24 CFR part 971.

(ii) *Priority Group 2*: HOPE VI Demolition funding applications that target units that were included in a HOPE VI Demolition funding application that you submitted in FY 1998 and that HUD deemed eligible for funding, but could not select for lack of sufficient funds.

(iii) *Priority Group 3*: (1) HOPE VI Demolition funding applications that target units included in a Conversion Plan (i.e., plan for removal of the obsolete and/or severely distressed development from the public housing inventory in accordance with the requirements at 24 CFR 971.7(d)) that you have submitted to HUD on or before the HOPE VI Demolition funding application due date under this program section of the SuperNOFA.

(a) If you submit a HOPE VI Demolition funding application for units that are targeted in a Conversion Plan that was submitted under 24 CFR Part 971 but not yet approved (Priority Group 3), and the Conversion Plan is subsequently approved (before the application deadline), you may revise your application and it will be reclassified as Priority Group 1. HUD will change the Ordinal to the Ordinal corresponding to the date that the revised application was received.

(b) If you submit a Conversion Plan but you are not eligible under 24 CFR part 971, your HOPE VI Demolition will not be considered to be in Priority Group 3. Please check with your local HUD Office before submitting a HOPE VI Demolition funding application based on submission of a Conversion Plan.

(2) Applications that target units that you included in a HUD-approved 24 CFR part 970 Demolition Application. If you have submitted a Part 970 Demolition Application to HUD's Special Applications Center (SAC) but it has not yet been approved by HUD, your HOPE VI Demolition application will not be considered complete and you will not receive an Ordinal until your Part 970 Demolition application is approved.

(c) *Ordinals*. Upon receipt, HUD will assign each application an Ordinal (i.e., ranking number) that reflects the date HUD Headquarters received the application. Ordinals correspond to business days, starting with the date HUD receives the first Demolition funding application and ending on the application due date, as specified in Section I of this program section of the SuperNOFA, above. HUD will consider all applications received on the same

date as received at the same time on that date, and those applications will all be assigned the same Ordinal.

(2) *Demolition Screening.* (a) Within a day after HUD receives your application, HUD will screen the application to ensure that it has met each HOPE VI Demolition funding program requirement listed in Section IV.(C) of this program section of the SuperNOFA, above, and that it includes each application submission requirement listed in Section VI.(B) of this program section of the SuperNOFA, below.

(b) If HUD determines that an application is not eligible for funding (e.g., the applicant is not a PHA), HUD will not consider the application further and will immediately notify the applicant that the application has been rejected.

(c) If HUD determines that an application is eligible but incomplete, within one day of receipt of the application, HUD will contact you in writing by fax (followed up with a hard copy by mail) to request the missing information. If HUD finds your application and other applications received on the same day to be incomplete, HUD will notify all such applicants of their missing items on the same day. Since Demolition funding applications are not rated, you may submit information to complete your application at any time before the Demolition funding application deadline date. However, if your application is received on the deadline date and it is missing a required submission, you will have no opportunity to submit any missing item after the deadline date and your application will be ineligible for funding.

**Please Note:** This provision means that the nearer to the deadline you submit your application, the less time you will have to correct any deficiencies, and if HUD receives your application ON the deadline date and there is a deficiency, that application will NOT be considered for funding. You are advised to submit your application as soon as possible, in the event that HUD identifies a deficiency that you need to correct.

(d) When HUD receives information in response to its letter asking for missing information and determines that it completes the application, HUD will change the application's Ordinal to the Ordinal corresponding to the date that HUD received the information. If the information does not make the application complete, HUD will treat the submitted information in the same manner as a newly-submitted application and send you another letter

requesting the missing information, up until the deadline date.

(e) Notwithstanding the above, if HUD approves a demolition application or a conversion plan on the day before or on the application deadline date, the requirements to provide evidence of these approvals will be considered to be met and you will not be required to submit your approval letters from HUD.

(3) *Funding.* HUD will award HOPE VI Demolition grants in the following order, based on fund availability.

(a) HUD will fund eligible Tier 1, Priority Group 1 applications by Ordinal.

(b) If funds remain after HUD has funded all eligible Tier 1, Priority Group 1 applications, HUD will fund Tier 1, Priority Group 2 applications by Ordinal.

(c) If funds remain after HUD has funded all eligible Tier 1, Priority Group 2 applications, HUD will fund Tier 1, Priority Group 3 applications by Ordinal.

(d) If funds remain after HUD has funded all eligible Tier 1 HOPE VI Demolition funding applications, HUD will fund eligible Tier 2 applications, by Priority Group and Ordinal.

(e) If funds remain after all eligible Tier 1 and Tier 2 HOPE VI Demolition funding applications have been funded, the remaining funds will be reallocated for HOPE VI Revitalization grants.

(f) At any stage, if there are insufficient funds to fund all applications with the next Ordinal, HUD will conduct a lottery among the applications sharing the Ordinal to determine funding. HUD reserves the right to partially fund the last lottery winner chosen if insufficient funds remain to fund the entire amount requested, if HUD deems such partial funding will be a viable alternative to full funding.

#### (E) *Grant Award Procedures*

##### (1) *Notification of Funding Decisions.*

(a) The HUD Reform Act prohibits HUD from notifying you as to whether or not you have been selected to receive a Revitalization grant until it has announced all HOPE VI Revitalization grant recipients. If your application has been found to be ineligible or that it did not receive enough points to be funded, you will not be notified until the successful applicants have been notified. HUD will provide written notification to all HOPE VI applicants, whether or not they have been selected for funding.

(b) HUD notification that you have been selected to receive a HOPE VI grant constitutes only preliminary approval. Grant funds may not be released until

the following activities have been completed:

(i) You or HUD must complete a subsidy layering review pursuant to 24 CFR 941.10(b), if required by HUD;

(ii) You and HUD must execute a HOPE VI Revitalization Grant Agreement or Demolition ACC Amendment in accordance with Sections (2) or (3) below, as applicable; and

(iii) The responsible entity has completed an environmental review and you have submitted and obtained HUD approval of a request for release of funds and the responsible entity's environmental certification in accordance with Section IV(A)(8) of this program section of the SuperNOFA, above.

#### (2) *Revitalization Grant Agreement.*

When you are selected to receive a Revitalization grant, HUD will send you a HOPE VI Grant Agreement, which constitutes the contract between you and HUD to carry out and fund public housing revitalization activities. Both you and HUD will sign the cover sheet of the Grant Agreement, and it is effective on the date of HUD's signature. The Grant Agreement sets forth:

(a) The amount of the grant;

(b) Applicable rules, terms, and conditions, including sanctions for violation of the Agreement;

(c) The precise schedules of the HOPE VI Program;

(d) Program requirements;

(e) Requirements for implementation of the proposed plan;

(f) Any applicable special conditions that you must meet;

(g) Certifications in which you will agree to:

(i) Carry out the program in accordance with the provisions of this program section of the SuperNOFA, applicable law, the approved application, and all other applicable requirements, including requirements for mixed finance development;

(ii) Comply with any other terms and conditions, including recordkeeping and reports, that HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner, including full cooperation with HUD's program oversight contractor;

(iii) Assemble a team to implement the HOPE VI Program that has a strong management and development track record and is able to start and carry out a quality HOPE VI program. If you fail to demonstrate your ability to assemble a competent team to the satisfaction of HUD and its program oversight manager, HUD will direct corrective

actions as a condition of retaining the grant;

(iv) Execute a construction contract within 18 months from the date of HUD's approval of the revitalization Plan (or a period specified in the Grant Agreement);

(v) Establish interim performance goals and complete the physical component of the HOPE VI revitalization within 54 months from the date that HUD executed the Grant Agreement. If you fail to meet this or other deadlines established in the Grant Agreement, HUD may enforce default remedies described in the Grant Agreement, up to and including the withdrawal of grant funding. HUD will take into consideration those delays caused by factors beyond your control when enforcing these schedules;

(vi) Execute an ACC Amendment for Mixed-Finance development with HUD, if required by HUD; and

(vii) Foster the involvement of and gather input and recommendations from affected residents throughout the entire development process.

(3) *Demolition ACC Amendment.* If you are selected to receive a Demolition grant, HUD will send you an ACC Amendment setting forth the amount of the grant. Both you and HUD will sign the ACC Amendment, and it is effective on the date of HUD's signature.

(a) By signing the ACC Amendment, you will agree that:

(i) You will carry out the demolition and relocation work in accordance with the requirements of this program section of the SuperNOFA, applicable law including all HUD regulations, the approved HOPE VI Demolition Funding Application, applicable Demolition Application approval, and all other applicable requirements; and

(ii) You will procure a demolition contractor within six months from the date of ACC Amendment execution, and complete the demolition within two years from the date of ACC Amendment execution; and

(iii) You will comply with such other terms and conditions, including recordkeeping and reports, as HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner.

(b) Subject to the provisions of Part A of the ACC, and to assist in the demolition and relocation, HUD will agree to disburse to the PHA from time to time as needed, up to the amount of funding assistance awarded.

## VI. Application Submission Requirements

### (A) *Revitalization Application Exhibits*

(1) *Application Kit.* The HOPE VI Application Kit provides explicit, specific instructions as to the format of a HOPE VI Revitalization application. Your application must conform to the requirements of this program section of the SuperNOFA and follow the format described in the Kit. In addition to the narratives that respond to the rating criteria in this program section of this SuperNOFA, your application will also include submissions that provide HUD with detailed information about your proposed revitalization, including forms and other documentation.

(2) *Submissions Required for Rating.* HUD will review the following application submissions and rate them in accordance with the Revitalization rating factors in section V.(C) of this program section of the SuperNOFA, above. Because these submissions are rated, they cannot be improved after submission of the application, and you may not submit any missing submissions after the deadline date.

(a) An Executive Summary.

(b) A description of your experience and that of your committed partners in developing and managing housing and providing Community and Supportive Services Programs.

(c) A description of existing site conditions, which demonstrates the extent of need for your proposed revitalization.

(d) A description of all predevelopment activities.

(e) A description of all revitalization activities proposed in your application and details of how the proposed work will be accomplished.

(f) A description of Community and Supportive Services Programs.

(g) A plan for resident and community outreach and involvement in the planning process.

(h) A description of current or planned coordination with related activities of other groups or organizations, including any applicable EZ/EC local empowerment board.

(i) A description of proposed management principles and policies which will support revitalization efforts, increase safety and security for residents, affirmatively further fair housing, lessen concentration of low-income residents and create desegregation opportunities, and promote mixed-income communities.

(j) Program Resources and Financing: budget, sources and uses, documentation of resources.

(k) Photographs of distressed public housing and representative photographs of the neighborhood.

(l) A current site map showing the various buildings of the project and identifying the buildings to be demolished and/or disposed of.

(m) A relocation plan for relocation not described in a demolition application.

(n) A city map which clearly identifies key facilities in the context of existing city streets, the central business district, other key city sites, and census tracts and which indicates the existing project, the planned development, and any off-site housing.

(o) A neighborhood map which clearly shows the distance, and distance scale, between two projects, if the two projects are being submitted as a single development for HOPE VI funding, pursuant to Section II.(A)(2)(b), above, of this NOFA.

(p) A proposed site map which indicates where proposed construction, rehabilitation acquisition, or disposition activities will take place.

(q) Site and unit design illustrations.

(3) *Submissions Required for Completeness.* The following submissions are required in your application but HUD will not use them for rating purposes. In accordance with section V. of the General Section of this SuperNOFA, HUD will give you the opportunity to submit missing submissions. If, after the cure period, HUD has not received and accepted the missing submissions, your application will not be eligible for funding.

(a) A certification by an independent engineer that the targeted public housing project, or buildings in a project, meets the severe distress requirement described in Section IV.(B)(1)(a)(i) of this program section of the SuperNOFA, above.

(b) An Implementation Schedule.

(c) Evidence that at least one training session on the HOPE VI development process and three public meetings were held in accordance with the requirements of section IV.(B)(2) of this program section of the SuperNOFA, above.

(d) The HOPE VI Revitalization Applicant Certifications. The text of the Revitalization Applicant Certifications is included as Appendix A below, and the actual form to sign is located in the HOPE VI Application Kit; and

(e) Signed copies of the standard forms, certifications, and assurances listed in section II.(G) of the General Section of this SuperNOFA.

**(B) Demolition Application Requirements**

The HOPE VI Application Kit provides explicit, specific instructions as to the format of a HOPE VI Demolition application. Your application must conform to the requirements of this program section of the SuperNOFA and follow the format described in the kit. The following is a summary of the application information required by this program section of the SuperNOFA. Demolition grants are awarded on a first-come, first-served basis and HUD does not rate the applications. Therefore, any missing information may be submitted after the application is first submitted in accordance with section V.(D) of this program section of the SuperNOFA, above. HUD will not consider any application for funding until you submit each of the following requirements to HUD's satisfaction.

- (1) Standard Form 424, Request for Federal Assistance, signed by a person legally authorized to enter into an agreement with the Department.
- (2) Site Information and Proposed Activities: information and description of the proposed demolition and related activities.
- (3) Documentation of unit eligibility:
  - (a) Evidence of HUD approval of a demolition/disposition application (approval letter); or
  - (b) Approval by HUD or submission to HUD by the HOPE VI demolition application due date of an obsolete and/or severely distressed public housing conversion plan in conformance with the requirements of 24 CFR part 971.
- (4) A description of program financing, including a program budget submitted on Form HUD-52825-A and third-party certification of reasonable and accurate costs.
- (5) A program schedule which clearly shows that you will complete the proposed demolition within two years from the date your ACC Amendment is executed.
- (6) The HOPE VI Demolition Applicant Certifications. The text of the Demolition Applicant Certifications is included in Appendix B below, and the actual form to execute is located in the HOPE VI Application Kit; and
- (7) Signed copies of the standard forms, certifications, and assurances listed in Section II.(G) of the General Section of this SuperNOFA.

**VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

**VIII. Authority**

The funding for HOPE VI Revitalization and Demolition grants under this program section of the SuperNOFA is provided by the FY 1999 HUD Appropriations Act under the heading "Revitalization of Severely Distressed Public Housing (HOPE VI)."

**Appendix A—HOPE VI Revitalization Applicant Certifications**

The text of the HOPE VI Revitalization Applicant Certifications is as follows:

Acting on behalf of the Board of Commissioners of the Housing Authority listed below, as its Chairman, I approve the submission of the HOPE VI application of which this document is a part and make the following certifications to and agreements with the Department of Housing and Urban Development (HUD) in connection with the application and implementation thereof:

1. The PHA will comply with all policies, procedures, and requirements prescribed by HUD for the HOPE VI program, including the implementation of HOPE VI activities in a timely, efficient, and economical manner.
2. The PHA has not and will not receive assistance from the Federal government, State, or unit of local government, or any agency or instrumentality, for the specific activities for which funding is requested in the application. The PHA has established controls to ensure that any activity funded by the HOPE VI grant is not also funded by any other HUD program, thereby preventing duplicate funding of any activity.
3. The PHA will not provide to any development more assistance under the HOPE VI Program than is necessary to provide affordable housing after taking into account other governmental assistance provided. The PHA could not undertake the activities proposed in the application without the additional assistance provided by the requested HOPE VI grant.
4. The PHA will supplement the aggregate amount of the HOPE VI grant with funds from sources other than HOPE VI in an amount not less than 5 percent of the amount of HOPE VI grant.
5. In addition to supplemental amounts provided in accordance with Certification 4 above, if the PHA uses more than 5 percent of the HOPE VI grant for Community and Supportive Services Programs, it will provide supplemental funds from sources other than HOPE VI in an amount equal to the amount used in excess of 5 percent.
6. The PHA has conducted at least one training session for residents on the HOPE VI development process and three public meetings with residents and community members to involve them in the process of planning the revitalization and preparing the application. At least one meeting was held after the publication date of the FY 1999 HOPE VI Revitalization NOFA.
7. The PHA does not have any litigation pending which would preclude timely startup of activities.
8. The application is in full compliance with any desegregation or other court order related to Fair Housing (e.g., Title VI of the Civil Rights Act of 1964, the Fair Housing

Act, and Section 504 of the Rehabilitation Act of 1973) that affects the PHA's public housing program and that is in effect on the date of application submission.

9. Disposition activity under the grant will be conducted in accordance with 24 CFR part 970.

10. Acquisition of land, or acquisition of off-site units with or without rehabilitation to be used as public housing, will be carried out in accordance with 24 CFR part 941.

11. Major rehabilitation and other physical improvements of housing and non-dwelling facilities will be carried out in accordance with 24 CFR 968.112(b), (d), (e), and (g)-(o), 24 CFR 968.130, and 24 CFR 968.135(b) and (d).

12. Construction of replacement rental housing, both on-site and off-site, economic development, and community facilities, will be carried out in accordance with 24 CFR part 941, including mixed-finance development in accordance with subpart F.

13. Replacement housing activity with units acquired or otherwise provided for homeownership under Section 5(h) of the 1937 Act will be conducted in accordance with 24 CFR part 906.

14. Replacement housing activities provided through housing opportunity programs of construction or substantial rehabilitation of homes will meet essentially the same eligibility requirements of the Nehemiah Program.

15. The administration and operation of units will be in accordance with all existing public housing rules and regulations.

16. The PHA will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-19) and regulations pursuant thereto (24 CFR part 100); Executive Order 11063 (Equal Opportunity in Housing) and regulations pursuant thereto (24 CFR part 107); the fair housing poster regulations (24 CFR part 110) and advertising guidelines (24 CFR part 109); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR part 1).

17. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and regulations issued pursuant thereto (24 CFR part 146); the prohibitions against discrimination against, and reasonable modification and accommodation and accessibility requirements for, handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR part 8); the Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) and regulations issued pursuant thereto (28 CFR Part 36); and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151) and regulations issued pursuant thereto (24 CFR Part 40).

18. The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the HOPE VI contracts to be awarded during subsequent fiscal years to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises in accordance with the requirements of Executive Orders 11246, 11625, 12432, and 12138.

19. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulation at 24 CFR part 135.

20. The PHA will comply with Davis-Bacon or HUD-determined prevailing wage rate requirements to the extent required under Section 12 of the U.S. Housing Act of 1937.

21. The PHA will comply with the relocation assistance and real property acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24 and will provide temporary relocation assistance in accordance with 24 CFR 968.108.

22. The PHA will comply with the HOPE VI requirements for reporting, and for access to records and audits as required in the HOPE VI Grant Agreement.

23. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is subject to 24 CFR parts 35 and 965 (subpart H) and Section 968.110(k), as they may be amended from time to time.

24. The PHA will comply with the policies, guidelines, and requirements of OMB Circular Nos. A-87 (Cost Principles Applicable to Grants, Contracts, and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments), as modified by 24 CFR 941 subpart F relating to the procurement of partners in mixed finance developments, except when inconsistent with the provisions of the 1998 Appropriations Act or other applicable Federal statutes or the NOFA pursuant to which the application was submitted.

25. PHA has returned any excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), or that HUD has approved a pay-back plan.

26. There are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.

27. The application is consistent with Environmental Justice Executive Order 12898, in that the proposed public housing will be developed only in environmentally sound and desirable locations and will avoid disproportionately high and adverse environmental effects on minority and low-income communities.

28. The PHA will comply with the provisions of 24 CFR part 24 with regard to the employment, engagement of services,

awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

29. The public housing project or building in a project targeted in this HOPE VI application meets the definition of severe distress provided in Section IV.(B)(1) of the FY 1999 HOPE VI NOFA.

#### **Appendix B—HOPE VI Demolition Applicant Certifications**

The text of the HOPE VI Demolition Applicant Certifications is as follows:

Acting on behalf of the Board of Commissioners of the Public Housing Authority (PHA) listed below, as its Chairman, I approve the submission of the HOPE VI Demolition funding application of which this document is a part and make the following certifications to and agreements with the Department of Housing and Urban Development (HUD) in connection with the application and implementation thereof:

1. The PHA will comply with all policies, procedures, and requirements prescribed by HUD for the HOPE VI program, including the implementation of HOPE VI activities in a timely, efficient, and economical manner.

2. The PHA has not and will not receive assistance from the Federal government, State, or unit of local government, or any agency or instrumentality, for the specific activities for which funding is requested in the application. The PHA has established controls to ensure that any activity funded by the HOPE VI grant is not also funded by any other HUD program, thereby preventing duplicate funding of any activity.

3. The PHA will not provide to any development more assistance under the HOPE VI Program than is necessary to perform demolition activities after taking into account other governmental assistance provided.

4. Disposition activity under the grant will be conducted in accordance with 24 CFR part 970;

5. The PHA will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601-19) and regulations pursuant thereto (24 CFR part 100); Executive Order 11063 (Equal Opportunity in Housing) and regulations pursuant thereto (24 CFR part 107); the fair housing poster regulations (24 CFR part 110) and advertising guidelines (24 CFR part 109); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR part 1).

6. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and regulations issued pursuant thereto (24 CFR part 146); the prohibitions against discrimination against, and reasonable modification and accommodation and accessibility requirements for, handicapped individuals under Section 504 of the

Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR part 8); the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and regulations issued pursuant thereto (28 CFR Part 36); and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151) and regulations issued pursuant thereto (24 CFR Part 40).

7. The PHA will address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments to Fair Housing Choice; remedy discrimination in housing; and promote fair housing rights and fair housing choice.

8. The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the HOPE VI contracts to be awarded during subsequent fiscal years to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises in accordance with the requirements of Executive Orders 11246, 11625, 12432, and 12138.

9. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulation at 24 CFR part 135.

10. The PHA will comply with Davis-Bacon or HUD-determined prevailing wage rate requirements to the extent required under Section 12 of the U.S. Housing Act of 1937.

11. The PHA will comply with the relocation assistance and real property acquisition requirements of 24 CFR 970.5.

12. The PHA will keep records in accordance with 24 CFR 85.20 that facilitate an effective audit to determine compliance with program requirements.

13. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is subject to 24 CFR parts 35 and 965 (subpart H) and Section 968.110(k), as they may be amended from time to time.

14. The PHA will comply with the policies, guidelines, and requirements of OMB Circular Nos. A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).

15. The PHA does not have any litigation pending which would preclude timely startup of activities.

16. PHA has returned any excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), or that HUD has approved a pay-back plan.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**PUBLIC HOUSING DRUG  
ELIMINATION PROGRAM**



## Funding Availability for the Public and Indian Housing Drug Elimination Program (PHDEP)

### Program Overview

**Purpose of the Program.** To provide grants to eliminate drugs and drug-related crime in public housing and Indian communities.

**Available Funds.** Approximately \$242,750,000 is available during FY 99 for PHDEP grants.

**Eligible Applicants.** Public Housing Authorities (PHAs), Tribes, or Tribally Designated Housing Entities (TDHEs) on behalf of the Tribe.

**Application Deadline.** June 16, 1999.

**Match.** None

### Additional Information:

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following information.

### I. Application Due Date, Application Kits, Further Information and Technical Assistance

**Application Due Date.** Applications (an original and two copies) are due on or before 6:00 pm local time on June 16, 1999 at the address shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address For Submitting Applications.** Submit an original and two identical copies of the application by the application due date at the local Field Office with delegated public housing responsibilities: Attention: Director, Office of Public Housing, or, in the case of the Tribes or TDHEs, to the local HUD Administrator, Area Office of Native American Programs (AONAP), as appropriate.

**For Application Kits.** To receive a copy of the Public Housing Drug Elimination Program (PHDEP) application kit please call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, please refer to the Public Housing Drug Elimination Program (PHDEP). Please provide your name, address (including zip code, and telephone number (including area code)). The application kit contains information on all exhibits, forms, and certifications required for PHDEP.

**For Further Information and Technical Assistance.** Please call the

local HUD Field Office HUB with delegated housing responsibilities for your housing agency, the Area Office of Native American Programs (AONAPs) with jurisdiction over your Tribe or Tribally Designated Housing Entity (TDHE) preparing your application, HUD's Drug Information and Strategy Clearinghouse (DISC) at 1-800-952-2232; or Sonia Burgos in the Community Safety and Conservation Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4206, Washington, DC 20410, telephone (202) 708-1197, extension 4227; or Tracy C. Outlaw, National Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202, telephone (303) 675-1600. (With the exception of the "1-800" telephone number, these are not toll-free numbers.)

### II. Amount Allocated

Public Law 105-276 (the FY 1999 HUD Appropriations Act) appropriated \$310,000,000 for the Public Housing Drug Elimination Program. Of the total \$310,000,000 appropriated, approximately \$242,750,000 is being made available for PHDEP grants. Additionally, \$14,399 in FY 1999 funds is awarded to the Housing Authority of the City of Cedartown, GA, an FY 1997 PHDEP grantee mistakenly denied this amount for an eligible law enforcement activity.

### III. Program Description; Eligible Applicants; Eligible/Ineligible Activities

#### (A) Program Description

Funds are available for Public Housing Authorities (PHAs), Tribes or Tribally Designated Housing Entities (TDHEs) to develop and finance drug and drug-related crime elimination efforts in their developments. You may use funds for enhancing security within your developments, making physical improvements to enhance security; and/or developing and implementing prevention, intervention and treatment programs to stop drug use in public and Indian housing communities.

In FY 1999, HUD is requiring all applicants to establish measurable baseline information and realistic goals for drug-related crime in Public Housing and for all major PHDEP activities being proposed. This information will be reported in a new PHDEP Semi-Annual Reporting System which will be implemented by July 1999. In addition, HUD is developing a formula based system for use in awarding PHDEP grants.

#### (B) Eligible Applicants

Eligible applicants include PHAs, Tribes or TDHEs. (A Tribe can apply either in its own name or through its TDHE. A TDHE cannot apply on behalf of a Tribe that is applying on its own behalf.) Resident Management Corporations (RMCs); and incorporated Resident Councils (RCs) are eligible for funding from PHAs as sub-grantees. RMCs and ROs that were operating pursuant to 24 CFR part 950 are eligible for funding from Tribes or TDHEs as subgrantees to develop security and substance abuse prevention programs.

#### (C) Eligible/Ineligible Activities

Under statute, PHDEP grants may be used for seven types of activities including: Physical improvement specifically designed to enhance security; Programs designed to reduce use of drugs in and around public or Indian housing developments including drug-abuse prevention, intervention, referral, and treatment; Funding for non-profit public housing resident management corporations (RMCs), Resident Councils (RCs), and Resident Organizations (ROs) to develop security and drug abuse prevention programs involving site residents; Employment of security personnel; Employment of personnel to investigate and provide evidence in administrative or judicial proceeding; Reimbursement of local law enforcement agencies for additional security and protective services; and Training, communications equipment, and related equipment for use by voluntary tenant patrols.

Following is a discussion by activity type of: what is fundable; what is not fundable; and specific requirements or items that need to be discussed in your application if you are including that activity in your application.

(1) **Physical Improvements to Enhance Security.** (a) Physical improvements specifically designed to enhance security may include: installing barriers, speed bumps, lighting systems, fences, surveillance equipment (e.g., Closed Circuit Television (CCTV), computers and software, fax machines, cameras, monitors, and supporting equipment), bolts, locks, and landscaping or reconfiguring common areas to discourage drug-related crime.

(i) All physical improvements must be accessible to persons with disabilities. For example, locks or buzzer systems that are not accessible to persons with restricted or impaired strength, mobility, or hearing may not be funded by PHDEP. Defensible space improvements must comply with civil rights requirements and cannot exclude

or segregate people because of their race, color, or national origin from benefits, services, or other terms or conditions of housing. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(ii) Funding is permitted for the purchase or lease of house trailers of any type that are not designated as a building if they are used for eligible community policing, educational, employment, and youth activities. A justification of purchase versus lease must be supported by your cost-benefit analysis.

(b) *Ineligible Improvements.* (i) Physical improvements that involve demolishing any units in a development.

(ii) Physical improvements that would displace persons are ineligible.

(iii) Acquiring real property.

(2) *Programs to Reduce Drug Use (Prevention, Intervention, Treatment, Structured Aftercare and Support Systems).* (a) *General Requirements and Strategies.* HUD is looking for you to structure your substance abuse prevention, intervention, treatment, and aftercare program using a "continuum of care" approach. A "continuum of care" approach includes not just treating the addiction or dependency but providing aftercare, mentoring, and support services such as day care, family counseling, education, training, employment development opportunities, and other activities.

You must develop a substance abuse/sobriety (remission)/treatment (dependency) strategy to adequately plan your substance abuse prevention, intervention, treatment, and structured aftercare efforts. In many cases, you may want to include education, training, and employment opportunities for residents; and support Welfare to Work initiatives. When undertaking these activities, you should be leveraging your PHDEP resources with other Federal, State, local and Tribal resources. For example, your application may propose providing space and other infrastructure for these efforts with several public agencies providing staff and other resources at limited or no cost. Your application should also discuss how your strategy incorporates existing community resources and how they will be used in your program. The strategy should also document how community resources will be provided on-site, or how participants will be referred and transported to treatment programs that are not on-site.

A community-based approach also requires you to develop a culturally appropriate strategy. Curricula,

activities, and staff should address the cultural issues of the local community, which requires your application to indicate your familiarity and facility with the language and cultural norms of the community. As applicable, your strategy should discuss cultural competencies associated with Hispanic, African-American, Asian, Native American or other racial or ethnic communities.

Your activities should focus resources directly to housing authority residents and families.

For all activities involving education, training and employment, you should demonstrate efforts to coordinate with Federal, Tribal, State and local employment training and development services, "welfare to work" efforts, or other new "welfare reform" efforts.

The current Diagnostic and Statistical Manual (DSM) of Mental Disorders of the American Psychiatric Association dated May 1994, contains information on substance abuse, dependency and structured aftercare. For more information about this reference, contact: APPI, 1400 K. Street, NW, Suite 1100, Washington, DC 20005 on 1(800) 368-5777 or World Wide Web site at <http://www.appi.org>.

Eligible activities may include:

- (i) Substance abuse prevention, intervention, and referral programs;
- (ii) Programs of local social, faith-based and/or other organizations that provide treatment services (contractual or otherwise) for dependency/remission; and
- (iii) Structured aftercare/support system programs.

(b) *Activities must be "in and around".* PHDEP funding is permitted for programs that reduce/eliminate drug-related crime "in and around" the premises of the housing authority/development(s). HUD has defined the term "in and around" to mean within, or adjacent to, the physical boundaries of a public or Indian housing development. This ensures that program funds and activities are targeted to benefit, as directly as possible, public and Indian housing developments and their residents.

(c) *Eligible cost.* (i) Funding is permitted for reasonable, necessary, and justified purchasing or leasing (whichever is documented as the most cost effective) of vehicles for transporting adult and youth residents for education, job training, and off-site treatment programs directly related to reducing drugs and drug-related crime. The cost reasonableness can be determined by a comparison of the number of participants in and anticipated costs of these programs

compared to the purchase or lease cost of the vehicles. If these costs are included in your application, you must include a description of why the expenses are necessary. Under no circumstances are these vehicles to be used for other than their intended purpose under your grant.

(ii) Funding is permitted for reasonable, necessary and justified program costs, such as meals and beverages incurred only for training, education and employment activities, and youth services directly related to reducing drugs and drug-related crime. Refer to Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments.

(d) *Prevention.* Prevention programs must demonstrate that they will provide directly, or otherwise make available, services designed to distribute substance/drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the housing development or the community for housing authority families.

Prevention programs should provide a comprehensive prevention approach for residents that address the individual resident and his or her relationship to family, peers, and the community. Your prevention programs activities should identify and change the causal factors present in housing authorities that lead to drug-related crime thereby lowering the risk of drug usage. Many components of a comprehensive approach, including refusal and restraint skills training programs or drug, substance abuse/dependency and family counseling, may already be available in the community of your housing developments and should be included to the maximum extent possible in your proposed program of activities.

The following eligible activities under a prevention program are discussed in more detail below: educational opportunities; family and other support services; youth services; and economic and educational opportunities for resident adult and youth activities.

(i) *Educational Opportunities.* The causes and effects of illegal drug/substance abuse must be discussed in a culturally appropriate and structured setting. You may contract (in accordance with 24 CFR 85.36) to provide such knowledge and skills through training programs. The professionals contracted to provide these services are required to base their services on your needs assessment and program plan. These educational opportunities may be a part of resident

meetings, youth activities, or other gatherings of public and Indian housing residents.

(ii) *Family and Other Support Services.* "Supportive services" are services that allow housing authority families to have access to prevention, educational and employment opportunities. Supportive services may include: child care; employment training; computer skills training; remedial education; substance abuse counseling; help in getting a high school equivalency certificate; and other services to reduce drug-related crime.

(iii) *Youth Services.* "Educating and enabling America's youth to reject illegal drugs" is Goal #1 of the Office of National Drug Control Policy (ONDCP) top five goals in the Nation's Drug Control Strategy. Activities that target youth further this goal. Proposed youth prevention programs must demonstrate that they have included groups composed of young people ages 16 through 18. Your youth prevention activities should be coordinated by adults but have housing authority youth actively involved in organizing youth leadership, sports, recreational, cultural and other activities. Eligible youth services may include: youth sports; youth leadership skills training; cultural and recreational activities. These youth services provide an alternative to drugs and drug-related criminal activity for public housing and Native American youth. Youth leadership skills training may include training in leadership, peer pressure reversal, resistance or refusal skills, life skills, goal planning, parenting skills, and other relevant topics. Youth leadership training should be designed to place youth in leadership roles including: mentors to younger program participants, assistant coaches, managers, and team captains. Cultural and recreational activities may include ethnic heritage classes, art, dance, drama and music appreciation.

The following are eligible youth services activities:

(1) Salaries and expenses for staff for youth sports programs and cultural activities and leadership training;

(2) Sports and recreation equipment to be used by participants;

(3) Non-profit subgrantees that provide scheduled organized sports competitions, cultural, educational, recreational or other activities, including: Boys and Girls Clubs, YMCAs, YWCAs, the Inner City Games, Association of Midnight Basketball Leagues.

(4) Liability insurance costs for youth sports activities.

(iv) *Economic and Educational Opportunities for Resident Adult and*

*Youth.* Your proposed economic and educational activities must provide residents opportunities for interaction with, or referral to, established higher education, vocational institutions and/or private sector businesses in the immediate surrounding communities with the goal of developing or building on the residents' skills to pursue educational, vocational and economic goals and become self-sufficient.

You should discuss your economic and educational opportunities for residents and youth activities in the context of "welfare to work" and related Federal, Tribal, State and local government efforts for employment training, education and employment opportunities related to "welfare to work" goals. Establishing or referring adults and youth to computer learning centers, employment service centers (coordinated with Federal, Tribal, State and local employment offices), and micro-business centers are eligible.

Limited educational scholarships are permitted under this section. No one individual award may exceed \$500.00, and there is a total maximum scholarship program cap of \$10,000. Educational scholarship FY 1999 PHDEP funds must be obligated and expended during the term of your grant. You must demonstrate in your plan and timetable the scholarship strategy; the financial and management controls that will be used; and projected outcomes.

(e) *Intervention.* The aim of intervention is to identify or detect residents with substance abuse issues, assist them in modifying their behavior, and in getting early treatment, and structured aftercare.

(f) *Substance Abuse/Dependency Treatment.* (i) Treatment funded under this program should be "in and around" the premises of the housing authority/development(s) you proposed for funding. In undertaking substance abuse/dependency treatment programs, you must establish a confidentiality policy regarding medical and disability related information.

(ii) Funds awarded for substance abuse/dependency treatment must be targeted towards developing and implementing, or expanding and improving sobriety maintenance, substance-free maintenance support groups, substance abuse counseling, referral treatment services, and short or long range structured aftercare for residents.

(iii) Your proposed drug program must address the following goals for residents:

(1) Increasing accessibility of treatment services;

(2) Decreasing drug-related crime "in and around" your housing authority/development(s) by reducing and/or eliminating drug use; and

(3) Providing services designed for youth and/or adult drug abusers and recovering addicts (e.g., prenatal and postpartum care, specialized family and parental counseling, parenting classes, domestic or youth violence counseling).

(iv) Approaches that have proven effective with similar populations will be considered for funding. You must discuss in your overall strategy the following factors:

(1) Formal referral arrangements to other treatment programs in cases where the resident is able to obtain treatment costs from sources other than this program.

(2) Family/youth counseling.

(3) Linkages to educational and vocational training and employment counseling.

(4) Coordination of services from and to appropriate local substance abuse/treatment agencies, HIV-related service agencies, mental health and public health programs.

(v) As applicable, you must demonstrate a working partnership with the Single State Agency or local, Tribal or State license provider or authority with substance abuse program(s) coordination responsibilities to coordinate, develop and implement your substance dependency treatment proposal.

(vi) You must demonstrate that counselors (contractual or otherwise) meet Federal, State, Tribal, and local government licensing, bonding, training, certification and continuing training recertification requirements.

(vii) You must get certification from the Single State Agency or authority with substance abuse and dependency programs coordination responsibilities that your proposed program is consistent with the State plan; and that the service(s) meets all Federal, State, Tribal and local government medical licensing, training, bonding, and certification requirements.

(viii) Funding is permitted for drug treatment of housing authority residents at local in-patient medical treatment programs and facilities. PHDEP funding for structured in-patient drug treatment under PHDEP funds is limited to 60 days, and structured drug out-patient treatment, which includes individual/family aftercare, is limited to 6 months. If you are undertaking drug treatment programs, your proposal must demonstrate how individuals that complete drug treatment will be provided employment training, education and employment

opportunities related to "welfare to work."

(ix) Funding is permitted for detoxification procedures designed to reduce or eliminate the short-term presence of toxic substances in the body tissues of a patient.

(x) Funding is not permitted for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a short/long period of supportive therapy (e.g. methadone maintenance), rather than for immediate control of a disorder.

(3) *Resident Management Corporations (RMCs), Resident Councils (RCs), and Resident Organizations (ROs).* RMCs, and incorporated RCs and ROs, may be a subcontractor to their housing authorities, or Tribe/TDHE, to develop security and substance abuse prevention programs for residents. Such programs may include voluntary tenant patrol activities, substance abuse education, intervention, and referral programs, youth programs, and outreach efforts. The elimination of drug-related crime within housing authorities/developments must have the active involvement and commitment of public and Indian housing residents and their organizations. Active involvement requires that residents be involved in the planning process and implementation.

To enhance the ability of housing authorities, and Tribes/TDHEs, to combat drug-related crime within their developments, Resident Councils (RCs), Resident Management Corporations (RMCs), and Resident Organizations (ROs) may undertake program management functions, notwithstanding the otherwise applicable requirements of 24 CFR part 964. Subcontracts with the RMC/RC/RO must include the amount of funding, applicable terms, conditions, financial controls, payment mechanism schedule, performance and financial report requirements, special conditions, including sanctions for violating the agreement, and monitoring requirements.

Costs must not be incurred until a written contract is executed.

(4) *Employment of HA Security Personnel.* You may employ HA security personnel. Employment of security personnel is divided into two categories: security personnel services, and housing authority police departments. You are encouraged to involve police officials residing in public housing to partake in PHDEP security-related programs. The following specific requirements apply to all employment of security personnel activities funded under PHDEP:

(a) *Compliance.* Security guard personnel and public housing authority police departments must meet; and demonstrate compliance with, all relevant Federal, State, Tribal or local government insurance, licensing, certification, training, bonding, or other law enforcement requirements.

(b) *Law Enforcement Service Agreement.* You must enter into a law enforcement service agreement with the local law enforcement agency and if applicable, the contract provider of security. Your service agreement must include:

(i) The activities security guard personnel or the public housing authority police department (HAPD) will perform; the scope of authority; written policies, procedures, and practices that will govern security personnel or HAPD performance (i.e., a policy manual and how security guard personnel or the HAPD shall coordinate activities with your local law enforcement agency);

(ii) The types of activities that your approved security guard personnel or the HAPD are expressly prohibited from undertaking.

(c) *Policy Manual.* Security guard personnel services and PHPDs must be guided by a policy manual that directs the activities of its personnel and contains the policies, procedures, and general orders that regulate conduct and describes in detail how jobs are to be performed. The policy manual must exist before HUD will execute your grant agreement. To comply with State police department standards and/or Commission on Accreditation Law Enforcement Agencies (CALEA), you must also ensure all security guard personnel and housing authority police officers are trained in the following areas. These areas must also be covered in your policy manual:

- (i) Use of force;
- (ii) Resident contacts;
- (iii) Enforcement of HA rules;
- (iv) Response criteria to calls;
- (v) Pursuits;
- (vi) Arrest procedures;
- (vii) Reporting of crimes and workload;
- (viii) Feedback procedures to victims;
- (ix) Citizens' complaint procedures;
- (x) Internal affairs investigations;
- (xi) Towing of vehicles;
- (xii) Authorized weapons and other equipment;
- (xiii) Radio procedures internally and with local police;
- (xiv) Training requirements;
- (xv) Patrol procedures;
- (xvi) Scheduling of meetings with residents;
- (xvii) Reports to be completed;
- (xviii) Record keeping and position descriptions on all personnel;

- (xix) Post assignments;
- (xx) Monitoring;
- (xxi) Self-evaluation program requirements; and
- (xxii) First aid training.

(d) *Data Management.* A daily activity and incident complaint form approved by the housing authority must be used by security personnel and officers for the collection and analysis of criminal incidents and responses to service calls. Security guard personnel and HAPDs must establish and maintain a system of records management for the daily activity and incident complaint forms that appropriately ensures the confidentiality of personal criminal information. Management Informational Systems (MIS) (computers, software, and associated equipment) and management personnel. Costs in support of these activities are eligible for funding.

(5) *Security Personnel Services.* Contracting for, or direct housing authority employment of, security personnel services in and around housing development(s) is permitted under this program. However, contracts for security personnel services must be awarded on a competitive basis.

(a) *Eligible Services—Over and Above.* Security guard personnel funded by this program must perform services that are over and above those usually performed by local municipal law enforcement agencies on a routine basis. Eligible services may include patrolling inside buildings, providing personnel services at building entrances to check for proper identification, or patrolling and checking car parking lots for appropriate parking decals.

(b) *Employment of Residents.* HUD encourages you to employ qualified resident(s) as security guard personnel, and/or to contract with security guard personnel firms that demonstrate a program to employ qualified residents as security guard personnel. Since your program of eliminating drug-related crime should promote "welfare to work" an excellent way to implement this is to employ residents.

(6) *Employment of Personnel and Equipment for HUD Authorized Housing Authority Police Departments.* Funding equipment and employment of housing authority police department (HAPD) personnel is permitted for housing authorities that already have HAPDs. The following 12 housing authorities are approved by HUD as being eligible under the FY 1999 PHDEP for these activities:

Baltimore Housing Authority and  
Community Development, Baltimore, MD  
Boston Housing Authority, Boston, MA  
Buffalo Housing Authority, Buffalo, NY

Chicago Housing Authority, Chicago, IL  
 Cuyahoga Metropolitan Housing Authority,  
 Cleveland, OH  
 Housing Authority of the City of Los Angeles,  
 Los Angeles, CA  
 Housing Authority of the City of Oakland,  
 Oakland, CA  
 Philadelphia Housing Authority,  
 Philadelphia, PA  
 Housing Authority of the City of Pittsburgh,  
 Pittsburgh, PA  
 Waterbury Housing Authority, Waterbury, CT  
 Virgin Islands Housing Authority, Virgin  
 Islands  
 District of Columbia Housing Authority,  
 Washington, DC

(a) Notice PIH 98-16, issued March 11, 1998, reinstated PIH 95-58 (PHA) "Guidelines for Creating, Implementing and Managing Public Housing Authority Police Departments in Public Housing Authorities." This Notice identifies prerequisites for creating HAPDs and provides guidance to assist housing authorities in making decisions about public housing security, analysis of security needs, and performance measures and outcomes.

(b) Housing authorities with their own HAPDs, but that are not included in the list above, shall request (in writing) to be recognized by HUD as a HAPD. The written request must be sent to the Office of the Deputy Assistant Secretary for Public and Assisted Housing Delivery, Public and Indian Housing, Department of Housing and Urban Development, Room 4204, 451 Seventh Street, SW, Washington, D.C. 20410. This request must be approved by HUD before you submit your FY 1999 PHDEP application.

(c)(i) HAPDs funded under this program that are not nationally or state accredited must submit a plan and timetable for such accreditation. Housing authorities may use either their State accreditation program, if one exists, or the Commission on Accreditation for Law Enforcement Agencies (CALEA) for this purpose. Use of grant funds for HAPD accreditation activities is permitted.

(ii) Housing authorities receiving grants for funding HAPDs are required to hire an HAPD accreditation specialist to manage the accreditation program. HAPDs must submit a plan and timetable to be funded for this activity. If you have a public housing police department funded under the FY 1996, 1997, or 1998 PHDEP you must demonstrate in your plan what progress you made in implementing your accreditation program and the projected date of accreditation. HUD will monitor results of your plan and timetable. HAPDs not meeting their timetables will be ineligible for funding in FY 2000.

(d) If you are an applicant seeking funding for this activity, you must describe the current level of local law enforcement agency baseline services being provided to the housing authority/development(s) proposed for assistance. Local law enforcement baseline services are defined as ordinary and routine services provided to the residents as part of the overall city and/or county-wide deployment of police resources to respond to crime and other public safety incidents including: 911 communications, processing calls for service, routine patrol officer responses to calls for service, and investigative follow-up of criminal activity.

(e) If you are requesting funding for housing authority public housing authority police department officers, you must have car-to-car (or other vehicles) and portable-to-portable radio communications links between public housing authority police officers and local law enforcement officers to assure a coordinated and safe response to crimes or calls for services. The use of scanners (radio monitors) is not sufficient to meet the requirements of this section. If you do not have such links you must submit a plan and timetable for the implementation of such communications links. This activity is eligible for funding. If you were a housing authority funded under the FY 1994, 1995, 1996, 1997, and/or 1998 PHDEP for public housing police departments, you must demonstrate what progress has been made in implementing its planned communications links.

(f) HAPDs funded under this program that are not employing a community policing concept must submit a plan and timetable for the implementation of community policing with their application for funding. If you were a housing authority funded under the FY 1994, 1995, 1996, 1997, or 1998 PHDEP for HAPDs shall demonstrate what progress they have made in implementing a community policing program.

(g) Community policing under PHDEP is defined as a method of providing law enforcement services partnership among residents, police, schools, churches, government services, the private sector, and other local, State, Tribal, and Federal law enforcement agencies to prevent crime and improve the quality of life by addressing the conditions and problems that lead to crime and fear of crime. Community policing uses proactive measures including foot patrols, bicycle patrols, and motor scooters patrols. It also includes KOBAN activities where police officers operate out of police mini-stations, and

other community-based facilities in housing authorities providing human resource activities with youth), and citizen contacts. This concept empowers police officers at the beat and zone level and residents in neighborhoods to:

- (i) Reduce crime and fear of crime;
- (ii) Ensure the maintenance of order;
- (iii) Provide referrals of residents, victims, and homeless persons to social services and government agencies;
- (iv) Ensure feedback of police actions to victims of crime; and
- (v) Promote a law enforcement value system based on the needs and rights of residents.

For additional information regarding KOBAN community policing contact Cedric Brown, (202) 708-1197, extension 4057.

(h) Authorized PHPDs can purchase or lease law enforcement clothing or equipment. Eligible law enforcement clothing or equipment may include uniforms and protective vests; firearms/weapons and ammunition; police vehicles including cars, vans, buses; or other equipment supporting PHPDs crime prevention and security mission. If you have not been identified by HUD as having an authorized PHPD, you are not permitted to use PHDEP funds to purchase any clothing or equipment for use by local municipal police departments and/or other law enforcement agencies.

(7) *Reimbursement of Local Law Enforcement Agencies for Additional (Supplemental—Over and Above Local Law Enforcement Baseline Services) Security and Protective Services.* Additional security and protective services are permitted if services are over and above the local police department's current level of baseline services. Housing authorities, Tribes, and TDHEs are required to identify the level of local law enforcement services received and the increased level of services to be received in their local Cooperation Agreement.

(8) *Employment of Investigators.* Employment of, and equipment for, one or more individuals to investigate drug-related crime "in and around" the real property comprising your development(s) and providing evidence relating to such crime in any administrative or judicial proceedings is permitted. Under this section, reimbursable costs associated with the investigation of drug-related crimes (e.g., travel directly related to the investigator's activities, or costs associated with the investigator's testimony at judicial or administrative proceedings) may only be those directly incurred by the investigator.

(a) If you are a housing authority that employs investigators funded by this program, you must demonstrate compliance with all relevant Federal, Tribal, State or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(b) Both you and the provider of the investigative services are required to execute a written agreement that describes the following:

(i) The activities that your investigators will perform, their scope of authority, reports to be completed, established investigative policies, procedures, and practices that will govern their performance (i.e., a Policy Manual; and how your investigators will coordinate their activities with local, State, Tribal, and Federal law enforcement agencies); and prohibited activities.

(ii) The activities the housing authority/Tribal investigators are expressly prohibited from undertaking.

(c) Your investigator(s) may use PHDEP funds to purchase or lease any law enforcement clothing or equipment, such as vehicles, uniforms, ammunition, firearms/weapons, or vehicles; including cars, vans, buses, protective vests, and any other supportive equipment.

(d) Your investigator(s) shall report on drug-related crime in your developments. You must establish, implement and maintain a system of records management that ensures confidentiality of criminal records and information. Housing authority-approved activity forms must be used for collection, analysis and reporting of activities by your investigators. You are encouraged to develop and use Management Information Systems (MIS) (Computers, software, hardware, and associated equipment) and hire management personnel for crime and workload reporting in support of your crime prevention and security activities.

(e) You may not expend funds and funds will not be released by the local HUD Field Office/AONAP until you have met the requirements of (6)(i)(d).

(9) *Voluntary Tenant Patrols.* HUD believes the elimination of drug-related crime within and around the housing authority/development(s) requires the active involvement and commitment of residents and their organizations. Members of tenant patrols must be volunteers and must be residents of the housing authority's development(s). Voluntary tenant patrols are expected to patrol in your development(s) proposed for assistance, and to report illegal activities to appropriate housing authority staff, and local, State, Tribal,

and Federal law enforcement agencies, as appropriate.

(a) Training equipment, uniforms) for use by voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies is permitted. All costs must be reasonable, necessary and justified. Bicycles, motor scooters, all season uniforms and associated equipment to be used, exclusively, by the members of your voluntary tenant patrol are eligible items. Voluntary tenant patrol uniforms and equipment must be identified with your specific housing authority/development(s) identification and markings.

(b) Housing authorities are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol under this program. The cost of this insurance is eligible.

(c) If you are funding voluntary tenant patrol activities, you, your local law enforcement agency, and the tenant patrol, before expending grant funds, are required to execute a written agreement that includes:

(i) The nature of the activities to be performed by your voluntary tenant patrol, the patrol's scope of authority, assignment, policies, procedures, and practices that will govern the voluntary tenant patrol's performance and how the patrol will coordinate its activities with the law enforcement agency;

(ii) The activities the voluntary tenant patrol is expressly prohibited from undertaking and that the carrying or use of firearms, weapons, nightsticks, clubs, handcuffs, or mace is prohibited;

(iii) Required initial and on-going voluntary tenant patrol training members will receive from the local law enforcement agency; (Please note that training by HUD-approved trainers and/or the local law enforcement agency is required before putting a voluntary tenant patrol into effect); and

(iv) Voluntary tenant patrol members will be subject to individual or collective liability for any actions undertaken outside the scope of their authority (described in paragraph (ii) above) and that such acts are not covered under your housing authority liability insurance.

(d) PHDEP grant funds *must not* be used for any type of financial compensation, such as full-time wages or salaries for voluntary tenant and/or patrol participants. Funding for housing authority personnel or resident(s) to be hired to coordinate this activity is permitted. Excessive staffing is not submitted.

(10) *Evaluation of PHDEP Activities.* Funding is permitted to contractually

hire organizations and/or consultant(s) to conduct an independent assessment and evaluation of the effectiveness of your PHDEP program. You should include in your plan and budget contracting with an independent survey organization to conduct an annual resident survey in your targeted developments/areas. The amount of funding proposed for conducting assessments or evaluations should be necessary, reasonable, and justified. However, even except if adequately justified, HUD would not expect that this cost should exceed ten (10) percent of the total grant amount requested.

(11) *High Intensity Drug Trafficking Areas (HIDTAs).* Funding may be used for activities to eliminate drug-related crime in housing owned by a public housing agency that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted. For example, housing that receives tenant subsidies under Section 8 is federally assisted and would not qualify, but housing that receives only State, Tribal, or local assistance would qualify if it meets the following two requirements:

(a) The housing is located in a high intensity drug trafficking area designated pursuant to Section 1005 of the Anti-Drug Abuse Act of 1988 (see Appendix A); and

(b) The PHA owning the housing demonstrates, on the basis of information submitted, that the drug-related crime at the housing authority project has a detrimental affect in or around the housing.

The High Intensity Drug Trafficking Areas (HIDTAs) are areas identified as having problems that adversely impact the rest of the country.

*(D) Ineligible Activities.*

PHDEP funding is not permitted for any of the activities listed below, unless otherwise specified in this PHDEP section of the SuperNOFA.

(1) Costs incurred before the effective date of your grant agreement (Form HUD-1044), including, but not limited to, consultant fees related to the development of your application or the actual writing of your application.

(2) The purchase of controlled substances for any purpose. Controlled substance shall have the meaning provided in section 102 of the Controlled Substance Act (21 U.S.C. 802).

(3) Compensation of informants, including confidential informants. These should be part of the baseline services provided and budgeted by local law enforcement agencies.

(4) Direct purchase or lease of clothing or equipment, vehicles (including cars, vans, and buses), uniforms, ammunition, firearms/ weapons, protective vests, and any other supportive equipment for use in law enforcement or military enforcement except for HAPDs and investigator activities listed in this program section of the SuperNOFA.

(5) Construction of facility space in a building or unit, and the costs of retrofitting/modifying existing buildings owned by the housing authorities and TDHEs for purposes other than: community policing mini-station operations, adult/youth education, employment training facilities, and drug abuse treatment activities.

(6) Organized fund raising, advertising, financial campaigns, endowment drives, solicitation of gifts and bequests, rallies, marches, community celebrations, stipends and similar expenses.

(7) Court costs and attorneys fees related to screening or evicting residents for drug-related crime are not allowable.

(8) PHDEP grant funds cannot be transferred to any Federal agency.

(9) Costs to establish councils, resident associations, resident organizations, and resident corporations are not allowable.

(10) Indirect costs are not allowable.

(11) Supplant existing positions/ activities. For purposes of the PHDEP, supplanting is defined as "taking the place of or to supersede".

(12) Alcohol-exclusive activities and programs are not eligible for funding under this program section of the SuperNOFA, although activities and programs may address situations of multiple abuse involving controlled substances and alcohol. This is because under law, PHDEP is limited to only controlled substances.

#### IV. Program Requirements

Your application must meet all the applicable threshold requirements described in Section II.B. of the General Section of this SuperNOFA. In addition to the program requirements listed in the General Section of this SuperNOFA, the following are requirements specific to PHDEP:

##### (A) Maximum Grant Award Amounts

HUD is distributing grant funds for PHDEP under this SuperNOFA on a national competition basis. Maximum grant award amounts are computed for PHDEP on a sliding scale, using an overall maximum cap, depending upon the number of housing authority, tribe or TDHE units eligible for funding.

(1) PHAs. (a) The unit count includes rental, Turnkey III Homeownership, and Section 23 leased housing bond-financed projects. Eligible units are those that are under management and fully developed, and must be covered by an ACC during the period of grant award. In determining unit count for PHA-Owned Rental Housing, a long-term vacancy unit as defined in 24 CFR 990.102 is included in the count.

(b) PHAs preparing PHDEP applications are required to confirm/validate the unit count with the local Field Office (Office of Public Housing) before you submit your application. Field Offices shall not include non-Federally Assisted Housing located in High Intensity Drug-Trafficking Areas in the unit count. Confirmation/Validation may be given if the unit count to be used for a particular program (e.g., PHA-Owned Rental) is the same as the unit count reflected on a PHA's most recently approved Operating Budget (Form HUD-52564) and/or subsidy calculation (Form HUD-52723) submitted for that program. Field Offices that have PHAs that are not required to submit either of these forms may confirm/validate the PHDEP unit count if it is the same as the most recently submitted Form HUD-51234. Field Offices in validating the unit count shall not include Non-Federally Assisted Housing units located in High Intensity Drug-Trafficking Areas.

(2) Tribes and TDHEs. (a) The unit count includes rental, Turnkey III and Mutual Help Homeownership units which have not been conveyed to a homebuyer, and Section 23 lease housing bond-financed projects. Such units must be counted as Current Assisted Stock under the Indian Housing Block Grant Program.

(b) Eligible units are those units which are under management and fully developed. However, you should note that in determining the unit count for PHA-owned or Native American rental housing, a long-term vacancy unit, as defined in 990.102 or 24 CFR 950.102 (as revised May 1, 1996), is still included in the count. If you are an applicant for Native American housing developments, you must certify that the targeted units were covered by an Annual Contributions Contract (ACC) on September 30, 1997.

(c) Use the number of units counted as Formula Current Assisted Stock for Fiscal Year 1999 as defined in 24 CFR 1000.316.

(3) FY 1999 grant award amounts. (i) If you are a PHA, Tribe, or TDHE with 1-1,250 units: The maximum grant award cap is \$300.00 multiplied by the number of eligible units.

(ii) If you are a PHA, Tribe, or TDHE with 1,251-24,999 units: The maximum grant award is \$260.00 multiplied by the number of eligible units.

(iii) If you are a PHA, Tribe, or TDHE with 25,000-49,999 units: The maximum grant award is \$230.00 multiplied by the number of eligible units.

(iv) If you are a PHA, Tribe, or TDHE with 50,000 or more units: The grant award is \$200.00 multiplied by the number of eligible units; up to, but not to exceed, a maximum grant award of \$35 million.

You can not apply for more funding than is permitted in accordance with the maximum grant award amounts described above. If you request funding that exceeds the maximum grant award amount permitted your application will be rejected and you will not be eligible for any funding, unless a computational error was involved in the funding request.

##### (B) Complying With Civil Rights Requirements

To protect and insure the civil rights of occupants of HUD-sponsored housing and residents around that housing, your proposed strategies should ensure that you do not undertake crime-fighting and drug prevention activities that violate civil rights and fair housing statutes. You may not use race, color, sex, religion, national origin, disability or familial status to profile persons as suspects or otherwise target them in conducting these activities. You are encouraged to involve as many segments of your intended population as possible in developing and implementing your strategies.

##### (C) Section 3 Economic Opportunity

Please see Section II of the General Section of this SuperNOFA. Section 3 may be applicable to some of your activities funded by this PHDEP NOFA.

##### (D) Confidentiality of Records Requirements

You must establish a confidentiality policy regarding medical and disability-related information for programs involving prevention, intervention, or substance abuse/dependency treatment and aftercare.

##### (E) Commingling of Funds

Housing authorities must not commingle funds of multiple HUD programs including: CIAP; CGP; OTAR; EDSS; TOP; IHBG; HOPE projects; Family Investment; Elderly Service Coordinator; and Operating Subsidy.

*(F) Term of Grant*

Your grant funds must be expended within 24 months after HUD executes a Grant Agreement. There will be no extensions of this grant term and at the end of the grant term all unspent funds will be returned to HUD.

*(G) Reports and Closeout*

(1) In accordance with 24 CFR 761.35, if funded, you are required to submit semiannually a PHDEP Semi-Annual Performance Report and the Semi-Annual Financial Status Report (SF-269A) to the appropriate HUD Field Office.

(2) In the past, the PHDEP Semi-Annual Performance report was often referred to as the "narrative" report. For FY 1999 PHDEP grants, HUD will be requiring more specific data to facilitate providing more meaningful performance information to comply with the requirements of the Government Performance and Results Act (GPRA), and to provide greater assurance that the program activities undertaken are effective in reducing drugs and drug-related or violent crime in areas targeted by PHDEP funds. These reports will evaluate your overall performance under the grant, against the baselines and goals and objectives contained in your approved FY 99 application.

(3) For FY 1999 grants, HUD will require selected applicants to report semiannually on their progress in reducing drugs and drug-related crime using the objective Part I and Part II crime data as a baseline and the specific percentage reduction goals within targeted areas over the 24 month grant period as stated in your application. HUD will also be requiring you to report the number of full-time equivalent positions for law enforcement and security services. Thirdly, you will be reporting on PHDEP-supported activities for residents broken out by: (1) youth; and (2) adults, families, or communities. For each category of PHDEP-supported activities, other than law enforcement, you will be required to report program or activity goals that are specific, measurable and were contained in your application, the results achieved and the total hours of participation in the activity. Lastly, you will be required to have an independent survey organization conduct an annual resident survey within the PHDEP targeted developments to determine if residents feel safer than before PHDEP activities began.

(4) These PHDEP Semi-Annual Performance Reports shall cover the periods ending June 30 and December 31, and must be submitted to HUD by

July 30 and January 31 of each year. You must submit these reports electronically. Access to grants funds will be denied if these reports are not received on a timely basis.

(5) At grant completion, you must comply with the closeout requirements described in Public Housing Notice PIH 98-60 (HA), entitled "Grant Closeout Procedures," and, when appropriate, in the return of grant funds not expended according to applicable requirements.

*(H) Affirmatively Furthering Fair Housing*

The first two sentences of the requirement in Section II.(D) of the General Section of this SuperNOFA do not apply to this program.

**V. Application Selection Process***(A) Rating and Ranking*

(1) *General.* HUD will rate and rank applications based on the 5 rating factors listed in Section V(B) of this PHDEP section of the SuperNOFA, below. HUD will select and fund the highest ranking applications based on total score, and continue the process until all funds allocated to it have been awarded or to the point where there are insufficient acceptable applications for to award funds. The maximum number of points for this program is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA, and included under Rating Factor 3.

(2) *Tiebreakers.* In the event of a tie, HUD will select the highest ranking application that can be fully funded. In the event that two eligible applications receive the same score, and neither can be funded because of insufficient funds, the applicant with the highest score in rating factor two will be funded. If rating factor two is scored identically, the scores in rating factors one and four will be compared in that order, until one of the applications receives a higher score. If both applications still score the same then the application which requests the least funding will be selected in order to promote the more efficient use of resources.

(B) *Factors For Award to Evaluate and Rank Applications.* Your application must address the five (5) factors, and subfactors listed below. The maximum number of points for this program is 102. This includes the two bonus points for EZ/EC. Your application must receive a score of at least 70 points to be eligible for funding.

**Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)**

This factor addresses the extent to which you have the capacity, the proper organizational experience and resources to implement the proposed activities in a timely and effective manner. The rating of the "applicant" or the "applicant's organization and staff" for technical merit, unless otherwise specified, includes any subcontractors, consultants, subrecipients, and members of consortia which are firmly committed to your project. In rating this factor, HUD will consider the following:

(1) (10 points.) The knowledge and experience of your staff and your administrative capability to manage grants of this size and type. This includes your administrative support and procurement entities, defined organizational lines of authority, and demonstrated fiscal management capacity.

(2) (10 points.) Past performance in administering Drug Elimination grants and/or other Federal, state or local grants of similar size and complexity during the last 3 years.

You must identify your participation in HUD grant programs within the last three years and discuss the degree of your success in implementing planned activities, achieving program goals and objectives, timely drawdown of funds, timely submission of required reports with satisfactory outcomes within budget and schedule, audit compliance, whether there are, and the extent of any, unresolved findings and/or outstanding recommendations from prior HUD reviews or audits undertaken by HUD, HUD-Office of Inspector General, the General Accounting Office (GAO) or independent public accountants (IPAs). For PHAs (and TDHEs that had previously applied as IHAs), HUD will consider the results of: PHMAP and more specifically Security Indicator #8, physical inspections, agency monitoring of records, Line of Credit Control System Reports (LOCCS) on the status of prior grants, audits and other relevant information available to HUD on your capacity to undertake this grant.

In response to HUD-OIG audit findings concerning outstanding, unexpended PHDEP funds remaining from prior grants, HUD will reduce your score by two (2) points for every open PHDEP grant for FY 91 through FY 95 without HUD approved extensions or waivers. HUD will use the LOCCS disbursement system as of the date the application is received to verify grant status.

**Rating Factor 2: Need/Extent of the Problem (25 Points)**

This factor examines the extent to which there is a need for funding the proposed program activities to address a documented problem in your proposed target area (i.e., the degree of the severity of the drug-related crime problem in the project proposed for funding). In responding to this factor, you will be evaluated on: (1) the extent to which a critical level of need for your proposed activities is explained; and (2) the urgency of meeting the need in the target area. You must include in your response a description of the extent and nature of drug-related crime "in or around" the housing units or developments proposed for funding.

Applicants will be evaluated on the following:

(1) (20 points) "Objective Crime Data" relevant to your target area. To the extent that you can provide objective drug-related crime data specific to the community or targeted development proposed for funding, you will be awarded up to 20 points. Objective crime data must include the most current and specific Part I Crime data and relevant Part II Crime data available from the FBI's Uniform Crime Reporting Program (UCR) system or the local law enforcement's crime statistics. Part I Crimes include: homicide; rape; robbery; aggravated assault; burglary; larceny; auto theft; and arson. Part II drug-related crimes include: drug abuse violations; simple assault; vandalism; weapons violations; and other crimes which you are proposing to be targeted as part of your grant. In assessing this subfactor, HUD will consider the extent of specificity that the statistical data is provided and the data's specificity to the targeted sites (e.g., data specific to those targeted developments proposed for funding by Part I crime type versus HA/TDHE-wide data by aggregated Part I crimes).

The objective crime data provided in your application will become a "baseline" against which the success of your grant activities will be measured if funded. You will also be required to report not only this objective crime data in your first PHDEP Semiannual Performance Report but your goal(s) for reducing drug-related crime in the developments targeted under your grant. Your grant will be measured against these targets. This information will also support the ONDCP's National Drug Control Strategy's Goal 2 to, "increase the safety of America's citizens by substantially reducing drug-related crime and violence."

If you can not provide objective crime data, you will receive 5 points for including:

- (a) The reasons why objective crime data can not be obtained;
- (b) The efforts being made to obtain it;
- (c) What efforts will be made during the grant period to begin obtaining the data; and
- (d) An explanation of how you plan to measure how grant activities will result in reducing drug-related crime in the targeted developments and what will be used as a baseline. If you can not provide objective crime data and are awarded an FY 99 PHDEP grant, you will be required to provide baseline objective crime data in your first PHDEP semi-annual report. Such data may include police records or other verifiable information from records on the types or sources of drug related crime in the targeted developments and surrounding area, PHA/Tribe or TDHE wide, or at jurisdictional level.

(2) (5 Points) *Other Data Supporting the extent of Drug and Drug-related Crime*. You must identify supporting data indicating the extent of drugs and drug-related crime problems in the developments proposed for assistance under your program. HUD will consider the extent and quality of the data provided. Examples of the data include:

- (a) Surveys of residents and staff in your targeted developments about drugs and drug-related crime or on-site reviews to determine drug/crime activity;

- (b) Government or scholarly studies or other research in the past year that analyze drug-related crime activity in your targeted developments.

- (c) Annual vandalism cost at your targeted developments, to include elevator vandalism (where appropriate) and other vandalism attributable to drug-related crime as a ratio to total annual approved budget for the targeted developments.

- (d) Information from schools, health service providers, residents and Federal, State, local, and Tribal officials, and the verifiable opinions and observations of individuals having direct knowledge of drug-related crime and the nature and frequency of these problems in developments proposed for assistance. (These individuals may include Federal, State, Tribal, and local government law enforcement officials, resident or community leaders, school officials, community medical officials, substance abuse, treatment (dependency/remission) or counseling professionals, or other social service providers).

- (e) The school dropout rate and level of absenteeism for youth that you can relate to drug-related crime as a

percentage or ratio of the rate outside the area.

(f) To the extent that your community's Consolidated Plan identifies the level of the problem and the urgency in meeting the need, references to these documents should be included in your response. The Department will review more favorably applicants who used these documents to identify need, when applicable.

(g) The number of lease terminations or evictions for drug-related crime at the targeted developments; and

(h) The number of emergency room admissions for drug use or that result from drug-related crime. Such information may be obtained from police Departments and/or fire departments, emergency medical service agencies and hospitals.

(i) The number of police calls for service from housing authority developments that include resident initiated calls, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles. You should show these as a ratio of calls for service to calls in the community as a whole.

**Rating Factor 3: Soundness of Approach—(Quality of the Plan) (35 Points)**

This factor examines the quality and effectiveness of your proposed work plan. In rating this factor, HUD will consider the impact of your activities on the drug and drug-related crime problems identified in Factor 2 and the extent to which you identify attainable goals, objectives, and performance measures to ensure that; tangible benefits can be attained by the community and by your target population.

Your application must include a detailed narrative describing: each proposed activity for your developments proposed for assistance; the amount and extent of resources committed to each activity or service proposed; measurable goals and objectives for all major program activities that focus on outcome and results; and the process used to collect the data needed to report progress made against these goals.

In evaluating this factor, HUD will consider the following:

(1) The quality of your plan to address the drug-related crime problem, and the problems associated with drug-related crime in your developments proposed for funding, the resources allocated, and how well the proposed activities fit with the plan, including:

(a) The extent to which you have stated:

(i) Performance goals that will measure program outcomes;

(ii) The actual baseline data which will establish a starting point against which program outcomes will be measured and stated expected results for all major grant activities proposed in your application;

(iii) What performance measurement system exists for providing information to HUD semi-annually on progress made in achieving the established outcome goals. Please note: If your application is funded, this information will be the basis for required semi-annual reporting throughout your grant period.

(b) The extent to which you have designed your major activities to meet stated, measurable goals and objectives for drug and drug-related crime reduction. The extent to which your goals and objectives focus on program outcomes and results in addition to "process or output" data measures. While measures of process or outputs (number of residents trained) are important, they do not measure program outcomes. Outcomes include accomplishments, results, impact, and the ultimate effects of your program on the drug or crime problem in your target/project area. The goals must be objective, quantifiable, and/or qualitative and they must be stated in such a way that at the end of the 24 month grant, one can determine if the activities were effective.

(c) The extent and quality of your plan in defining specific crime reduction goals that are specific and measurable, and defining "baselines from objective crime" data in Factor 2. For example, eliminate or reduce crime and drug-related crime is not specific nor measurable, whereas a goal of, "reducing Part I reported homicides or Part II drug abuse, etc. by 5% in development X by the end of the 24 month grant period based on measurements against the baseline year crime selection rate in the targeted development X as stated in the application," is specific and measurable.

(d) The rationale for your proposed activities and methods used including evidence that proposed activities have been effective in similar circumstances in controlling drug-related crime. If you are proposing new methods for which there is limited knowledge of the effectiveness, you should provide the basis for modifying past practices and rationale for why you believe the modification will yield more effective results.

If you are proposing PHDEP supported activities for residents, HUD will evaluate the quality and extent to which you provide measurable, specific and objective goals and objectives for your major activities and programs; and how the data to measure success against your goals will be obtained. HUD will award greater points if you report youth activities separately from activities for families, adults, or communities.

(2) Two bonus points will be awarded for EZs/ECs as described in the General Section of this SuperNOFA. For bonus points related to activities located in Empowerment Zones or Enterprise Communities, the applicant must demonstrate that there is a connection between such EZ or EC and tenant, local government, and local community support and participation in the design and implementation of the proposed activities to be funded under this program.

Rating Factor 4: Leveraging Resources—(Support of Residents, the Local Government and the Community in Planning and Implementing the Proposed Activities) (10 Points)

This factor addresses your ability to secure community and government resources that can be combined with HUD's program resources to achieve program purposes.

(1) In assessing this factor, HUD will consider the following:

(a) Evidence of commitment of funding, staff, or in-kind resources, partnership agreements, and on-going or planned cooperative efforts with law enforcement agencies, memoranda of understanding, or agreements to participate. Such commitments must be signed by an official of the organization legally able to make commitments for the organization.

(b) This evidence of commitment must include organization name, resources, and responsibilities of each participant. This also includes interagency activities already undertaken, participation in local, state, Tribal or Federal anti-drug related crime efforts such as: education, training and employment provision components of Welfare Reform efforts, "One Strike and You're Out," Operation Weed and Seed, Neighborhood Networks, Campus of Learners, Computerized Community Connections, Operation Safe Home, Safe Neighborhood Anti-drug Program (SNAP), local law enforcement initiatives and/or successful coordination of its law enforcement, or other activities with local, state, Tribal or Federal law enforcement agencies. Additional points will be given if your

activities supporting these efforts extend beyond the 24 month grant period.

(2) In evaluating this factor, HUD will also consider the extent to which these initiatives are used to leverage resources for your housing authority community, and are part of the comprehensive plan and performance measures outlines in Rating Factor 3, Soundness of Approach—Quality of the Plan.

(a) Your application must describe what role residents in your targeted developments, applicable community leaders and organizations, and law enforcement agencies have had in planning the activities described in your application and what role they will have in carrying out such activities.

(b) Your application must include a discussion of the extent to which community representatives and Tribal, local, state and Federal Government officials, including law enforcement agency officials were actively involved in the design and implementation of your plan and will continue to be involved in implementing such activities during and after the period of your PHDEP funding.

(c) Your application must demonstrate the extent to which the relevant governmental jurisdiction has met its local law enforcement obligations under the Cooperation Agreement with your organization (as required by the Annual Contributions Contract with HUD). You must describe the current level of baseline local law enforcement services being provided to your housing authority/developments proposed for assistance.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you have coordinated your activities with other known organizations, participate or promote participation in your Community's Consolidated Planning Process, and is working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in your community. In evaluating this factor, HUD will consider the extent to which you can demonstrate you have:

(1) Coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support and coordinate all known activities and if funded, the specific steps you will take to share information on solutions and outcomes with others. Any written agreements, memoranda of understanding in place, or that will be in place after award should be described.

(2) Taken or will take specific steps to become active in your community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities you propose.

(3) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other Federal, State, or locally funded activities, including those proposed, or on-going in the community.

## VI. Application Submission Requirements

(A) You must comply with the submission requirements described in the General Section of the SuperNOFA. To qualify for a grant under this program, your application submitted to HUD must also include those requirements listed under Section V., above, of the PHDEP section of this SuperNOFA, including the plan to address the problem of drug-related crime in the developments proposed for funding. You must accurately complete the form for HUD's application database entry. The form, with examples, is provided in the application kit.

(B) You must submit no more than one application per housing authority (or per Tribe or TDHE on behalf of the Tribe) for each drug elimination program contained in this PHDEP section of the SuperNOFA. In addition, joint applications that include more than one housing authority (or TDHE representing the Tribe) are permitted only in those cases where the HAs have a single administration (such as HAs managing another HA under contract or HAs sharing a common executive director). In those cases, a separate budget, plan and timetable, and unit count shall be supplied in the application. In addition, you must respond to the factors for award for each HA for which you are acting as administrator and requesting funds, if your responses would be different (e.g., the HAs are in different jurisdictions and, therefore, the Consolidated Plans, crime data, etc. would all be different). The application kit includes the forms, certifications and assurances listed in the General Section of the SuperNOFA.

(C) Each PHDEP application must conform to the requirements of this PHDEP section of the SuperNOFA and

the PHDEP application kit, both in format and content. Each PHDEP application must include the following items:

(1) An application cover letter.

(2) A summary of the proposed program activities in five (5) sentences or less.

(3) A description of the subgrantees, if applicable. The description must include the names of the subgrantees, as well as the relative roles and contributions of each subgrantee in implementing the PHDEP grant activities.

(4) An overall budget and timetable that includes separate budgets, goals, and timetables for each activity, and addresses milestones towards achieving each described goal. You must also describe the contributions and implementation responsibilities of each partner for each activity, goal, and milestone.

(5) A description of the number of staff, the titles, professional qualifications, and respective roles of the staff assigned full or part-time to grant implementation.

(6) Your plan and lines of accountability (including an organization chart) for implementing the grant activity, coordinating the partnership, and assuring that the commitment made by you and your subgrantees will be met.

## VII. Corrections to Deficient Applications

The General Section of this SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

It is anticipated that activities under the PHDEP will be categorically excluded under 24 CFR 50.19(b)(4), (b)(12), or (b)(13). If grant funds will be used to cover the cost of any non-exempt activities, HUD will perform an environmental review to the extent required by 24 CFR part 50, prior to grant awards.

## IX. Authority

Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq), as amended by section 581 of the National Affordable Housing Act of 1990 (Pub.L. 101-625, approved November 28, 1990) (NAHA), and section 161 of the Housing and Community Development Act of 1992 (Pub.L. 102-550, approved October 28, 1992 (HCDA 1992)). The regulations for this program are found in 24 CFR part 761, Drug Elimination Programs.

## Appendix A

Additional Information on High Intensity Drug Trafficking Areas (HIDTAs). These areas

are designated as HIDTAs by the Director, Office of National Drug Control Policy (ONDCP), pursuant to the Anti-Drug Abuse Act of 1988. As of October 30, 1998, the following areas were confirmed by the ONDCP as designated HIDTAs:

- New York/New Jersey HIDTA consists of the city of New York and all the municipalities therein and Nassau, Suffolk, and Westchester Counties (in New York), and Union, Hudson, Essex, Bergen, and Passaic Counties (in New Jersey) and all municipalities therein.
- Washington, DC/Baltimore HIDTA consists of Washington, DC; the City of Baltimore, and Baltimore, Howard, Anne Arundel, Prince George's, Montgomery and Charles Counties (in Maryland); and the City of Alexandria, and Arlington, Fairfax, Prince William, and Loudoun Counties (in Virginia) and all municipalities therein.
- South Florida HIDTA consists of the city of Miami and the surrounding areas of Broward, Dade, and Monroe Counties and all municipalities therein.
- Houston HIDTA consists of the city of Houston and surrounding areas of Harris, and Galveston Counties, and Aransas, Brooks, Jim Wells, Kenedy, Kleberg, Nueces, Refugio, San Patricio, and Victoria counties, and all municipalities therein;
- Lake County HIDTA consists of Lake County, Indiana, and all municipalities therein.
- Gulf Coast HIDTA consist of Baldwin, Jefferson, Mobile, and Montgomery Counties (in Alabama); Caddo, East Baton Rouge, Jefferson, and Orleans Parishes (in Louisiana); and Hancock, Harrison, Hinds, and Jackson Counties (in Mississippi) and all the municipalities therein.
- Midwest HIDTA consists of Muscatine, Polk, Pottawattamie, Scott and Woodbury Counties (in Iowa); Cherokee, Crawford, Johnson, Labette, Leavenworth, Saline, Seward, and Wyandotte Counties (in Kansas); Cape Garardeau, Christian, Clay, Jackson, Lafayette, Lawrence, Ray, Scott, and St. Charles Counties, and the City of St. Louis (in Missouri); Dakota, Dawson, Douglas, Hall, Lancaster, Sarpy, and Scott's Bluff Counties (in Nebraska); Clay, Codington, Custer, Fall River, Lawrence, Lincoln, Meade, Minnehaha, Pennington, Union, and Yankton Counties (in South Dakota); and all municipalities therein.
- Rocky Mountains HIDTA consists of Adams, Arapahoe, Denver, Douglas, Eagle, El Paso, Garfield, Jefferson, La Plata, and Mesa Counties (in Colorado); Davis, Salt Lake, Summit, Utah, and Weber Counties (in Utah); and Laramie, Natrona, and Sweetwater Counties (in Wyoming) and all municipalities therein.
- Southwest Border HIDTA consists of San Diego and Imperial Counties (in California), and all municipalities therein; Yuma, Maricopa, Pinal, Pima, Santa Cruz, and Cochise Counties, (in Arizona) and all municipalities therein; Bernalillo, Hidalgo, Grant, Luna, Dona Ana, Eddy, Lea, and Otero, Chaves, and Lincoln counties, (in New Mexico) and all municipalities therein; El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Crockett Counties (in West Texas) and all

- municipalities therein; Bexar, Val Verde, Kinney, Maverick, Zavala, Dimmit, La Salle, Webb, Zapata, Jim Hogg, Starr, Hildago, Willacy and Cameron Counties (in South Texas) and all municipalities therein.
- Northwest HIDTA consists of King, Pierce, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties (in the State of Washington) and all municipalities therein.
- Los Angeles HIDTA consists of the city of Los Angeles and surrounding areas of Los Angeles, Orange, Riverside, and San Bernadino Counties, and all municipalities therein.
- Puerto Rico/U.S. Virgin Islands HIDTA consists of the U.S. territories of Puerto Rico and the Virgin Islands.
- San Francisco Bay Area HIDTA consists of Alameda, Contra Costa, Lake, Marin, Monterey, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma counties and all the municipalities therein.
- Appalachia HIDTA consist of Adair, Bell, Breathitt, Clay, Clinton, Cumberland, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, McCreary, Magoffin, Marion, Monroe, Owsley, Perry, Pike, Pulaski, Rockcastle, Taylor, Wayne, and Whitley counties in Kentucky; Boone, Braxton, Cabell, Gilmer, Lewis, Lincoln, Logan, Mason, McDowell, Mingo and Wayne Counties in West Virginia, Bledsoe, Campbell, Claiborne, Clay, Cocke, Cumberland, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hancock, Hawkins, Jackson, Jefferson, Macon, Marion, Overton, Pickett, Putnam, Rhea, Scott, Sequatchie, Sevier, Unicoi, Van Buren and White Counties in Tennessee and all the municipalities therein.
- Central Florida HIDTA consists of Hillsborough, Orange, Osceola, Pinellas, Polk, Seminole, and Volusia counties and all the municipalities therein.
- Chicago HIDTA consists of Cook County, incorporating the City of Chicago.
- Atlanta HIDTA consists of Fulton, Dekalb counties and the City of Atlanta.
- Milwaukee HIDTA consists of Milwaukee county and all the municipalities therein.
- Southeastern Michigan HIDTA consists of Wayne, Oakland, Macomb, and Washtenaw counties and all the municipalities therein.
- Philadelphia/Camden HIDTA: consists of the Cities of Philadelphia and Camden.
- North Texas HIDTA consists of the cities of Dallas and Fort Worth, the surrounding counties of Collin, Dallas, Ellis, Henderson, Hood, Hunt, Johnson, Lubbock, Kaufman, Parker, Rockwall and Tarrant, Texas and all the municipalities therein.

For further information on HIDTAs contact Rich Yamamoto, at the ONDCP, Executive Office of the President, Washington, DC 20500 on (202) 395-6755 and/or Catherine S. Barker on (202) 395-6603, fax (202) 395-6841.

**BILLING CODE 4210-32-P**

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**PUBLIC HOUSING DRUG  
ELIMINATION -- NEW APPROACHES**



## Funding Availability for the New Approach Anti-Drug Program (Formerly Known as the Safe Neighborhood Grant Program)

### Program Overview

**Purpose of the Program.** The purpose of this program is to provide funding to owners or managers of certain housing developments to: (1) augment security; (2) assist in the investigation and prosecution of drug-related criminal activity in and around the housing developments; and (3) provide for the development of capital improvements directly relating to the security of the developments. With these grants, HUD is taking a comprehensive neighborhood/community-based approach to crime prevention. In applying, you will be required to demonstrate that you have formed a partnership with units of general local government, including with the local law enforcement agency to play key roles in this partnership.

**Available Funds.** Approximately \$28.3 million, which includes FY 1998 carryover funds.

**Eligible Applicants.** Eligible applicants include: units of general local government, public housing agencies (PHAs), Indian tribes or Tribally Designated Housing Entities (TDHEs), and owners of assisted housing developments. To be an eligible applicant you must be an owner of an assisted housing development, as defined in this program section of the SuperNOFA, except a unit of general local government may qualify if it operates an assisted housing development. The assisted housing development that makes a PHA eligible may not be assisted under the United States Housing Act of 1937 with the exception of project-based Section 8 assistance. Similarly, for an Indian tribe or a TDHE, the development may not be formerly assisted under those programs.

**Application Deadline.** July 1, 1999.

**Match.** None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

**Application Due Date.** Your application must be physically received on or before 6:00 pm, local time on July 1, 1999 at the address shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.** An original and two copies of your application must be physically received on or before the application deadline at the local HUD Field Office, Attention: Director of Multifamily Housing Programs or, in the case of the Native American population, to the local HUD Administrator, Area Offices of Native American Programs (AONAPs), as appropriate. See Appendix A to this NOFA for a list of local HUD Field Offices, AONAPs, and their respective jurisdictions.

**For Application Kits.** For an application kit and any supplemental information, please call the SuperNOFA Information Center at 1-800-HUD-8929. When requesting an application kit, please refer to the New Approach Anti-Drug Program, and provide your name, address (including zip code) and telephone number (including area code). Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. An application kit also will be available on the Internet through the HUD web site at <http://www.HUD.gov>.

**For Further Information and Technical Assistance.** For program, policy, and other guidance, contact Henry Colonna, Department of Housing and Urban Development, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230-4920, telephone (804) 278-4500, x 3027, or (804) 278-4501 (the TTY number).

## II. Amount Allocated

### (A) Available Funding

Approximately \$28.3 million is available for funding under the New Approach Anti-Drug Program, as provided in the FY 1999 Appropriations Act, including FY 1998 carryover funding.

### (B) Maximum Grant Award

The maximum grant award amount is limited to \$250,000 per application.

### (C) Reduction of Requested Grant Amounts

You may be awarded an amount less than requested if:

- (1) HUD determines that some elements of the proposed action plan are ineligible for funding;
- (2) HUD determines the amount requested for an eligible activity and/or any budget line item is not cost effective;
- (3) Insufficient amounts remain under the allocation to fund the full amount you requested, and HUD determines that partial funding is a viable option; or

(4) HUD determines that a reduced grant would prevent duplicative Federal funding.

## III. Definitions, Program Description; Eligible Applicants; Eligible Activities

### (A) Definitions

(1) **Assisted Housing Development.** For purposes of this program, the term "assisted housing development" means five or more dwelling units in a building or five or more adjoining, adjacent, or scattered site (within a single neighborhood) dwelling units, having common ownership and project identity. Some or all of the units must be receiving a project-based subsidy from a unit of government at the Federal, State, or local level, or from a private nonprofit entity. This subsidy must be associated with a requirement and/or contractual agreement that all or a portion of the units be occupied by households with incomes at or below those of families at the low-income limit as defined by the United States Housing Act of 1937.

(2) **Assisted Housing Unit.** For purposes of this program, the term "assisted housing unit" means a unit within an assisted housing development for which occupancy is restricted to households with incomes at or below that of "low-income families" as defined by the U.S. Housing Act of 1937 or to households meeting an income standard below that defined as "low-income;" and rents are restricted to amounts that the public or nonprofit entity determines to be affordable.

(3) **Augmented Services.** For purposes of this program, augmented services are activities which exceed current levels of services or "baseline" services provided by any other parties signing the memorandum of understanding required for this program.

(4) **Drug-related crime.** For purposes of this New Approach Anti-Drug Program, the term "drug-related crime" means drug-related crime as defined in 42 U.S.C. 11905(2) and Part I Crime and Part II Crime as defined by the Uniform Crime Reporting System.

(5) **Eligible project area.** For purposes of the New Approach Anti-Drug Program, the term "neighborhood" means a geographical area within a jurisdiction of a unit of general local government designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation. If, however, the unit of general local government has a population of less than 25,000 persons, then "neighborhood" means

the entire jurisdiction of the unit of general local government.

(c) A project area must include at least one assisted housing development under:

(i) Section 221(d)(3), section 221(d)(4), or section 236 of the National Housing Act (12 U.S.C. 1715l, 1715z-1), provided that such development has been provided a Below Market Interest Rate mortgage, interest reduction payments, or project-based assistance under Rent Supplement, Rental Assistance Payments (RAP) or Section 8 programs. An FHA-insured project that has no project-based subsidy does not qualify as an area for eligibility even though it houses tenants receiving tenant-based assistance, such as Section 8 rental vouchers or certificates.

(ii) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(iii) Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). This includes housing with project-based Section 8 assistance, whether or not the mortgage was insured by HUD-FHA, but does not include projects which receive only Section 8 tenant-based assistance (i.e., certificates or vouchers).

(5) *Project-based Subsidies.* For purposes of this program, the term "project-based subsidies" means financial assistance that is initially designated and assigned by the funding source specifically for the project rather than to eligible assisted resident households which might also benefit from these subsidies, and provided on a one time up-front or on a periodic basis to the project or its owner to write down, subsidize, or waive: project development costs; costs of financing; project operating costs (including but are not limited to: utilities, taxes, fees, maintenance and debt service payments); owner taxes; unit rent levels; or tenant rent payments.

#### (B) Program description

(1) *Purpose.* The purpose of these competitive grants is to assist entities managing or operating Federally assisted multifamily housing developments, public and Indian housing developments (including those Indian housing units formerly defined as public housing under section 3 of the U.S. Housing Act of 1937 and now counted as current assisted stock under the Indian Housing Block Grant Program), or other multifamily-housing developments for low-income families supported by non-Federal governmental housing entities or similar housing developments supported by nonprofit private sources, to augment security

(including personnel costs); assist in the investigation and/or prosecution of drug-related criminal activity in and around such developments, and provide for capital improvements that enhance security at these developments.

Drug- and crime-fighting activities, if only directed to a single assisted housing development, may have the unfortunate effect of simply moving the problem to nearby housing and businesses. The long term solution to the crime problems of assisted housing developments and their surrounding neighborhoods rest in a comprehensive approach that changes the conditions—and the culture that exists. HUD believes that crime fighting efforts are most effective when partnering takes place with law-enforcement agencies at various levels and with a full range of community stakeholders (such as PHAs and TDHEs). Therefore, to address crime in a comprehensive manner to receive funding, you must take the following actions:

(a) Have a subgrantee or subrecipient relationship with the local police department and the local district attorney or prosecutor's office. If the local police department, local district attorney or prosecutor's office does not have the legal authority to accept program funds or enter into a binding agreement with you, then you must provide funds through the unit of general local government—city or county.

(b) Enter into Memorandums of Understanding with the owners of, and resident organizations in, assisted housing developments that receive grant funds from you.

(c) Encourage other neighborhood based entities to participate in your program of activities through partnership arrangements. Such entities are community residents; neighborhood businesses; and non-profit providers of support services, including spiritually-based organizations and their affiliates.

(2) *Implementation Principles.* HUD has established the following principles in implementing the New Approach Anti-Drug Program Grants:

(a) *Comprehensive Approach.* With these grants, HUD is taking a comprehensive neighborhood/community-based approach to crime. The long term solution to the crime problems of assisted housing developments and their surrounding neighborhoods rests in changing the conditions—and the culture that exists.

(b) *Required Partnerships.* You will be required to demonstrate that you have formed a partnership with units of general local government, with the local police department and the local district

attorney or prosecutor's office playing key roles in this partnership. You must also form partnerships with the following entities, if they will receive funding from you:

(i) All owners of assisted housing developments in the targeted neighborhood; and

(ii) Resident organizations of these assisted housing developments.

(c) *Encouraging Partnerships.* (i) HUD encourages the use of effective working partnerships in new locations to leverage the many Federal resources that are available to eliminate crime in and around public and assisted housing developments through the Drug Elimination Grant, Operation Safe Home, and Weed and Seed programs; and partnering with the U.S. Attorney's Office, the Federal Bureau of Investigation, and the Drug Enforcement Agency. HUD now wishes to encourage these successful partnerships to address similar problems in and around privately-owned, Federally assisted housing. In addition to providing points for applications with these partnerships, HUD is requiring that at least one project in each targeted neighborhood be multifamily housing with either:

(A) A HUD-insured, held, or direct mortgage and Rental Assistance Payments (RAP), Rent Supplement, or interest reduction payments; or

(B) Section 8 project-based assistance with or without HUD interest in the project mortgage.

(ii) This emphasis on HUD assisted privately-owned housing does not negate the eligibility of other low-income housing developments assisted by Federal, State, and local government, and not-for-profit sources to apply for the New Approach Anti-Drug Program. By awarding points for neighborhoods with high concentrations of assisted housing, HUD is encouraging you to address the needs of multiple assisted housing developments which may feature a mix of ownership types and subsidy sources.

(d) *Complying with Civil Rights Requirements.* With the very real need to protect occupants of HUD-sponsored housing and the areas around the housing, the civil rights of all citizens must be protected. Your proposed strategies should be developed to ensure that crime-fighting and drug prevention activities are not undertaken in such a manner that civil rights or fair housing statutes are violated. Profiling on any prohibited basis is not allowed. In addition, all segments of the population should be represented in developing and implementing crime-fighting strategies.

(e) *Coordination with Other Law Enforcement Efforts.* In addition to working closely with residents and local governing bodies, it is critically important that owners establish ongoing working relationships with Federal, State, and local law enforcement agencies in their efforts to address crime and violence in and around their housing developments. HUD firmly believes that the war on crime and violence in assisted housing can only be won through the concerted and cooperative efforts of owners and law enforcement agencies working together in cooperation with residents and local governing bodies. HUD encourages owners to participate in Departmental and other Federal law enforcement agencies' programs such as: Operation Safe Home, Operation Weed and Seed through the Department of Justice and the Safe Neighborhood Action Program (SNAP). The use of New Approach Anti-Drug funds, however, is to be part of a comprehensive approach. These funds may indirectly support other Federal law enforcement activities provided that use is consistent with the comprehensive approach.

(f) *Safe Neighborhood Action Program (SNAP) Grants.* (i) The New Approach Anti-Drug Program was formerly known as the Safe Neighborhood Action Program, announced June 12, 1994 by HUD, the National Assisted Housing Management Association (NAHMA), and the U.S. Conference of Mayors (USCM). The New Approach Anti-Drug Program was expanded from the SNAP Program to include funds to augment security; assist in the investigation and prosecution of drug related criminal activity in and around the housing developments; and provide for the development of capital improvements directly related to the security of the developments. SNAP is an anti-crime and empowerment strategies initiative in HUD assisted housing neighborhoods in 14 SNAP cities. The major thrust of SNAP is the formation of local partnerships in 14 targeted cities where ideas and resources from government, owners and managers of assisted housing, residents, service providers, law enforcement officials, and other community groups meet to work on innovative, neighborhood anti-crime strategies.

(ii) There is no funding associated with SNAP, which relies on existing ideas and resources of the participants. Some common initiatives from these SNAP teams have included the following: community policing; crime watch programs; tenant selection policies; leadership training; individual development or job skills training;

expansion of youth activities; police tip line or form; community centers; anti-gang initiatives; police training for security officers; environmental improvements; and a needs assessment survey to determine community needs.

(iii) In addition, a HUD-sponsored initiative to increase the presence of AmeriCorps' VISTAs in assisted housing units has led to the placement of 25 VISTAs on 12 SNAP teams. The AmeriCorps VISTA program, which incorporates a theme of working within the community to find solutions to community needs, has provided additional technical assistance to the SNAP teams.

(iv) The cities participating in the SNAP initiative include: Atlanta, Ga; Boston, Mass; Denver, Co; Houston, TX; Newark, NJ; Philadelphia, PA; Baltimore, MD; Columbus, OH; Detroit, MI; Los Angeles, CA; New Orleans, LA; Little Rock, AR; Richmond, VA; and Washington, DC.

(v) For more information on SNAP, contact Henry Colonna, National SNAP Coordinator, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230-4920; telephone (804) 278-4500, extension 3027; or (804) 278-4501 (TTY). For more information on AmeriCorps' VISTAs in Assisted Housing, contact Deanna E. Beaudoin, National VISTAs in Assisted Housing Coordinator, Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202; telephone (303) 672-5291, extension 1068; or (303) 672-5248 (TTY). These numbers are not toll-free.

#### (C) *Eligible Applicants*

(1) *General.* To be an eligible applicant:

(a) You must be:

(i) The owner of a federally-assisted housing development. If you are a unit of general local government you do not need to be the owner, but must be the operator of such housing. (A TDHE is not a unit of general local government.);

(ii) The owner of an assisted housing development that is assisted by a non-Federal governmental entity or similar housing development supported by nonprofit sources. If you are a unit of general local government, you do not need to be the owner, but must be the operator of such housing;

(iii) A PHA. To be eligible to apply you must own an assisted housing development that is not assisted under the United States Housing Act of 1937, with the exception of project-based assistance under section 8 of the Act. If you do not own such an assisted housing development, you may still participate in the New Approach Anti-

Drug Program as a subgrantee or subrecipient of an eligible applicant; or

(iv) An Indian tribe or TDHE. To be eligible to apply you must own an assisted housing development that was not formerly assisted under the United States Housing Act of 1937, with the exception of project-based assistance under section 8 of the Act. If you do not own such an assisted housing development, you may still participate in the New Approach Anti-Drug Program as a subgrantee or subrecipient of an eligible applicant;

(b) The property that makes you eligible must be in the neighborhood to be assisted; and

(c) You may not have any outstanding findings of civil rights violations. (See Section II(B) of the General Section of this SuperNOFA.)

(2) *Lead Applicant.* Two or more eligible applicants may file a joint application. If filing jointly, you must designate one entity to be the lead applicant. The lead applicant will be the grantee if HUD funds your application.

#### (D) *Memorandum of Understanding*

You must include with your application Memorandums of Understanding (MOU) that you have entered with each required party. (See Section III(B) of this program section of the SuperNOFA). The MOU may indicate the agreement is subject to the actual receipt of funds from HUD.

(1) *Required Parties to the MOU.* (a) You must sign a MOU that provides funds through a subgrantee or subrecipient relationship with the following entities:

(i) The local police department; and

(ii) The local district attorney's office or the local prosecutor's office.

(b) If you provide funds to an owner or entity participating in the program, you also must sign a MOU with that owner or other entity; and

(c) You also must sign an MOU with each resident organization that will receive grant funding through you. The resident organization must have been established by, and have a governing board consisting of, tenants in an assisted housing development in the neighborhood. The resident organization's commitment must describe the extent to which it is involved in the planning, and will be participating in, and supporting, your action plan.

(d) All parties signing the MOU must have the legal authority to enter into a binding agreement with you.

(2) *Content of MOU.* This MOU must commit these entities to actively support the grant project in partnership with you. The MOU must also describe:

(a) The level of current services (baseline) being provided by these entities;

(b) The level of services above this baseline which the entities are committed to providing in support of your grant;

(c) The amount of time to be devoted to the activities by each party;

(d) The skills each party brings to assist in implementation of your specific action plan activities.

Your MOU will be taken into account in reviewing and rating your application, so you should strive to be as specific as possible in your MOU document.

(3) *Encourage Partnerships.* We encourage you to partner with other appropriate neighborhood and community stakeholders, including: neighborhood businesses and business associations; nonprofit service providers; neighborhood resident associations; and faith communities or religious institutions. You are encouraged to enter into MOUs with these entities but an MOU is not required.

#### (E) Eligible Project Areas

(1) HUD will award one grant per project neighborhood. The project area must be a "neighborhood."

(2) The project area must include at least one assisted housing development. See definition in Section III(A)(1) of this program section of the SuperNOFA.

(3) You must provide documentation of the population used to define eligibility as a neighborhood. The documentation may include census data or documentation provided by local government officials.

#### (F) Eligible Activities

The following is a listing of eligible activities under this program and guidance as to their parameters:

##### (1) *Augmenting Security (Including Personnel).*

(a) *General.* You must document in your MOU(s) all security services above baseline established in your MOU. Anyone providing augmented security services must have liability insurance.

(b) *Baseline Services.* Additional security services are permitted but must be over and above the local police department's current level of baseline services. If you are seeking funding for augmenting security, you must describe the local police department's current level of baseline services to the neighborhood (including ordinary and routine services, patrols, police officer responses to 911 communications and other calls for services, and investigative follow-up of criminal activity). Your

description of baseline services must include the number of officers and the actual percent of their time assigned to the development(s) proposed for funding. For a proposed activity to be considered eligible as an augmented security activity, you must demonstrate to what extent the proposed funded activity will represent an increase over and above the baseline.

(c) *Police Presence.* You may reimburse local law enforcement entities for the costs of additional police presence (police salaries and other expenses directly related to additional police presence or security that is over and above baseline services) in and around assisted housing developments in the neighborhood. Of the funds devoted to additional police presence, at least 70 percent of such reimbursed costs must be for police presence in assisted housing developments served and the remaining 30 percent must be for police presence within the project area.

HUD is strongly encouraging that additional law enforcement in the assisted housing developments and surrounding neighborhoods be targeted to implementing an overall crime fighting strategy, rather than merely responding to crime emergencies. Two potentially effective anti-crime strategies that can benefit from additional police presence are:

(i) Combined multi-agency task force initiatives, in which local and Federal law enforcement agencies pool resources, first, to infiltrate organizations that promote violent and/or drug-related crime in the neighborhood and, second, to initiate strategic and coordinated mass arrests to break up these organizations; and

(ii) Community policing (i.e., sustained proactive police presence in the development or neighborhood, often conducted from an on site substation or mini-station, that involves crime prevention, citizen involvement, and other community service activities, as well as traditional law enforcement).

If reimbursement is provided for community policing activities that are committed to occur over a period of at least 3 years and/or are conducted from a police substation or administration within the neighborhood, the costs during the grant period of constructing such a station or of equipping the substation with communications and security equipment to improve the collection, analysis and use of information about criminal activities in the properties and the neighborhood may be reimbursed.

(d) *Security Services Provided by Other Entities (such as the Owner of an*

*Assisted Housing Development).* (i) The activities of any contract security personnel funded under this Program must be coordinated with other law enforcement and crime prevention efforts under your proposed action plan. You must describe in your action plan your efforts to achieve this coordination. The coordination efforts must include frequent periodic scheduled meetings of security personnel with housing project management and residents, local police and, as appropriate, with other public law enforcement personnel, neighboring residents, landlords, and other neighborhood stakeholders. Any contract security personnel funded under this Program must meet State and local licensing requirements.

(ii) You may only contract with a security service provider that has a policy manual that directs the activities of its personnel and contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed. If you use your own staff to provide security services, then you must have such a policy manual.

##### (2) *Enhancing the Investigation and Prosecution of Drug-Related Crime.*

##### (a) *Reimbursement of State and Local Law Enforcement Agencies.*

As the grantee, you may reimburse local or State prosecuting offices and related public agencies for activities, other than salaries or ineligible activities in Section III(G) of this program section of the SuperNOFA, related to the prosecution or investigation of crime committed in the neighborhood identified in your application. These costs are subject to a cost reimbursement agreement. Reimbursement must be for costs over and above what the office or agency incurred for such purposes for crimes committed in the same neighborhood during the period equal in length and immediately before the period of reimbursement. For any grant, at least 70 percent of reimbursed costs must be in connection with crimes committed in and around the assisted housing developments and the remainder of reimbursed costs directly related to crime committed within the neighborhood.

(b) *Hiring of Private Investigator Services.* You may use grant funds to hire private investigator services to investigate crime in and around an assisted housing development and the surrounding neighborhood. You must explain why local law enforcement services are inadequate and justify the need for hiring private investigator services.

(3) *Capital Improvements to Enhance Security.* You may use grant funds for capital improvements to enhance security. You should, however, consider using other sources of funding for this purpose. These improvements must be accessible to persons with disabilities. For example, locks or buzzer systems that are not accessible to people with restricted or impaired strength, mobility, or hearing may not be funded by your grant. Capital improvements to implement defensible space concepts in the design and implementation of your enhanced security measures are eligible provided such design elements permit accessibility and visitability by persons with disabilities. Capital improvements to enhance security must comply with civil rights requirements and cannot exclude or segregate persons based upon their race, color, or national origin from benefits, services, and other terms and conditions of housing. Under the selection criterion entitled "Quality of Plan," HUD will reward capital improvements to enhance the security of an entire neighborhood as opposed to specific projects at the expense of other dwellings in the neighborhood. The capital improvements may include, but are not limited to:

- (a) New construction or rehabilitation of structures housing police substations or mini-stations;
- (b) Installation of barriers (including speed bumps and fences) and appropriate use of close circuit television (CCTV), provided any barriers make reasonable accommodations for persons with disabilities;
- (c) Improved door or window security such as locks, bolts, or bars; and
- (d) Landscaping or other reconfiguration of common areas to discourage drug-related criminal activities.

*(G) Ineligible Activities*

In addition to the ineligible activities mentioned elsewhere in this program section of the SuperNOFA, New Approach Anti-Drug Program Grant funding is not permitted for any of the activities listed below, unless otherwise specified in this program section of the SuperNOFA:

- (1) Crime prevention, treatment, or intervention activities;
- (2) Costs incurred before the effective date of the grant agreement, including but not limited to consultant fees related to the development of your application or the actual writing of your application;
- (3) Purchase of controlled substances for any purpose. Controlled substance has the meaning provided in section 102 of the Controlled Substance Act (21 U.S.C. 802);

(4) Compensating informants, including confidential informants. These should be part of the baseline services provided and budgeted by local law enforcement agencies; or

(5) Although participation in activities with Federal drug interdiction or drug enforcement agencies is encouraged, these grant funds may not be transferred to any Federal agency.

Profiling on any prohibited basis is not allowed.

*(H) Threshold Requirements*

In addition to requirements listed in Section II of the General Section of the SuperNOFA, you are subject to the following:

- (a) You must show how you meet the eligibility requirements; and
- (b) The amount of funding requested must be within the maximum grant award amount.

**IV. Program Requirements**

The following requirements apply to all activities, programs, or functions used to plan, budget, implement, and evaluate the work funded under this program.

*(A) Grant Agreement*

After applications have been ranked and selected, HUD and a successful applicant will enter into a grant agreement setting forth the amount of the grant, the physical improvements or other eligible activities to be undertaken, financial controls, and special conditions, including sanctions for violation of the agreement. The Grant Agreement will incorporate your HUD approved application as may be amended by any special condition in the Grant Agreement. HUD will monitor your grant using your Grant Agreement to ensure that you have achieved commitments set out in your approved grant agreement. Failure to honor such commitments would be the basis for HUD determining your default of the Grant Agreement, and exercising available sanctions, including grant suspension, termination, and/or the recapture of your grant funds.

*(B) Requirements Governing Grant Administration, Audits and Cost Principles*

The policies, guidelines, and requirements of this NOFA, 48 CFR part 31, 24 CFR parts 44, 45, 84 and/or 85, OMB Circulars A-87 and/or A-122, other applicable administrative, audit, and cost principles and requirements, and the terms of grant/special conditions and subgrant agreements apply to your acceptance and use of funds. The requirements cited above, as

applicable, must be followed in determining procedures and practices related to the separate accounting of grant funds from other grant sources, personnel compensation, travel, procurement, the timing of drawdowns, the reasonableness and allocation of costs, audits, reporting and closeout, budgeting, and preventing conflict of interests or duplicative charging of identical costs to two different funding sources. All costs must be reasonable and necessary.

*(C) Term of Grant*

Your grant funds must be expended within 24 months after HUD executes a Grant Agreement with you. There will be no extensions or waivers of this grant term.

*(D) Subgrants and Subcontracting*

(1) In accordance with your approved grant agreement, you may directly undertake any of the eligible activities under this NOFA, you may contract with a qualified third party, or you may make a subgrant to any entity approved by HUD as a member of the partnership, provided such entity is a unit of government, a prosecutor's office, a police department or a TDHE; is incorporated as a not-for-profit organization; or is an incorporated for-profit entity that owns and/or manages an assisted housing project benefiting from the grant. Resident groups that are not incorporated may participate in the implementation of the program, but may not receive funds as subgrantees. For-profit organizations other than owners or managers of an assisted housing development benefiting from the grant that have been approved by HUD as part of the partnership may only receive grant funds subject to the applicable Federal procurement procedures (See 24 CFR parts 84 or 85).

(2) Subgrants may be made only under a written agreement executed between you, the grantee, and your subgrantee. The agreement must include a program budget that is acceptable to you, and that is consistent with the eligible activities and requirements. The agreement must require the subgrantee to permit you to inspect your subgrantee's work and to follow applicable OMB and HUD administrative requirements, audit requirements, and cost principles, including those related to procurement, drawdown of funds for immediate use only, and accounting for the use of grant funds and implementation of program activities. In addition, your subgrant must describe the nature of the activities to be undertaken by the subgrantee, the scope of the subgrantee's authority, and

the amount of any insurance to be carried by you and the subgrantee to protect your respective interests.

(3) You are responsible for monitoring, and for providing technical assistance to, any subgrantee to ensure compliance with applicable HUD and OMB requirements. You must also ensure that subgrantees have appropriate insurance liability coverage.

*(E) Ineligible Contractors*

The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status apply to this grant.

*(F) Section 3 Economic Opportunity*

See Section II(E) of the General Section of the SuperNOFA. The requirements of Section 3 apply to some of the activities that may be funded by this NOFA.

*(G) Drawdown of Grant Funds*

You will be required to access your grant funds through HUD's Line of Credit Control System-Voice Response System in accordance with procedures for minimizing the time lapsing between drawdowns and use of funds for eligible purposes as described in 24 CFR parts 84 and/or 85, as applicable. If HUD changes the procedures for the draw of grant funds, HUD will notify you through the issuance of a grant amendment.

*(H) Reports and Closeout*

If you receive a grant, you will be required to submit to HUD a semi-annual progress report (Form 269). The narrative of the Form 269 must be sent in a format prescribed by HUD that indicates program expenditures and measures performance in achieving goals. At grant completion, you will be required to participate in a closeout process which shall include a final report in a format prescribed by HUD that reports final program expenditures and measures performance in achieving program goals. Closeout will culminate in a closeout agreement between you and HUD and, when appropriate, in the return of grant funds which have not been expended in accordance with applicable requirements, or which may be remaining after all activities have been completed and paid for.

*(I) Suspension or Termination of Funding*

HUD may suspend or terminate funding if you fail to undertake the approved program activities on a timely

basis in accordance with your grant agreement, adhere to grant agreement requirements or special conditions, or submit timely and accurate reports.

*(J) Affirmatively Furthering Fair Housing*

You do not have to address Section II(D) of the General Section of the SuperNOFA.

**V. Application Selection Process**

*(A) Rating and Ranking*

(1) HUD will evaluate all eligible applications based on the factors for award identified in this Section V.

(2) After the applications have been scored, HUD will rank them on a national basis. An application must receive a score of at least 70 points, excluding the EZ/EC and Dallas bonus points, to be eligible for funding. Awards will be made in ranked order until all funds are expended.

(3) In the event of a tie, HUD will select the applicant with the highest score in Rating Factor 1. If Rating Factor 1 is scored identically, the scores in Rating Factors 2, 3 and 4 will be compared in that order, until one of the applications receives a higher score. If both applications still score the same then the application which requests the least funding will be selected to promote the more efficient use of resources.

*(B) Factors for Award To Evaluate and Rank Applications*

The maximum number of points for this program is 102 (except for an application submitted by the City of Dallas, Texas which would be eligible for a maximum of 104 points in accordance with Rating Factor 3, paragraph (7), below. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)

This factor addresses the extent to which you have proper organizational resources necessary to successfully implement the proposed New Approach Anti-Drug Program activities in an effective, efficient, and timely manner. In rating this factor, HUD will consider the extent to which the application demonstrates the capabilities described below:

(1) (5 Points) *The applicants' administrative capacity to implement the grant.* HUD will award points based on the quality and amount of staff allocated to the grant activity by you; the anticipated effectiveness of your systems for budgeting, procurement,

drawdown, allocation, and accounting for grant funds and matching resources in accordance with OMB administrative requirements; and the lines of accountability for implementing your grant activity, coordinating your partnerships, and ensuring that you and your MOU partners' commitments will be met. You must include in your narrative a discussion of financial capacity, staff resources, and prior experience that will enable you to effectively administer the grant and meet reporting requirements. This narrative must not exceed five pages. For an owner of an assisted housing development that is HUD-insured, HUD will consider the most recent Management Review (including Rural Housing Management Review), Housing Quality Standards (HQS) review, State Agency review and such other relevant information available to HUD on the capacity of the owner and manager to undertake the grant; you must include a copy of the most recent management review (not a physical inspection report) for the property to be served by your grant. These documents will not be counted against your 5 page narrative limitation.

(2) *The applicant's performance in administering Drug Elimination grants and/or other Federal, state or local grants of similar size and complexity during the last 3 years.* In assessing this factor, HUD will verify you and your partners' successful experience and performance based on information on file with the Department and will consider the following factors with the indicated total available points:

(a) (5 Points) *Your successful experience combined with your MOU partners' successful experience in utilizing similar strategies to alleviate crime.* You must identify your participation in HUD grant programs within the last three years and discuss the degree of your success in implementing planned activities; achieving program goals and objectives; timely drawdown of funds; timely submission of required reports and ability to complete activities on time and within budget; what if any audit findings were noted; whether there was audit compliance; whether there are and the extent of any unresolved findings and/or outstanding recommendations from prior HUD reviews or audits undertaken by HUD, HUD-Office of Inspector General, the General Accounting Office (GAO) or independent public accountants (IPAs). To receive maximum points under this section, you must have worked in partnership with one or more of your MOU partners (or two or more of your

MOU partners may have worked together in partnership) using similar strategies to reduce crime in and around assisted housing developments. To demonstrate success in implementing past projects, you must identify the reduction in the occurrence of the types of crime as indicated in Rating Factor 2 of this NOFA. In the absence of previous partnerships, your capacity will weigh more heavily than the experience of any of your partners, in HUD's assignment of points under this subfactor.

(b) (4 Points) *Your performance in administering other Federal, State or local grant programs.* You must identify your participation in HUD grant programs within the preceding three years, and discuss the degree of your success in implementing and managing (program implementation, timely drawdown of funds, timely submission of required drawdown of funds, timely submission of required reports with satisfactory outcomes related to the plan and timetable, audit compliance and other HUD reviews) these grant programs.

(3) (6 Points) *The strength of the applicants' partnership as it relates to eliminating the crime problem identified in Rating Factor 2.* HUD will award points in this area based on the strength of resource commitments identified in your MOUs in terms of the amount of staff, time, money, or other assets committed by each MOU party toward implementing your program. Your description should identify what skill each party will bring to help successfully implement your program, and the firmness of the commitments); evidence of your MOU partners' (and project tenants') pre-application role in developing the plan and prospective role in program implementation; indications of the capacity of the assisted housing developments' ownership and management (based on available management reviews by governing public entities) to undertake their share of responsibilities in the partnership (including evidence of whether management carefully screens applicants for units and takes appropriate steps to deal with tenants known to exhibit or suspected of exhibiting criminal behavior) and to cooperate with law enforcement actions on their project premises; the willingness of the unit of general local government to use its prosecutor's office as its lead agency in implementing the grant; participation of additional partners other than those required to sign MOUs (for example, neighborhood business organizations); and the effectiveness of the partnership structure.

Rating Factor 2: Need/Extent of the Problem (25 Points)

This factor addresses the extent to which there is a need for funding your proposed program activities to address the documented degree of the severity of the drug-related crime problem in the project area proposed for funding. In responding to this factor, HUD will evaluate the extent to which you have explained a critical level of need for your proposed activities and have indicated the urgency of meeting the need in the target area. You must include a description of the extent and nature of drug-related crime "in and around" the housing units or developments proposed for funding.

You will be evaluated on the following:

(1) (15 points) "Objective Crime Data" relevant to the target area. To the extent that you can provide objective crime data specific to the community or targeted development proposed for funding, your application will be awarded up to 15 points. Your application must include the most current and specific Part I Crime data and relevant Part II Crime data available from the FBI's Uniform Crime Reporting Program (UCR) system or the local law enforcement's crime statistics. Part I Crimes include: homicide; rape; robbery; aggravated assault; burglary; larceny; auto theft; and arson. Part II drug-related crimes include: drug abuse violations; simple assault; vandalism; weapons violations; and other crimes which you are proposing to be targeted as part of your grant. In assessing this subfactor, HUD will consider the extent of specificity that the statistical data is provided (e.g., data specific to the neighborhood covered by your application). These data must consist of verifiable records and not anecdotal reports. Where appropriate, the statistics should be reported both in real numbers and as an annual percentage of the residents in each development (e.g., 20 arrests in a two-year period for distribution of heroin in a development with 100 residents reflects a 20% occurrence rate). These data may include:

(a) Police records or other verifiable information from records on the types or sources of drug related crime in your targeted developments and surrounding area;

(b) The number of lease terminations or evictions for drug-related crime at your targeted developments; and

(c) The number of emergency room admissions for drug use or that result from drug-related crime. Such information may be obtained from

police departments and/or fire departments, emergency medical service agencies and hospitals. The number of police calls for service from housing authority developments that include resident initiated calls, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles.

For PHAs, such data should include housing authority police records on the types and sources of drug related crime "in and around" developments as reflected in crime statistics or other supporting data from Federal, State, Tribal or local law enforcement agencies.

(2) (10 Points) *Other Crime Data: Other supporting data on the extent of drug-related crime.* For this element, you can receive up to 10 points. To the extent that objective data as described above may not be available, or to complement that data, your assessment must use data from other verifiable sources that have a direct bearing on drug-related crime in the developments proposed for assistance under this program. If you are using other relevant information in place of objective data, however, your application must indicate the reasons why you could not obtain objective data and what efforts you made to obtain it and what efforts you will make during the grant period to begin obtaining the data. Examples of the data should include (but are not necessarily limited to):

(a) Surveys of residents and staff in your targeted developments surveyed on drug-related crime or on-site reviews to determine drug/crime activity; and government or scholarly studies or other research in the past year that analyze drug-related crime activity in the targeted developments.

(b) Vandalism cost at your targeted developments, including elevator vandalism (where appropriate) and other vandalism attributable to drug-related crime.

(c) Information from schools, health service providers, residents and Federal, State, local, and Tribal officials, and the verifiable opinions and observations of individuals having direct knowledge of drug-related crime and the nature and frequency of these problems in developments proposed for assistance. (These individuals may include Federal, State, Tribal, and local government law enforcement officials, resident or community leaders, school officials, community medical officials, substance abuse, treatment (dependency/

remission) or counseling professionals, or other social service providers.)

(d) The school dropout rate and level of absenteeism for youth that you can relate to drug-related crime. If crime or other statistics are not available at the development or precinct level, you must use other verifiable, reliable and objective data.

(e) To the extent that the community's Consolidated Plan identifies the level of the problem and the urgency in meeting the need, references to the Consolidated Plan should be included in your response. The Department will review more favorably those applicants who used the Consolidated Plan to identify need, when applicable.

#### Rating Factor 3: Soundness of Approach (Quality of the Plan) (35 Points)

This factor addresses the quality and anticipated effectiveness of your proposed action plan in taking a comprehensive community-based approach toward the problem of drugs and drug-related crime in the neighborhood identified in your application.

Your application must include an action plan for crime reduction and elimination efforts, describing in detail: the specific activities to be undertaken; the parties responsible for or involved in the activities for each development proposed for assistance; and the dollar amount and extent of resources committed to each activity or service proposed.

In evaluating this factor, HUD will consider the following:

(1) (25 Points) The quality, comprehensiveness of your action plan to address the drug-related crime problem, and the problems associated with drug-related crime in the developments proposed for funding, including its anticipated effectiveness in reducing or eliminating drug-related crime problems immediately and over an extended period, as evidenced by:

(a) The extent to which your proposed activities provide services over the existing baseline of services currently provided to the project area;

(b) The extent of the commitment of the partners, as described and documented in the MOU in implementing your plan. HUD will evaluate the extent to which the activities are comprehensive and result of collective actions that effectively work together. If you provide for a comprehensive approach, you will receive a higher number of rating points. HUD will provide no points under this subfactor if your application does not include an MOU with the local law enforcement entity with jurisdiction

over the neighborhood identified in your application;

(c) The extent to which you have partnered with appropriate neighborhood and community stakeholders;

(d) The extent to which the resources allocated and the budget proposed are adequate to conduct the work plan as proposed; and

(e) Your rationale for the proposed activities and methods and why you believe the activities will be effective in reducing drug use and drug-related crime. If you are proposing new methods for which there is limited knowledge of the effectiveness, you should provide the basis for modifying past practices and rationale for why you believe the modification will yield more effective results.

(2) (10 Points) The adequacy of the process you will use to collect, maintain, analyze and report Part I and II crimes as defined by the Uniform Crime Reporting (UCR System), as well as police workload data. The process must include the collection of police workload data such as, but not limited to, all calls for service at the housing authority by individual development, patterns over a period of time, type of crime, and plans to improve data collection and reporting. Your proposed analysis of the data collected should include a method for assessing the impact of grant activities on the collected crime statistics on an on-going basis during the award period.

(3) Up to two (2) additional points will be awarded to any application submitted by the City of Dallas, Texas, to the extent this subfactor is addressed. Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application submitted by the City of Dallas, Texas, HUD's consideration of this subfactor will consider the extent to which the applicant's plan for the use of New Approach Anti-Drug funds will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order.

#### Rating Factor 4: Leveraging Resources (Support of Residents, the Local Government and the Community in Planning and Implementing the Proposed Activities and Interagency Activities) (10 Points)

This factor addresses your ability to secure community and government resources, in-kind services from local governments, non-profit entities, including resident organizations, for-profit entities, or private organizations to be combined with HUD's program

resources to achieve program purposes. To be considered as documented evidence of leveraging, you must submit a letter signed by the organization head authorized to commit the organization which details the amount of funds or type of services to be provided. The letter also must identify the dollar value of any services or goods in lieu of a cash contribution. Therefore, in responding to the factor you must equate the time or services provided into a dollar value. This dollar value will be added to any cash funding commitments identified as part of your leveraging of funds. For example, if you are receiving a donation of security alarm systems, you should indicate the number of security systems to be provided and give a dollar value for those alarm systems. The value will be added to any cash contributions you have noted from others. The letter may indicate that the commitment is predicated on the applicant receiving the grant from HUD. In assessing this factor, HUD will consider the following:

(1) Evidence of the extent and amount of the commitment of funding, staff, or in-kind resources, partnership agreements, and on-going or planned cooperative efforts with law enforcement agencies, memoranda of understanding, or agreements to participate. Such commitments must be signed by an official of the organization legally able to make commitments for the organization. This evidence of commitment must include organization name, resources, and responsibilities of each participant. This also includes interagency activities already undertaken, participation in local, state, Tribal or Federal anti-drug related crime efforts such as: education, training and employment provision components of Welfare Reform efforts, Operation Weed and Seed, Operation Safe Home, local law enforcement initiatives and/or successful coordination of its law enforcement, or other activities with local, state, Tribal or Federal law enforcement agencies.

(2) HUD may award more points for applications with a higher percentage of these resources as compared to Anti-Drug New Approach funds requested.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you have coordinated your activities with other known organizations, participants or have promoted participation in a community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through

linkages with other activities in the community.

In evaluating this factor, HUD will consider the extent to which:

(1) You have coordinated your proposed activities with those of other groups or organizations prior to submission in order to best complement, support and coordinate all known activities and if funded, the specific steps you will take to share information on solutions and outcomes with others. Any written agreements, memoranda of understanding in place, or that will be in place after award should be described.

(2) You have taken or will take specific steps to become active in the community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities the applicant proposes.

(3) You have shared and coordinated information on solutions and outcomes with other law-enforcement and governmental agencies, and a description of any written agreements in place or that will be put in place.

(4) You have taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes or other mechanisms with:

(a) Other HUD-funded project/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other Federal, State, or locally funded activities, including those proposed or on-going in the community.

## VI. Application Submission Requirements

Each New Approach Anti-Drug application must conform to the requirements of the applicable application kit, both in format and content. Each New Approach Anti-Drug application must provide the following items in addition to the submission requirements listed in Section VI of this program section of the SuperNOFA:

(A) Application Cover Letter;

(B) Congressional Summary—Summary of your proposed program activities in five (5) sentences or less:

(C) A neighborhood description. The neighborhood description must include a basic description (e.g., boundaries and size), population, number of housing units in the neighborhood, a map, a population profile (e.g., relevant census data on the socio-economic, ethnic and family makeup of neighborhood residents), and the basis on which the area meets the definition of "neighborhood" as described in this

notice (i.e., describe and include a copy of the comprehensive plan, ordinance or other official local document which defines the area as a neighborhood, village, or similar geographical designation). If the entire jurisdiction is defined as a neighborhood by virtue of having a population at less than 25,000, indicate the jurisdiction's population under the 1990 census and describe/include more recent information which gives the best indication as to the current population.

(D) The description of the assisted housing development(s) in the neighborhood. This must include the name of the project; the name of the project owner; the nature, sources, and program titles of all project-based subsidies or other assistance provided to the project by units of government or private nonprofit entities (any names of public or nonprofit programs other than programs sponsored by HUD should be accompanied by a description of the program and the name and business phone number of a contact person responsible for administering the program for the subsidy provider); the number of housing units in the project; and the number of housing units in the project that meet the definition of "assisted housing units" in this notice, and a description of the restrictions on rents and resident incomes that, in combination with the subsidy provided to the project, qualify the units as assisted/affordable in accordance with the definition in this NOFA; and the number, geographic proximity (adjoining, adjacent, or scattered site, and if scattered site, the distance between the two buildings which are furthest apart), and type (single family detached, townhouse, garden, elevator) of buildings in the project.

(E) Application for Federal Assistance form (Standard Form SF-424) signed by the chief executive officer of your organization.

(F) An action plan which describes the activities and roles to be undertaken by you and each subgrantee or subrecipient of program funds. This action plan may be attached to and referenced in your MOU.

(G) Narrative responses to the factors for award including any required documentation identified under each factor.

(H) A line item budget which identifies salaries, fringe benefits, consultants or subgrantees, equipment, supplies, travel, and general and administrative expenses; as well as an estimated dollar amount for each activity to be undertaken as part of your action plan.

(I) Overall budget and timetable that includes separate budgets, goals, milestones, and timetables for each activity and addresses milestones towards achieving the goals described above; and indicates the contributions and implementation responsibilities of each partner for each activity, goal, and milestone.

(J) The number of staff years, the titles and professional qualifications, and respective roles of staff assigned full or part-time to grant implementation by the applicant/grantee.

(K) Your plan and lines of accountability (including an organization chart) for implementing your grant activity, coordinating the partnership, and assuring that your and your subgrantees' commitments will be met. There must be a discussion of the various agencies of the unit of government that will participate in grant implementation (which must include the prosecutor's office and at least one, but preferably both, of the following: the police department and an agency dealing with community development), their respective roles (i.e., which has the lead), and their lines of communication.

## VII. Corrections to Deficient Applications

The General Section of this SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

Prior to the award of grant funds under the program, HUD will perform an environmental review to the extent required under the provisions of 24 CFR part 50. Should the environmental review indicate adverse environmental impacts, your application may be downgraded or rejected.

The General Section of this SuperNOFA provides additional guidance on Environmental Reviews.

## IX. Authority

This program is authorized under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub.L. 105-276, approved October 21, 1998), under the heading "Drug Elimination Grants for Low-Income Housing."

## Appendix A—Office of Public Housing, Field Office Directory

### *New England Region*

Boston (Hub)

Donna Ayala, Deputy Director, Office of Public Housing, DHUD—Massachusetts State Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 553, Boston, MA 02222-1092, (617) 565-5197, (617) 565-7305 (FAX)

## Hartford (Program Center)

Sonia D. Samuels, Program Center  
Coordinator, Office of Public Housing,  
DHUD—Connecticut State Office, One  
Corporate Center, 19th Floor, Hartford, CT  
06103-3220, (860) 240-4800, (860) 240-  
4854 (FAX)

## New York/NJ Region

## New York (Hub)

Mirza Del Rosario, Director, Office of Public  
Housing, DHUD—New York State Office,  
26 Federal Plaza, Suite 32-116, New York,  
New York 10278-0068, (212) 264-8931,  
(212) 264-9834 (FAX)

## Buffalo (Hub)

Joan Spilman, Director, Office of Public  
Housing, DHUD—Buffalo State Office,  
Lafayette Court, 465 Main Street, Fifth  
Floor, Buffalo, New York 14203-1780,  
DIRECT NUMBER: (716) 551-5719, (716)  
551-5755, (716) 551-4789 (FAX)

## Newark (Hub)

Carmen Valenti, Director, Office of Public  
Housing, DHUD—New Jersey State Office,  
One Newark Center, 13th Floor, Newark,  
NJ 07102-5260, (973) 622-7900, Ext. 3600,  
(973) 645-2270 (FAX)

## Mid-Atlantic Region

## Philadelphia (Hub)

Malinda Roberts, Director, Office of Public  
Housing, DHUD—Pennsylvania State  
Office, The Wanamaker Building, 100 Penn  
Square East, Philadelphia, PA 19107-3390,  
(215) 656-0576, ext. 3308, (215) 656-3424  
(FAX)

## Baltimore (Hub)

William Tamburrino, Director, Office of  
Public Housing, DHUD—Maryland State  
Office, City Crescent Building, 10 South  
Howard Street, 5th Floor, Baltimore,  
Maryland 21201-2505, (410) 962-2520,  
ext. 3102, (410) 962-4378 (FAX)

## Pittsburgh (Hub)

Paul LaMarca, Director, Office of Public  
Housing, DHUD—Pittsburgh Area Office,  
339 Sixth Avenue, Sixth Floor, Pittsburgh,  
PA 15222-2515, (412) 644-6571, (412)  
644-5486 (FAX)

## Richmond (Program Center)

Pat Anderson, Program Center Coordinator,  
Office of Public Housing, DHUD—Virginia  
State Office, The 3600 Centre, 3600 West  
Broad Street, P.O. Box 90331, Richmond,  
VA 23230-0331, (804) 278-4500, X3217,  
(804) 278-4636 (FAX)

## Washington, DC (Program Center)

Lee Palman, Program Center Coordinator,  
DHUD—District of Columbia Office, 820  
First Street, NE; Suite 450, Washington, DC  
20002-4205, (202) 275-7965, ext 3175,  
(202) 275-6690 (FAX)

## Southeast Region

## Atlanta (Hub)

Boyce Norris, Deputy Director, Office of  
Public Housing, DHUD—Georgia State  
Office, Richard B. Russell Federal  
Building, 75 Spring Street, SW, Atlanta,  
GA 30303-3388, (404) 331-4766, (404)  
331-1022 (FAX)

## Birmingham (Hub)

Mack Heaton, Director, Office of Public  
Housing, DHUD—Alabama State Office,  
Beacon Ridge Tower, 600 Beacon Parkway  
West, #300, Birmingham, AL 35209-4144,  
(205) 290-7601, ext 1101, (205) 290-7502  
(FAX)

## Columbia (Program Center)

Larry Knighter, Program Center Coordinator,  
Office of Public Housing, DHUD—South  
Carolina State Office, Strom Thurmond  
Federal Building, 1835 Assembly Street,  
Columbia, SC 29201-2480, (803) 765-5831,  
(803) 765-5515 (FAX), (806) 253-3428

## Greensboro (Hub)

Ledford Austin, Director, Office of Public  
Housing, DHUD—North Carolina State  
Office, Koger Building, 2306 West  
Meadowview Road, Greensboro, NC  
27407-3707, (336) 547-4038, (336) 547-  
4129 (FAX)

## Jackson (Program Center)

George Smith, Program Center Coordinator,  
Office of Public Housing, DHUD—  
Mississippi State Office, Doctor A.H.  
McCoy Federal Building, 100 West Capitol  
Street, Room 910, Jackson, MS 39269-  
1016, (601) 965-4761, (601) 965-4733  
(FAX)

## Coral Gables (Hub)

Karen Cato-Turner, Director, Office of Public  
Housing, DHUD—Florida State Office,  
Gables I Towers, Suite 501, 1320 South  
Dixie Highway, Coral Gables, FL 33146-  
2911, (305) 662-4589, X2270, (305) 662-  
4537 (FAX)

## Jacksonville (Hub)

John Niesz, Director, Office of Public  
Housing, DHUD—Jacksonville Area Office,  
Southern Bell Tower, 301 West Bay Street,  
Suite 2200, Jacksonville, FL 32202-5121,  
(904) 232-1777, X2142, (904) 232-1721  
(FAX)

## Louisville (Hub)

Arthur Wasson, Director, Office of Public  
Housing, DHUD—Kentucky State Office,  
601 West Broadway, Post Office Box 1044,  
Louisville, KY 40201-1044, (502) 582-  
6163, ext 370, (502) 582-6558 (FAX)

## Knoxville (Program Center)

Sidney McBee, Program Center Coordinator,  
Office of Public Housing, DHUD—  
Knoxville Area Office, John J. Duncan  
Federal Building, 710 Locust Street, Third  
Floor, Knoxville, TN 37902-2526, (423)  
545-4402, X4, (423) 545-4558 (FAX)

## Nashville (Program Center)

Karen Gill, Acting Program Center  
Coordinator, Office of Public Housing,  
DHUD—Tennessee State Office, 251  
Cumberland Bend Drive, Suite 200,  
Nashville, TN 37228-1803, (615) 736-  
5063, ext. 6132, (615) 736-2385 (FAX)

## San Juan (Hub)

Hildamar Ortiz, Director, Office of Public  
Housing, DHUD—Caribbean Office,  
Administración de Terrenos Building, 171  
Carlos E. Chardon Avenue, Suite 301, San  
Juan, PR 00918-0903, (787) 766-5400,  
X2031, (787) 766-6504 (FAX)

## Mid-West Region

## Chicago (Hub)

Debra Torres, Director, Office of Public  
Housing, DHUD—Illinois State Office,  
Ralph H. Metcalf Federal Building, 77 West  
Jackson Boulevard, Chicago, IL 60604-  
3507, (312) 353-1915, (312) 353-6236,  
x2302, (312) 886-4060 (FAX)

## Cleveland (Hub)

Thomas Marshall, Director, Office of Public  
Housing, DHUD—Cleveland Area Office,  
Renaissance Building, 1350 Euclid  
Avenue, Suite 500, Cleveland, OH 44115-  
1815, (216) 522-2700, (216) 522-7100  
(FAX)

## Columbus (Program Center)

David Kellner, Program Center Coordinator,  
Office of Public Housing, DHUD—Ohio  
State Office, 200 North High Street,  
Columbus, OH 43215-2499, (614) 469-  
5787, X8224, (614) 469-5123 (FAX)

## Detroit (Hub)

Joann L. Adams, Director, Office of Public  
Housing, DHUD—Michigan State Office,  
Patrick V. McNamara Federal Building, 477  
Michigan Avenue, Detroit, MI 48226-2592,  
(313) 226-6880, X8111, (313) 226-6160  
(FAX)

## Indianapolis (Program Center)

Forrest Jones, Program Center Coordinator,  
Office of Public Housing, DHUD—Indiana  
State Office, 151 North Delaware Street,  
Suite 1200, Indianapolis, IN 46204-2556,  
(317) 226-6557, (317) 226-5594 (FAX)

## Milwaukee (Program Center)

John Finger, Program Center Coordinator,  
DHUD—Wisconsin State Office, Henry S.  
Reuss Federal Plaza, 310 West Wisconsin  
Avenue, Suite 1380, Milwaukee, WI  
53203-2289, (414) 297-1029, Ext. 8212,  
(414) 297-1180 (FAX)

## Minneapolis (Hub)

Daniel Larson, Director, Office of Public  
Housing, DHUD—Minnesota State Office,  
220 South Second Street, Minneapolis,  
Minnesota 55401-2195, (612) 370-3135,  
Ext. 2220, (612) 370-3003 (FAX)

## Southwest Region

## Fort Worth (Hub)

Eileen Rogers, Director, Office of Public  
Housing, DHUD—Texas State Office, 1600  
Throckmorton, Post Office Box 2905, Fort  
Worth, TX 76113-2905, (817) 978-9325,  
X3332, (817) 978-9382 (FAX)

## Albuquerque (Program Center)

Dolly A. Clark, Acting Program Center  
Coordinator, Office of Public Housing,  
DHUD—New Mexico State Office, 625  
Truman Street, N.E., Albuquerque, N.M.  
87110-6443, (505) 346-7303, ext. 271,  
(505) 346-6604 (FAX)

## Houston (Program Center)

Raynold Richardson, Program Center  
Coordinator, Office of Public Housing,  
DHUD—Houston Area Office, Norfolk  
Tower, 2211 Norfolk, Suite 200, Houston,  
TX 77098-4096, (713) 313-2274/2280,  
(713) 313-2371 (FAX)

## Little Rock (Hub)

Catherine Lamberg, Director, Office of Public Housing, DHUD—Arkansas State Office, TCBY Tower, 425 West Capitol Avenue, Suite 900, Little Rock, AR 72201-3488, (501) 324-5933, (501) 324-5448 (FAX)

## New Orleans (Hub)

Chester Drozdowski, Director, Office of Public Housing, DHUD—Louisiana State Office, 501 Magazine Street, Ninth Floor, New Orleans, LA 70130, (504) 589-7235, (504) 589-6177 (FAX)

## Oklahoma City (Program Center)

Robert Vasquez, Program Center Coordinator, Office of Public Housing, DHUD—Oklahoma State Office, 500 West Main Street, Oklahoma City, OK 73102, (405) 553-7454, (405) 552-7530 (FAX)

## San Antonio (Hub)

Diana Armstrong, Director, Office of Public Housing, DHUD—San Antonio Area Office, Washington Square, 800 Dolorosa Street, San Antonio, TX 78207-4563, (210) 475-6865, (210) 472-6816 (FAX)

*Great Plains Region*

## Kansas City (Hub)

Andrew Boeddeker, Director, Office of Public Housing, DHUD—Kansas/Missouri State Office, Gateway Tower II, 400 State

Avenue, Kansas City, KS 66101-2406, (913) 551-5582, (913) 551-6981 (FAX)

## Omaha (Program Center)

Charlie D. Hill, Program Center Coordinator, Office of Public Housing, DHUD—Nebraska State Office, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154-3955, (402) 492-3137, (402) 492-3163 (FAX)

## St. Louis (Program Center)

Patricia Straussner, Program Center Coordinator, Office of Public Housing, DHUD—St. Louis Area Office, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103, (314) 539-6505, (314) 539-6508 (FAX)

*Rocky Mountain Region*

## Denver (Hub)

John Dibella, Director, Office of Public Housing, DHUD—Colorado State Office, First Interstate Tower North, 633-17th Street, 12th Floor, Denver, CO 80202-3607, (303) 672-5380, ext 1244, (303) 672-5065 (FAX)

*Pacific/Hawaii Region*

## San Francisco (Hub)

Joyce Lee, Director, Office of Public Housing, DHUD—California State Office, Phillip

Burton Federal Building/Courthouse, 450 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102-3448, (415) 436-8375, (415) 436-6440 (FAX)

## Los Angeles (Hub)

Bob Cook, Director, Office of Public Housing, DHUD—Los Angeles Area Office, AT&T Center, 611 West 6th Street, Suite 800, Los Angeles, CA 90017-3127, (213) 894-8000, ext 3500, (213) 894-8125 (FAX)

*NW/Alaska Region*

## Seattle (Hub)

Lynn Martin, Director, Office of Public Housing, DHUD—Washington State Office, Seattle Federal Office Building, 909-1st Avenue, Suite 360, Seattle, WA 98104-1000, (206) 220-5290, Ext 3694, (206) 220-5255 (FAX)

## Portland (Program Center)

Elizabeth Santone, Program Center Coordinator, DHUD—Oregon State Office, 400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204-1596, (503) 326-2619, (503) 326-4065 (FAX)

**BILLING CODE 4210-32-P**



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**PUBLIC HOUSING DRUG  
ELIMINATION  
TECHNICAL ASSISTANCE**



## Funding Availability for Public and Indian Housing Drug Elimination Technical Assistance Program

### Program Overview

**Purpose of the Program.** The purpose of the Public and Indian Housing Drug Elimination Technical Assistance Program (PHDE-TA) is to provide no more than 30 billable days of technical assistance (TA) consultant services to assist public housing agencies (PHAs), Indian tribes and Tribally Designated Housing Entities (TDHEs), Resident Management Corporations (RMCs), incorporated Resident Councils (RCs), and Resident Organizations (ROs) in responding immediately to drug and drug-related crime in public and Tribal housing communities. The TA services may be conducted over a period of not more than 90 days.

**Available Funds.** Approximately \$2 million (which includes Fiscal Year 1997 carryover) is available for funding short-term technical assistance.

**Eligible Applicants.** Public Housing Authorities (PHAs), Indian tribes and Tribally Designated Housing Entities (TDHEs); incorporated Resident Management Corporations (RMCs), incorporated Resident Councils (RCs), and Resident Organizations (ROs).

**Application Deadline.** June 16, 1999.  
**Match.** None.

### Additional Information

If you are interested in applying for Public Housing Drug Elimination Technical Assistance funding, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Submit one original application and one copy to the Community Safety and Conservation Division (CSCD), Room 4206 at the HUD Headquarters Building located at 451 Seventh Street, SW, Washington, DC, 20410, on or before 12:00 midnight on June 16, 1999. The only exception to this deadline is for HUD-Initiated Public Housing Drug Elimination Technical Assistance, for which there is no application deadline. See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mail applications, express mail, overnight delivery, or hand-carried).

Submit a copy of your application to the appropriate HUD Field Office or HUB with delegated public housing responsibilities for your organization. See Appendix I for a list of HUD offices

with delegated responsibilities. You may also call the SuperNOFA Information Center at 1-800-HUD-8929 if you have a question regarding where you should submit your application (persons with hearing or speech impairments may call the Center's TTY number at 1-800-843-2209).

You must submit with your application(s) to CSCD, a Confirmation Form documenting that the appropriate HUD Field Office or HUB received your TA application (this form is a threshold requirement).

HUD will review PHDE-TA applications on a continuing basis until June 15, 1999, or until funds available under this program are expended. Due to the reduced availability of funds in FY 1999, HUD encourages you to submit early.

**For Application Kits.** For an application kit and any supplemental information, please call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-843-2209. When requesting an application kit, please refer to the Public Housing Drug Elimination Technical Assistance Program, and provide your name, address (including zip code) and telephone number (including area code). An application kit is also available on the Internet through the HUD web site at <http://www.hud.gov>.

**For Further Information and Technical Assistance.** For answers to your questions please call the local HUD Field Office or HUB where you will be submitting your application or you may call the Public Housing Drug Elimination TA Support Center at the 1-800-578-3472.

### II. Amount Allocated

For FY 1999, approximately \$2 million is available for Public Housing Drug Elimination Technical Assistance.

### III. Program Description; Eligible Applicants; Eligible Activities

#### (A) Program Description

(1) The purpose of this program is to provide not more than 30 billable days of technical assistance (TA) consultant services to assist public housing agencies (PHAs), Indian tribes and Tribally Designated Housing Entities (TDHEs), Resident Management Corporations (RMCs), incorporated Resident Councils (RCs) and Resident Organizations (ROs) in responding immediately to drug and drug-related crime in public and Tribal housing communities. The TA services may be conducted over a period not to exceed

90 days. Housing Authorities are encouraged to use this program as a tool to evaluate and monitor the Public Housing Drug Elimination Program grants.

(2) HUD may also initiate TA under this program. HUD initiated TA does not require an application but is also short term assistance.

(3) The program will fund the use of consultants who can provide the necessary consultation and/or training for the types of activities outlined below. HUD will fund the use of consultants to assist the applicant undertaking tasks including preparing a proposed strategic or long-range plan for reducing drugs and drug-related crime, or conducting a needs assessment or comprehensive crime survey. The PHDE-TA program also funds efforts in:

(a) Assessing, quantifying and establishing performance measurement systems (including gathering baseline statistics) relating to drug and drug-related crime problems in public or Tribal housing development(s) and surrounding community(ies);

(b) Training for housing authority staff and residents in anti-crime and anti-drug prevention practices and programs;

(c) Evaluating current anti-crime and anti-drug-related crime programs.

(d) Designing and identifying appropriate anti-crime and anti-drug-related practices and programs in the following areas:

(i) Law enforcement strategies, including negotiating with the local police, working with Federal law enforcement, Operation Safe Home, Weed and Seed, and other Federal anti-crime efforts;

(ii) Crime data collection for establishing baseline performance measurements;

(iii) Youth leadership development; youth anti-gang, anti-violence, anti-drug initiatives; youth peer mediation and conflict resolution to deal directly with anger/violence to prevent future violent episodes;

(iv) Resident patrols; and

(v) Security and physical design.

#### (B) Eligible Applicants

PHAs, Indian tribes and TDHEs, RCs, ROs in the case of Indian tribes and TDHEs, and RMCs are eligible to receive short-term technical assistance services under this PHDE-TA Program. Specific eligibility requirements are:

(1) If you are an RC or RO, you must be an incorporated nonprofit organization or association that meets all seven of the following requirements:

(a) You must be representative of the residents you purport to represent.

(b) You may represent residents in more than one development or in all of

the developments of a PHA or Indian tribe or TDHE, but you must fairly represent residents from each development that you represent.

(c) You must adopt written procedures providing for the election of specific officers on a regular basis, but at least once every 3 years.

(d) You must have a democratically elected governing board. The voting membership of your board must consist of residents of the development or developments that you represent.

(e) You must be supported in your application by a PHA or an Indian tribe or TDHE.

(f) You must provide evidence of incorporation.

(g) You must provide evidence of adopted written procedures for electing officers.

(2) If you are an RMC, you must be an entity that proposes to enter into, or that enters into, a management contract with a PHA under 24 CFR part 964, or a management contract with an Indian tribe or TDHE. You must have all seven of the following characteristics:

(a) You must be a nonprofit organization incorporated under the laws of the State or Indian tribe where you are located.

(b) You may be established by more than one RO or RC, so long as each: approves the establishment of your corporation; and has representation on the Board of Directors of your corporation.

(c) You must have an elected Board of Directors.

(d) Your by-laws must require the Board of Directors to include representatives of each RO or RC involved in establishing the corporation.

(e) Your voting members must be residents of the development or developments you manage.

(f) You must be approved by the RC. If there is no council, a majority of the households of the development must approve the establishment of your organization to determine the feasibility of establishing a corporation to manage the development.

(g) You may serve as both the RMC and the RC, so long as your corporation meets the requirements of 24 CFR part 964 for a RC. (In the case of a RMC for an Indian tribe or TDHE, you may serve as both the RMC and the RO, so long as your corporation meets the requirements of this program for a RO.)

(3) You can only submit one application per award period. A PHA and its eligible resident groups, and an Indian tribe and its TDHE may apply during the same award period as long as there is no conflict or overlap in your proposed activities. You are eligible to

apply to receive technical assistance even if you are already receiving technical assistance under this program, as long as your request creates no scheduling conflict with other PHDE-TA requests. If HUD Initiates TA with your organization, you may not receive more than one type of technical assistance concurrently unless HUD, in consultation with your organization, determines that the TA will not negatively affect the quality of the PHDE-TA.

(4) You are eligible to apply to receive technical assistance whether or not you are already receiving drug elimination funds under the Public and Indian Housing Drug Elimination Program.

(5) You must comply with the laws, regulations, and Executive Orders applicable to the Drug Elimination TA Program, including applicable civil rights laws.

#### (C) Eligible Activities

(1) Funding is limited to technical assistance for carrying out activities authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.), as amended by section 581 of the National Affordable Housing Act of 1990 (Pub.L. 101-625, approved November 28, 1990) (NAHA), and section 161 of the Housing and Community Development Act of 1992 (Pub.L. 102-550, approved October 28, 1992) (HCDA 1992).

(2) The following circumstances are eligible for HUD-Initiated Technical Assistance under the Public and Indian Housing Drug Elimination Technical Assistance Program. Eligible parties may receive technical assistance initiated and approved by HUD due to drug- and/or crime-related circumstances that require immediate attention. HUD-Initiated technical assistance may be requested by HUD staff for one or more of the following circumstances:

(a) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that applied, but did not receive a Public Housing Drug Elimination Program Grant;

(b) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that are unable to document their drug and/or crime problems through crime statistics;

(c) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that do not have the expertise to develop effective drug and crime prevention programs;

(d) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that have difficulty developing and/or maintaining partnerships within the community;

(e) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that have

difficulty developing and/or fostering a sense of partnership regarding drug- and/or crime-related problems with residents;

(f) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs that need assistance in developing evaluation mechanisms for drug elimination programs and strategies to include "One Strike and You're Out" and the Public Housing Drug Elimination Program; and

(g) Housing authorities, Indian tribes, TDHEs, RCs, ROs, and RMCs with special circumstances whose needs fit under the scope of this program section of the SuperNOFA.

(4) *Ineligible Activities.* Funding is not permitted for:

(a) Any type of monetary compensation for residents.

(b) Any activity that is funded under any other HUD program, including TA and training for the incorporation of RCs or RMCs, and other management activities.

(c) Any type of resident training that does not relate to or result in crime and drug reduction or elimination.

(d) Salary or fees to your staff, or your former staff within a year of their employment.

(e) Underwriting conferences.

(f) Conference speakers.

(g) Program implementation, proposal writing, financial support for existing programs, or efforts requiring more than 30 billable days of technical assistance over a 90 day period or assistance that will require more than 90 days to complete; the purchase of hardware or equipment, or any activities deemed ineligible in the Drug Elimination Program, excluding consultant's fees.

#### IV. Program Requirements

Except as stated below in this section, you must meet the requirements listed in Section II of the General Section of this SuperNOFA. You must also meet these additional requirements:

(A) *Individual Award Amounts.* You may not submit an application for more than \$15,000.

(1) Applications for short-term technical assistance may be funded up to \$15,000, with HUD providing payment directly to your authorized consultant for the consultant's fee, travel, room and board, and other approved costs at the government rate approved by HUD.

(2) Technical assistance initiated by HUD may be for any amount up to \$25,000 when HUD staff determine that more than 30 billable days of technical assistance over a 90-day period is justified.

(B) *Receipt of More than One Application.* If HUD receives more than

one application from a HA, or a group of RCs, ROs, or RMCs, or an Indian tribe and a TDHE, in proximity to one another, HUD may exercise discretion to consider any two or more applications as one, recommending one or more consultants and executing contracts for any combination of applications.

(C) *Affirmatively Furthering Fair Housing*. Section II.(D) of the General Section does not apply to this technical assistance program.

(D) *Eligible Consultants*. HUD is seeking individuals or entities who have experience working with public or Tribal housing or other low-income populations to provide short-term technical assistance under this PHDE-TA Program section of the SuperNOFA. Consultants who have previously been deemed eligible and are part of HUD's TA Consultant Database need not reapply, but are encouraged to update their file with more recent experience and rate justification.

(1) To qualify as an eligible consultant, you should have experience in one or more of the following general areas:

(a) PHA/Indian tribe or TDHE-related experience with: agency organization and management; facility operations; program development; and experience working with residents and community organizations.

(b) Anti-crime and anti-drug-related experience with: prevention/intervention programs; and enforcement strategies.

(c) Experience as an independent consultant, or as a consultant working with a firm with related experience and understanding of on-site work requirements, contractual, reporting and billing requirements.

(2) HUD is especially interested in encouraging TA consultant applications from persons who are qualified and have extensive experience planning, implementing, and/or evaluating the following professional areas:

(a) Lease, screening and grievance procedures;

(b) Defensible space, security and environmental design;

(c) Parenting, peer support groups and youth leadership;

(d) Career planning, job training, tutoring and entrepreneurship;

(e) Community policing, neighborhood watch and anti-gang work;

(f) Strengthening resident organizing, involvement, and relations with management; and

(g) "One Strike You're Out" programs.

(3) Additional requirements for consultants include the following:

(a) In addition to the conflict of interest requirements in 24 CFR part 85,

no person who is an employee, agent, officer, or appointed official of an eligible applicant may be funded as a consultant to that organization by this Drug Elimination Technical Assistance Program.

(b) If you are a consultant who wishes to provide drug elimination technical assistance services through this program, you must not have had any involvement in the preparation or submission of any PHDE-TA proposal. Your involvement will be considered a conflict of interest, making you ineligible for providing consulting services to the eligible applicant and will disqualify you from future consideration. This prohibition shall also be invoked for preparing and distributing prepared generic or sample applications to entities eligible to apply for funding under this program. If HUD determines that any application submitted by a PHA, Indian tribe or TDHE, RC, RO or RMC duplicates a sufficient amount of any prepared sample to raise issues of possible conflict of interest, and HUD determines you provided and distributed the sample, you will be disqualified from receiving HUD funds.

(4) HUD-registered consultants are eligible to receive funds to be reimbursed for up to \$15,000 for conducting short-term technical assistance. Long-term results are expected from each job. After your work is completed, evaluations from recipients of the technical assistance services will be submitted to HUD on your work performance. The evaluations will be carefully reviewed to make sure the recipients of TA are satisfied with your services. If your performance receives a satisfactory rating, you will be reimbursed by HUD. In extreme cases of technical assistance needs, staff members of HUD Headquarters and field offices may recommend specialized technical assistance for which you can receive up to \$25,000 in funds.

(E) *Ineligible Consultants*. Consultants and/or companies currently debarred or suspended by HUD are not eligible to perform services under this program. Also, consultants that are not in the official Consultant database are considered ineligible for this program.

(F) *Application Process for Consultants*. (1) If you are an individual or entity interested in being listed in the PHDE-TA Consultant Database, you must prepare your application and send it to the address specified in the application kit. Before you can be entered into the Consultant Database, you must submit an application that includes the following information:

(a) The Consultant Resource Inventory Questionnaire, including at least three written references, all related to the general areas listed in this PHDE-TA Program section of the SuperNOFA. One or two of the written references must relate to work for a PHA, Indian tribe or TDHE, RC, RO or RMC;

(b) A resume;

(c) Documented evidence of the standard daily fee previously paid to you for technical assistance services similar to eligible activities under this PHDE-TA Program. If you can justify up to the equivalent of ES-IV, or \$462.00 per day, your evidence must include an accountant's statement, W-2 Wage Statements, or payment statements, supplemented with a signed statement or other evidence from the employer of days worked in the course of the particular project (for a payment statement) or the tax year (for a W-2 Statement).

(2) You may not have any more than two contracts or purchase orders at one time nor be involved with more than one company at a time that has active Technical Assistance contracts. If you are working as a member of a multi-person firm, the key individual for the specific contract must be listed on each contract as the point of contact. The point of contact must be on-site more hours than any other contracted staff billing to the purchase order, and that individual may have no more than two purchase orders active at the same time.

(3) HUD will determine your specific fee based upon the evidence you submitted under this PHDE-TA Program.

(4) If you are an employee of a housing agency (HA), Indian tribe, or TDHE, you may not serve as a consultant to your employer. If you serve as a consultant to other than your employer, you must be on annual leave to receive the consultant fee.

(5)(i) Consultants may not be requested by name from HUD's database.

(ii) Consultants will be recommended to an organization seeking TA, based on factors including previous experience, reasonableness of the fee, and geographic proximity to the site where TA will be provided. Section V of this PHDE-TA section of this SuperNOFA explains this further.

## V. Application Selection Process

### (A) General

HUD will review applications on a continuing first-come, first-served basis, until funds under this PHDE-TA section of the SuperNOFA are no longer available. Eligible applications will be

funded in the order in which negotiations for a statement of work are completed. HUD-Initiated applications will be received throughout the year with no deadline or until funds are expended.

*(B) Threshold Requirements for Funding Consideration*

If you are requesting TA services, you must meet the following requirements:

(1) Your application must not request an ineligible activity. You cannot request PHDE-TA by answering "to conduct a needs assessment or survey." You must be able to answer the questions below and discuss what prevents you from identifying, describing, and/or measuring the problems.

(a) What is the nature of the drug-related crime problem in your community in terms of the extent of crime, the types of crime, and the types of drugs being used? You should include quantifiable or qualitative data on drug problems or criminal activity.

(b) What problem(s) do you need technical assistance to address, how do you plan to address them, and how will you know the technical assistance provided was successful in addressing the problem(s)?

(c) What types of partnerships currently exist between your organization and other organizations in or within the community (i.e., the police, social service organizations, universities, the YMCA/YWCA, etc.)?

(d) How will PHDE-TA be used to improve those relationships?

(e) What specific output, outcome, results, or deliverables do you expect from the consultant, including improved coordination or partnership arrangements within your community?

(f) What steps are you and your organization currently taking to measure, understand or address the drug-related crime problem in your development or housing authority?

(g) How will the proposed assistance allow you to develop an anti-drug, anti-crime strategy; or how will the proposed assistance fit into your current strategy?

(2) The application must include the form, "HUD Field Office/AONAP Confirmation Form."

(3) If your application does not meet the requirements described above it will not be considered for funding.

*(C) Application Awards*

(1) If your application is deemed eligible for funding and sufficient funds are available, you will be contacted by HUD or its agent to confirm the work requirements.

(2) Only one application will be accepted from a HA, Indian tribe or

TDHE; or group of RCs, ROs or RMCs in proximity to one another. HUD may exercise its discretion to consider any two or more applications as one, assuming that the applications are received at the same time, or before approval by the Office of Finance and Accounting and the Office of Procurement and Contracts, executing the contract, and providing notification to the consultant to proceed to work.

(3) Once your application for TA has been reviewed and found acceptable by HUD, the TA Consultant Database will be searched for consultants who have:

(a) A principal place of business or residence located within the same geographic area as the applicant. For purposes of this program section of the SuperNOFA, the term "geographic area" refers to, in order of priority: city, state, region, and country;

(b) The requisite knowledge, skills, and abilities to respond to the request and in address the identified needs; and

(c) The most reasonable (least expensive) fees.

(4) HUD will then forward to you a list of suggested consultants from the consultant data base. From this list, you must select a consultant to provide your requested TA.

(5)(a) From the list provided by HUD, you must contact three TA consultants. HUD may request confirmation from each contacted consultant that they were contacted. If HUD determines that any consultant was not contacted, HUD may consider your selection by the applicant void, and can choose a consultant for you.

(b) After contacting each consultant, you must send a written justification for your recommended selection in order preference. If any are unacceptable, you must also indicate the consultant and the reasons you find them unacceptable.

(c) If you find that all referred consultants lack the requisite expertise, you must provide written detailed documentation justifying this decision. If HUD determines that your justification is adequate, you will be provided with a second list of potential consultants.

(d) If you do not provide HUD the written justification of consultant choice within 30 calendar days, HUD reserves the right to cancel your TA request.

(6)(a) HUD or its agent will work with your selected consultant and you to develop a "statement of work." The statement of work should include:

(i) A time line and estimated budget;

(ii) A discussion of the kind of technical assistance and skills needed to address the problem, and how the technical assistance requested will address these needs; and

(iii) A description of the current crime and drug elimination strategy, and how the requested technical assistance will assist that strategy. If the applicant does not currently have a strategy, there should be a statement of how the technical assistance will help them develop a crime and drug elimination strategy.

(b)(i) When HUD has completed the authorization to begin work, your selected consultant will be contacted to start work. Your consultant must receive written authorization from HUD or its authorized agent before beginning to provide technical assistance. The requesting organization and the relevant Field Office or Area Office of Office of Native American Programs will also be notified that authorization to begin work has been given.

(ii) Work begun before the authorized date will be considered unauthorized and will not be compensated by HUD.

(iii) Consultants will only be reimbursed for a maximum of 30 days of work, which must be completed in fewer than 90 days from the date of the approved statement of work. The exception to this will be for HUD-Initiated technical assistance.

**VI. Application Submission Requirements**

*(A) General*

In addition to the program requirements listed in the General Section of this SuperNOFA, each TA application must conform to the requirements of the Public and Indian Housing Drug Elimination Technical Assistance Application Kit, both in format and content. A PHDE-TA application must include both the descriptive letter (or form provided in the application kit) and certification statement (or form provided in the application kit) to be eligible for funding.

*(B) Forms, Certifications and Assurances*

In addition to the forms, certifications and assurances listed in Section IV of the General Section of the SuperNOFA, the following must be complied with:

(1) Applications must be signed and certified by both the Executive Director or Tribal Council or authorized TDHE official and a resident leader.

(2) The certification must indicate that:

(a) A copy of the application was sent to the local HUD Field Office, Director of Public Housing Division, or Administrator, Office of Native American Programs;

(b) The application was reviewed by both the housing authority Executive

Director or Tribal Council or authorized TDHE official, and a resident leader of your organization; and

(c) Any technical assistance received will be used in compliance with all requirements in the SuperNOFA.

(3) The application must contain a four page (or fewer) application letter responding to each of the requirements listed in Section V(B) of the PHDE-TA Program section of the SuperNOFA.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Environmental Requirements**

In accordance with 24 CFR 50.19(b)(9), the assistance provided under this program relates only to the provision of technical assistance and therefore is categorically excluded from the requirements of the National Environmental Policy Act and is not

subject to environmental review under the related laws and authorities. This determination is based on the ineligibility of real property acquisition, construction, rehabilitation, conversion, leasing, or repair for HUD assistance under this program.

#### **IX. Authority**

The FY 1999 HUD Appropriations Act under the heading, "Drug Elimination Grants for Low-Income Housing (Including Transfer of Funds)."

BILLING CODE 4210-32-P



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**MULTIFAMILY HOUSING DRUG  
ELIMINATION**



**Funding Availability for Drug Elimination Grants for Federally Assisted Low-Income Housing (Multifamily Housing Drug Elimination)**

*Program Overview*

*Purpose of the Program.* The purpose of this Multifamily Housing Drug Elimination Grant Program is to enable owners of federally assisted low-income housing developments to deal effectively with drug-related criminal activity in and around their developments, through a plan of activities including enhanced security measures, and drug-abuse prevention, intervention, referral, and treatment programs.

*Available Funds.* Approximately \$16.25 million.

*Eligible Applicants.* Only owners of eligible developments may apply for and become the recipient of grant funds. Property management companies may administer grant programs, but are not eligible applicants.

*Application Deadline.* June 16, 1999.

*Match.* None.

*Additional Information*

If you are interested in applying for funding under this program, please review carefully the General Section of

this SuperNOFA and the following additional information.

**I. Application Due Date, Application Kits, Further Information, and Technical Assistance**

*Application Due Date.* Your completed application (an original and two copies) is due on or before 6:00 pm local time in the HUD Field Office with jurisdiction over your development on June 16, 1999.

See the General Section of this SuperNOFA for specific procedures concerning the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Address for Submitting Applications.* The Appendix contains a list of HUD Field Offices where you must send your application by the deadline. Please address your application to the Director, Multifamily Housing Hub or Program Center in your local HUD Field Office.

*For Application Kits.* For an application kit, please call the SuperNOFA Information Center at 1-800-HUD-8929. If you have a hearing or speech impairment, please call the Center's TTY number at 1-800-843-2209. When requesting an application kit, please refer to Multifamily Housing Drug Elimination Grants, and provide

your name, address (including zip code) and telephone number (including area code). An application kit also will be available on the Internet at <http://www.hud.gov>.

*For Further Information and Technical Assistance.* Your local HUD Field Office staff can answer most of the questions you have regarding this program section of the SuperNOFA and your application kit. Please contact the Resident Initiatives Specialist or Drug Elimination Grants contact person in your local office.. If you have a general question that the Field staff are unable to answer, please call Carissa Janis, Housing Project Manager, Office of Portfolio Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6174, Washington, DC 20410; (202) 708-3944, extension 2484 (this number is not toll free). If you are hearing or speech impaired, you may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

**II. Amount Allocated**

HUD is allocating grant funds under this Multifamily Drug Elimination Grant Program section of the SuperNOFA to the four Award Offices, in accordance with the following schedule:

Award office covered	Allocation
Buffalo: Vermont, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, West Virginia, Virginia.	\$4,015,000
Knoxville: Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Puerto Rico, Mississippi, Florida, Iowa, Kansas, Missouri, Nebraska.	4,110,000
Minneapolis Illinois, Minnesota, Indiana, Wisconsin, Michigan, Ohio.	3,919,000
Little Rock Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Arizona, California, Hawaii, Nevada, Alaska, Idaho, Oregon, Washington.	4,206,000

The Award Offices will select applicants for award according to the process discussed in Section V of this program section of the SuperNOFA.

**III. Program Description; Eligible Applicants; Eligible Activities**

*(A) Program Description*

The Federally Assisted Low-Income Housing Drug Elimination Grant program is designed to assist property owners to reduce or eliminate drug-related criminal activity in and around their developments and to provide programs to prevent or eliminate drug use and abuse among their residents. While this program is centered in and around the premises of one or more HUD assisted multifamily housing sites,

you are expected to work closely with other community social service and law enforcement organizations to achieve specific program objectives to reduce or eliminate drug-related criminal activity. The development of these strong working partnerships is an essential part of this program and is seen by the Department as necessary for long-term strategies to fight crime and drug abuse. Thus, while your activities are targeted in or around one or more developments, HUD expects you to link your activities with services available in your community. In particular, HUD is seeking plans that provide successful, proven, and cost-effective deterrents to drug-related crime and drug abuse that are designed to address the realities of

federally assisted low-income housing environments.

*Changes to This Year's Program.* This year the Rating Factors, application selection process, and submission requirements have changed significantly from last year. In developing your application, please pay special attention to Sections V.(A), V.(B), and VI., below, of this program section of the SuperNOFA, which discuss these items in detail. This program section of the SuperNOFA also clarifies that Section 202 developments with project-based Section 8 assistance are eligible to apply. A number of activities have been added to both the "eligible" and "ineligible" activities sections, so be sure to read these carefully.

**(B) Eligible Applicants**

(1) To be eligible for funding, you must meet all of the applicable threshold requirements of Section II.(B) of the General Section of the SuperNOFA and must be owners of developments assisted under the following programs:

(a) Sections 221(d)(3), 221(d)(4), or 236 of the National Housing Act;

(b) Section 101 of the Housing and Urban Development Act of 1965; or

(c) Project-based assistance under Section 8 of the United States Housing Act of 1937. This includes Section 202, Section 515, State Housing Finance Agency, and Moderate Rehabilitation developments.

(2) If you are a management agent, you may prepare applications and sign application documents if you provide written authorization from the owner corporation as part of your application.

(3) If your eligibility status changes during the course of the grant term, making you ineligible to receive a grant (e.g. due to prepayment of mortgage, sale of property, or opting out of a Section 8 Housing Assistance Payment (HAP) contract), HUD has the right to terminate your grant.

**(C) Eligible Activities**

Your proposed drug elimination program should foster interrelationships among the residents, the housing owner and management, the local law enforcement agencies, and other community groups affecting your development. Resident participation in the determination of programs and activities to be undertaken is critical to the success of all aspects of your program. In addition to working closely with the development's residents, your program must include working with community groups, the neighborhood law enforcement precinct, residents of adjacent developments, and the community as a whole to enhance and magnify the effect of your specific program activities. HUD seeks result-oriented programs that promote stability, positive and lasting changes in and around your development and the surrounding community, and which use proven cost-effective measures to reduce drug use or prevent criminal activity.

With the very real need to protect occupants of HUD-assisted housing and the areas around the housing, the civil rights of all citizens must be protected. Your proposed strategies should be developed to ensure that crime-fighting and drug prevention activities are not undertaken in such a manner that civil rights or fair housing statutes are violated. You may not use race, color,

sex, religion, national origin, disability, or familial status to profile persons as suspects or otherwise target them in conducting these activities. In addition, all segments of the population should be represented in developing and implementing your crime-fighting strategies.

(1) *Physical Improvements To Enhance Security.* Physical improvements to enhance security are eligible activities under this program. All physical improvements must be accessible to persons with disabilities and must meet the accessibility requirements of 24 CFR part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development.

Your physical improvements may include systems to limit building access to development residents; installation of barriers, lighting systems, fences, bolts, locks; landscaping or reconfiguration of common areas to discourage drug-related crime; or other physical improvements that enhance security and discourage drug-related activities. Rehabilitation of existing space for use by drug-related intervention and prevention programs is an eligible activity.

(2) The provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials is an eligible activity.

(3) *Programs to Reduce the Use of Drugs.* Programs to reduce the use of drugs in and around your development, including drug-abuse prevention, intervention, referral, and treatment are eligible for funding. Where appropriate, you must establish a confidentiality policy regarding medical and disability-related information. Funding is permitted for reasonable, necessary, and justified leasing of vehicles for resident youth and adult education and training activities directly related to "programs to reduce the use of drugs" under this section.

(a) *Drug Prevention.* Your drug prevention activities should provide a comprehensive drug prevention approach that will address the individual resident and his or her relationship to family, peers, and the community. Prevention activities should identify and change the conditions in federally assisted low-income housing that lead to drug-related problems and lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training or drug-related family counseling, may

already be available in your community. Your plan should include bringing program components already available in the community onto the premises. Proposed activities may include the following:

(i) *Drug Education Opportunities for Residents.* Activities should provide both young people and adults with the working knowledge and skills needed to avoid the potential and immediate dangers of illegal drugs. You may contract (in accordance with 24 CFR Part 85.36) with drug education professionals to provide training or workshops. Contracted drug education services must reflect or be tied to your program plan.

(ii) *Family and Other Support Services.* Prevention programs should be designed to help foster successful family relationships that may inhibit or reduce drug use. Examples of services include parenting skills workshops, short-term family counseling, child care, or family educational, cultural, or educational programs. You may provide these programs directly or refer residents to such services already available in your community.

(iii) *Youth Services.* If you propose drug prevention services in your plan and your development has a substantial number of young residents, HUD strongly encourages you to include youth in your prevention programs. Your proposed prevention activities for youth must involve the active participation of youth in planning programs and service delivery. Such youth-oriented drug prevention programs may include youth leadership skills training; events incorporating dissemination of drug education information; and sports, recreational, cultural, and general education activities.

(iv) *Economic/Educational Opportunities.* Eligible economic or educational programs should have the objectives of assisting residents in improving their educational status, vocational and job readiness skills, and opportunities for obtaining employment. The ultimate goal of services should be to assist residents in obtaining suitable lifelong employment and self-sufficiency to deter drug use, abuse, and related crime.

(b) *Intervention.* The aim of intervention is to provide residents with substance abuse/dependency remission services to assist them in modifying their behavior; obtaining early treatment and structured aftercare; and maintaining remission. Your program should also be designed to prevent drug problems from continuing once detected. If you propose any

intervention program that seeks to accomplish the above objectives, you must describe how you expect the activities to assist residents in reducing or ceasing their use of illicit drugs and involvement in drug-related crime.

(c) *Drug Treatment.* If your program provides treatment services, they must be targeted to the development and its residents. Your program should be conducted in or around the premises of the development, or residents must be referred to receive treatment from other available sources within the community. You may include implementing new drug referral treatment or aftercare services, or improve or expand currently available services. Your proposed drug treatment program should aim to reduce illicit drug use among residents by increasing resident accessibility to, and effective participation in, drug treatment activities, and decreasing criminal activity in and around your development. Your proposed plan must demonstrate a working partnership with your Single State Agency (or State license provider or authority with drug program coordination responsibilities in your State) to coordinate, develop, and implement your drug treatment program. In particular, you and the appropriate agency must confirm that your proposed drug treatment provider(s) has provided these services to similar populations for two prior years and your drug treatment program is consistent with the State treatment plan, meeting all State licensing requirements. Services eligible for funding may include:

(i) Drug treatment supportive services designed for youth and/or maternal drug abusers. Examples of services are: prenatal/postpartum care; specialized counseling for women; or, parenting classes. You are encouraged to draw upon approaches that have proven effective with similar populations.

(ii) Formal referral arrangements to treatment programs not in or around the development when treatment costs from sources other than this program are available.

(iii) Transportation for residents to out-patient treatment and/or support programs.

(iv) Family/collateral counseling.

(v) Linking programs with educational/vocational counseling.

(vi) Coordinating services with appropriate local drug agencies, HIV-related service agencies, and mental health and public health programs.

#### (D) *Ineligible Activities*

The following activities are not eligible for funding:

(1) Hiring of, or contracting for, employment of security guards to provide security services in and around the development.

(2) Any activity or improvement that is normally funded from project operating revenues for routine maintenance or repairs, or those activities or improvements that may be funded through reasonable and affordable rent increases;

(3) The acquisition of real property or those physical improvements that involve the demolition of any units in your development or displacement of tenants;

(4) Costs incurred prior to the effective date of your grant agreement, including consultant fees for surveys related to your application or its preparation;

(5) Reimbursement of local law enforcement agencies for additional security and protective services;

(6) Employment of one or more individuals to investigate drug-related crime in or around federally-assisted low-income developments and/or to provide evidence relating to such crime in any administrative or judicial proceeding;

(7) Treatment of residents at any in-patient medical treatment programs or facilities;

(8) Detoxification procedures designed to reduce or eliminate the presence of toxic substances in body tissues of a patient;

(9) Maintenance drug programs; [Maintenance drugs are medications that are prescribed regularly for a long period of supportive therapy (e.g., methadone maintenance), rather than for immediate control of a disorder.]

(10) Programs to treat alcoholism; and

(11) Funding of police informants who provide information about drug-related activity.

#### IV. Program Requirements

In addition to the requirements listed in Section II of the General Section of this SuperNOFA, you must also meet the additional requirements in this Section IV. These requirements apply to all activities, programs, and functions used to plan, budget, and evaluate the work funded under your program.

##### (A) *Administrative Costs*

Administrative costs cannot exceed 10% of your proposed program's total cost.

##### (B) *Term of Funded Activities*

Your grant term cannot exceed twelve months.

##### (C) *Multiple Developments*

There is no limit to the number of developments that can be included in your application. However, if you include more than one development in your application, all developments must be eligible and located in the same Field Office jurisdiction. In addition, you must demonstrate in your response to Rating Factor 3 "Soundness of Approach—(Quality of the Plan)" that your program will be feasible to implement among all proposed developments.

##### (D) *Subgrants and Subcontracting*

You may directly undertake or subcontract for any of the eligible activities under this Multifamily Drug Elimination Program section of the SuperNOFA. Resident groups that are not incorporated may work with you in the implementation of your program, but may not receive funds as subgrantees.

##### (E) *Collection of Crime Data*

If you receive a grant, you will be required to collect and report on Parts I and II crime data. Parts I and II crime data are defined by the Uniform Crime Reporting (UCR) System (see Rating Factor 2, paragraph (1)(d)).

#### V. Application Selection Process

##### (A) *Rating and Ranking*

All applications will be evaluated competitively and ranked against applications in the same Field Office.

The maximum number of points for this program is 102. This includes two Empowerment Zone/Enterprise Community (EZ/EC) bonus points, as described in the General Section of the SuperNOFA. For bonus points related to activities located in Empowerment Zones or Enterprise Communities, the applicant must demonstrate that there is a connection between such EZ or EC and tenant, local government, and local community support and participation in the design and implementation of the proposed activities to be funded under this program.

##### (B) *Distribution of Funds*

Each Award Office may recommend a total number of awards up to the amount allocated for the area covered by the Award Office. Award Offices will receive the scores from each HUD Field Office which has received, rated, and ranked its applications.

The Award Offices will conduct the selection process as follows: The Award Office will first select the highest ranked application in each Field Office for funding. After this "round," the Award Office will select the second highest

ranked application in each Field Office for funding (the second round). The Award Office will continue this process with the third, fourth, and so on, highest ranked applications in each Field Office until the last complete round is selected for funding. If available funds exist to fund some but not all eligible applications in the next round, the Award Office will make awards to those remaining applications in rank order regardless of Field Office and will fully fund as many as possible with remaining funds. Any funds still remaining after the Award Office distribution by rank will be forwarded to Headquarters, which shall make awards to fully fund as many remaining applications as possible by national rank order. All applications must receive a score equal to or greater than the minimum score of 70 without bonus points to be considered for funding.

The selection process is designed to achieve both geographic diversity and a more equitable distribution of grant awards throughout the country. Every HUD Field Office will receive several grant awards, as long as the scores of their applications meet or exceed the minimum score. It also means that your one application submitted to a Field Office will primarily compete for funding with other applications submitted to that same Field Office.

*(C) Procedure to resolve tied scores.*

If two or more applications have the same score and there are insufficient funds to fund all of them, the application with the highest score for the Soundness of Approach rating factor shall be selected for funding. If a tie still remains, the application with the highest score for the Capacity of the Applicant and Relevant Organizational Experience rating factor shall be selected. Further tied applications will be selected by their scores in the Need/Extent of Problem, Leveraging Resources, and Comprehensiveness and Coordination rating factors, in that order. If the applications received the same score for each of the five factors, the Award office or Headquarters will break the remaining tie by selecting the application that requests less funding.

*(D) Factors for Award Used to Evaluate and Rate Applications.*

The five factors in this section total 100 points. An application must receive a score of at least 70 points to be eligible for funding under this competition. Each application submitted will be evaluated using the following selection criteria set forth below.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points)

This factor addresses the extent to which you have organizational resources necessary to successfully implement the proposed activities in a timely manner. In rating this factor, HUD will consider the extent to which you demonstrate the capabilities described below.

(1) (20 points) The knowledge and experience of your staff and administrative capacity to manage grants, including administrative support functions, procurement, lines of authority, and fiscal management capacity. Your narrative must include a discussion of financial capacity, staff resources, and prior experience that will enable you to effectively administer a grant and meet reporting requirements. This narrative must not exceed five pages.

(2) *HUD's evaluation approach.* (a) For Public Housing Authorities (PHAs) and tribally designated housing entities (TDHEs) that had previously applied as IHAs, HUD will also consider such measurements as the uniform crime index, physical inspections, agency monitoring of records, Line of Credit Control System (LOCCS) Reports, audit and such other relevant information available to HUD on the capacity of the owner or manager to administer the grant.

(b) For owners of federally-assisted low income housing, HUD will also consider the most recent Management Review (including Rural Housing Management Review), HUD's Uniform Physical Conditions Standards review, State Agency review, physical inspection, and other relevant information available to HUD on the capacity of the owner and manager to undertake the grant.

(3) (Deduct up to 5 points for prior poor performance) *Your performance in administering Drug Elimination funding in the previous 5 years.*

You must identify your participation in HUD grant programs within the preceding five years and discuss the degree of your success in implementing and managing these grant programs. Your discussion should describe program implementation, timely drawdown of funds, timely submission of required reports with satisfactory outcomes related to the plan and timetable, audit compliance, whether there are any unresolved findings from prior HUD reports (e.g., performance or finance) reviews of audits undertaken by HUD, the Office of Inspector General,

the General Accounting Office or independent public accountants).

For PHAs, your past experience will be evaluated in terms of your ability to attain demonstrated measurable progress in tracking drug related crime, enforcement of screening and lease procedures in implementation of the "One Strike and You're Out Initiative" (as applicable), the extent to which you have formed a collaboration with Tribal, State and local law enforcement agencies and courts to gain access to criminal conviction records of potential tenants to determine their suitability for residence in public housing. Such data will be measured and evaluated based on your Public Housing Management Assessment Program (PHMAP) score (24 CFR part 901).

Rating Factor 2: Need/Extent of the Problem (25 Points)

This factor addresses the extent to which there is a need for funding your proposed program activities to address a documented problem in the target area (i.e., the degree of the severity of the drug-related crime problem in the development proposed for funding). In responding to this factor, HUD will evaluate your application based on the extent to which a critical level of need for the proposed activities is explained and you provide a justification for the urgency of meeting the need in your development and the area around your development. Your application must include a description of the extent and nature of drug-related crime "in or around" the housing units or development you propose for funding.

You will receive up to 25 points for this factor if your statistics and explanation of need establish critical crime problems and an urgency to address these problems in and around your development. To receive the maximum number of points, you must provide statistics for both the premises of your development and the smallest geographic area surrounding your development for which objective statistics are available in your community, town, or city. If you use statistics from institutions (e.g. hospitals or schools), the institutions must directly serve the residents of the targeted development. If the statistics you provide do not indicate a critical need, urgency to meet this need, or you do not provide statistics that document the need within your development or the area around your development, you will not receive the maximum number of points. If you do not submit the letter or documentation for the "non-objective" data, indicated in paragraph

2(a), below, you will also receive fewer points.

The statistics and information you provide must include the following:

(1) *"Objective Crime Data" relevant to the target area.* Such data should consist of verifiable records and not anecdotal reports. Where appropriate, the statistics should be reported both in real numbers and as an annual percentage of the residents in each development (e.g., 20 arrests in a one-year period for distribution of heroin in a development with 100 residents reflects a 20% occurrence rate). Such data may include:

(a) Police records or other verifiable information from records on the types or sources of drug related crime in the targeted development and surrounding area;

(b) The number of lease terminations or evictions for drug-related crime at the targeted development; and

(c) The number of emergency room admissions for drug use or that result from drug-related crime. Such information may be obtained from police Departments and/or fire departments, emergency medical service agencies and hospitals. The number of police calls for service from your development that include resident initiated calls, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles.

(d) To the extent possible, you should obtain statistics on Part I and Part II crimes, as defined by the Uniform Crime Reporting (UCR) System. Part I crimes include: criminal homicide, forcible rape, robbery, aggravated assault two (including domestic violence through use of a weapon or by means likely to produce death or great bodily harm), burglary-breaking or entering, larceny-theft (except motor vehicle theft), motor vehicle theft, and arson. Part II crimes include: assaults, forgery and counterfeiting, fraud, embezzlement, vandalism, weapons (carrying or possessing), prostitution and commercialized vice, sex offenses (except forcible rape, prostitution, and commercialized vice), drug abuse violations, gambling, offenses against the family and children, driving under the influence, violation of liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses related to curfew and loitering laws and runaways.

For PHAs, such data should include housing authority police records on the types and sources of drug related crime

"in or around" developments as reflected in crime statistics or other supporting data from Federal, State, Tribal, or local law enforcement agencies.

(2) *Other Crime Data.* If you are unable to attain objective crime statistics as mentioned above, you may submit other supporting, verifiable data on the extent of drug-related crime in the target area. If you submit other relevant information in place of objective data, you must provide the following to receive the maximum number of points:

(a) A letter or supporting documentation from your local law enforcement agency or another relevant neighborhood organization explaining why the objective data mentioned above is not available, and

(b) A narrative explanation of the reasons why objective data could not be obtained, what efforts were made to obtain it, and what efforts will be made (if possible) during the grant period to begin obtaining the data. Such data may include the following:

(i) Surveys of residents and staff in the targeted development surveyed on drug-related crime or on-site reviews to determine drug/crime activity; and government or scholarly studies or other research in the past year that analyze drug-related crime activity in your targeted development.

(ii) Vandalism cost at your targeted development, to include elevator vandalism (where appropriate) and other vandalism attributable to drug-related crime.

(iii) Information from schools, health service providers, residents and Federal, State, local, and Tribal officials, and the verifiable opinions and observations of individuals having direct knowledge of drug-related crime, and the nature and frequency of these problems in your development proposed for assistance. (These individuals may include Federal, State, Tribal, and local government law enforcement officials, resident or community leaders, school officials, community medical officials, substance abuse, treatment (dependency/remission) or counseling professionals, or other social service providers.)

(iv) The school dropout rate and level of absenteeism for youth that you can relate to drug-related crime.

(v) To the extent that the community's Consolidated Plan identifies the level of the drug abuse and related crime problems in and around your targeted development, and the urgency in meeting the need, references to these documents should be included in your response. You will receive more points

if you use these documents to identify need.

Rating Factor 3: Soundness of Approach—(Quality of the Plan) (35 Points)

This factor addresses the quality and effectiveness of your proposed work plan. In rating this factor, HUD will consider the impact of your proposed activities and the tangible benefits that can be attained by the community and by the target population. Your application must include a detailed narrative describing each proposed activity for crime reduction and elimination efforts for each development proposed for assistance, the amount and extent of resources committed to each activity or service proposed, and process used to collect, maintain, analyze and report Part I and II crimes as defined by the Uniform Crime Reporting (UCR) System, as well as police workload data.

In evaluating this factor, HUD will consider the following:

(1) (14 points) Your plan's approach to address the drug-related crime problem and associated problems in the development proposed for funding, the resources allocated, and the extent to which your proposed activities are targeted to residents, provide for linkages with existing community resources, and are likely to have long term impacts on reducing drug use and drug-related crime in and around your targeted development. Also, you must include the rationale for the proposed activities and methods to be used in developing your program and approach to reducing drug-related crime and drug abuse. If you propose drug prevention or intervention activities, these services must constitute a continuing and comprehensive approach to deter drug use or abuse among your residents and their neighbors. Your proposal must demonstrate how your activities work together with other on-going activities in the community and how these activities rely upon each other to form a holistic plan. Your plan must include the following items. If these are not included, you will receive fewer points under this subfactor:

(a) An explanation of how any proposed physical improvements will be accessible to persons with disabilities and a statement that they will meet the accessibility requirements of 24 CFR part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development;

(b) A discussion of how any drug education services that you propose to

undertake directly or through a subcontract will reflect the objectives of your program plan;

(c) A specific explanation of how you plan to incorporate the active participation of youth in planning prevention programs and services targeted to their needs; and

(d) If you propose drug treatment activities, you must provide a letter from your Single State Agency (or State license provider or authority with drug program coordination responsibilities in your State) that states that your program is effectively coordinating, developing, and implementing drug treatment programs in partnership with that entity.

(2) (10 points) The anticipated effectiveness of the plan and proposed activities in reducing or eliminating drug-related crime problems immediately and over an extended period. This should include the following:

(a) A description of established performance goals for the results to be achieved during the period of your grant. The goals must be objective, quantifiable, and measurable, and they must be outcome or result-oriented. Outcomes include accomplishments, results, impact and the ultimate effects of the program on the drug or crime problem in the target/development area.

(b) An explanation of how your proposed activities enhance and are coordinated with on going or proposed programs sponsored by HUD, such as Neighborhood Networks, Campus of Learners, Operation Safe Home, "One Strike and You're Out", Department of Justice Weed and Seed Efforts, or any other prevention/intervention/treatment activities in your community. Explain the specific steps you will take to share and coordinate information on solutions and outcomes with other law-enforcement and governmental agencies, and a description of any written agreements in place or that will be put in place by you with these entities.

(3) (3 points) Evidence and explanation of how proposed activities have been effective in similar circumstances in controlling drug-related crime. If you are proposing new methods for which there is limited knowledge of effectiveness, you should provide the basis for modifying past practices and rationale for why you believe the modification will yield more effective results. HUD will look more favorably upon proposals that target grant funds to hard program costs and propose minimal, if any, administrative expenses.

(4) (3 points) The process you will use to maintain, analyze, and report Part I and II crimes, as well as police workload data. Police workload data may include, but are not limited to: all calls for service by residents of your development, crime pattern over a period of time by type of crime, and plans to improve data collection and reporting. Your proposed analysis of the data collected must include a method for assessing the impact of activities on the collected crime statistics throughout your award period. The results of your activities and the effect on statistics is of much greater importance than the method you will use to collect such data, so you should pay attention to the benchmarks you establish for measuring and evaluating your performance, particularly measuring changes in crime rates by Part I and Part II crime data.

(5) (1 point deducted if not addressed) The extent to which the applicant's elimination of crime in a development or neighborhood will expand fair housing choice and will affirmatively further fair housing. Provide a brief statement outlining the benchmarks you will use to measure your success in affirmatively furthering fair housing through this program. This may include such items as lower vacancy and turnover rates and increased new applications for housing in your development and in other rental properties in your neighborhood, new businesses and other community development initiatives in your area, or increased rates of homeownership in your community. If such a statement is not provided, you will not receive this point.

(6) (5 points) *Resident Support*. The extent to which you have sought the support of residents in planning and implementing the proposed activities.

(a) You must provide evidence that you actively sought comments, suggestions, and support from residents for your proposed plan. State the steps you took to obtain this information and support.

(b) Describe and provide written documentation of these comments, suggestions, and support. HUD needs clear evidence that the residents agree with, support, and will work with your proposed program. If applicable, you must explain why you do not have written documentation of such support or did not receive any comments or suggestions.

(c) Describe how residents will be involved in implementing your program. If involvement would be minimal or not appropriate, please state and explain why.

Rating Factor 4: Leveraging Community Resources (10 Points)

To receive points under this rating factor, you must provide evidence of the level and type of participation and support by the local government or law enforcement agency for your proposed activities. This should include the level of assistance received from local government, community organizations, and/or law enforcement agencies. If a community organization is providing you with staff or supporting services, you must include a letter from each organization providing staff or support in order to receive maximum points. Each letter *must* specify what type of participation or contributions the organization will make to your program. Such letters must be from community or public agencies (or businesses) within your unit of general local government (i.e. county, town, city) or incorporated resident organizations. Letters stating general support or from people or organizations not in or around your development are not adequate and you should not include them in your application.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinate your activities with other known organizations, participate or promote participation in your community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community.

In evaluating this factor, HUD will consider your prior efforts and future plans to coordinate with other local agencies and organizations as follows:

(1) (3 points) Describe past efforts to coordinate your proposed activities with those of other groups or organizations prior to submission of your application in order to best complement, support, and coordinate all known activities. Explain what specific steps you will take to share information on solutions and outcomes with others. Please describe any written agreements or memoranda of understanding that are or will be in place after award.

(2) (6 points) Explain what specific steps you have taken or will take to develop linkages or coordinate comprehensive solutions through meetings, information networks, planning processes, or other mechanisms. Explain your past efforts or planned efforts for involvement with such programs or other HUD-funded projects/activities outside the scope of

those covered by the Consolidated Plan; and/or other Federal, State, or locally funded activities, including those proposed or on-going in the community.

(3) (1 point) Explain specific steps you have taken or will take to become active in your community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities you propose.

#### **VI. Application Submission Requirements**

(A) *Number of Applications, Projects Per Application, and Maximum Application Amounts.* If you are an owner of an eligible project listed in Section III.(B) of this program section of the SuperNOFA, you may only submit one application for one or more projects within a local HUD Field Office jurisdiction. The maximum amount of funds you may receive for an application with one development is

\$125,000 and the maximum for an application for two or more developments is \$200,000.

(B) If you are an owner of developments served by a number of HUD Field Offices, you may submit multiple applications, as long as you submit only one application per Field Office jurisdiction.

(C) There is no limit to the number of developments per application. However, all developments in one application must be eligible and located in the same Field Office jurisdiction. You must demonstrate in Rating Factor 3 "Soundness of Approach—(Quality of the Plan)" that your program will be feasible to implement among all proposed developments. In addition, you must provide pertinent information for each Rating Factor for each proposed development.

#### **VI. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VII. Environmental Requirements**

It is anticipated that activities under this program are categorically excluded under 24 CFR 50.19(b)(4), (b)(12), or (b)(13). If grant funds will be used to cover the cost of any non-exempt activities, HUD will perform an environmental review to the extent required by 24 CFR part 50, prior to grant award.

#### **VIII. Authority**

This program is authorized under Chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.), as amended by section 581 of the National Affordable Housing Act of 1990 (Pub. L. 102-550, approved October 28, 1992). The regulations for the program are found in 24 CFR part 761, Drug Elimination Programs.

BILLING CODE 4210-32-Y



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**ECONOMIC DEVELOPMENT  
INITIATIVE (EDI)**



## Funding Availability for the Economic Development Initiative (EDI)

### Program Overview

**Purpose of the Program.** EDI funds are used to enhance the security of the Section 108 guaranteed loan for the same project or to improve the viability of a project financed with a Section 108-guaranteed loan. An EDI grant is required to be used in conjunction with a new Section 108 guaranteed loan commitment.

**Available Funds.** Approximately \$35 million is available for EDI grants under this SuperNOFA.

**Eligible Applicants.** Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702 may apply for EDI assistance under section 108 (q) and this SuperNOFA. (See Section III(B) below for additional information regarding eligible applicants.)

**Application Deadline.** June 11, 1999.

**Match.** None.

### Additional Information:

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Submit your completed applications (one original and two copies) on or before 12:00 midnight, Eastern time, on June 11, 1999, to the addresses shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Address for Submitting Applications.** To HUD Headquarters. Submit your completed application (an original and one copy) to: Processing and Control Unit, Room 7251, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Attention: EDI Grant, by mail or hand delivery.

**To the Appropriate CPD Field Office.** At the same time you submit your application to HUD Headquarters, you must submit an additional copy of your application to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction.

When submitting your application, please refer to EDI, and include your

name, mailing address (including zip code) and telephone number (including area code).

**For Application Kits.** For an application kit and any supplemental information, please call HUD's SuperNOFA Information line toll free at 1-800-HUD-8929. When requesting the application kit, please refer to EDI. Please provide your name, address (including zip code), and telephone number (including area code). The application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov>. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-HUD-2209 to obtain an application kit.

**For Further Information and Technical Assistance.** Contact either Stan Gimont or Paul Webster, Financial Management Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7178, Washington, DC 20410; telephone (202) 708-1871 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

See the General Section of this SuperNOFA for guidance on technical assistance. With respect to the Section 108 Loan Guarantee program, which is not a competitive program and thus not subject to those provisions of the HUD Reform Act pertaining to competitions, HUD staff will be available to provide advice and assistance to develop Section 108 loan applications.

### II. Amount Allocated

HUD has available a maximum of \$35 million for the EDI program, as appropriated in Pub.L. 105-276 (the FY 1999 VA-HUD Appropriations Act). If any additional EDI grant monies for this SuperNOFA become available, HUD may either fund additional applicants in accordance with this SuperNOFA during Fiscal Year 1999 or may add any funds that became available to funds that are available for any future EDI competitions.

As part of EDI, HUD is developing a program enhancement designed to reduce the risk that CDBG funds will have to be used to repay Section 108 loans that finance economic development projects. This mechanism will allow public entities to pool economic development loans and related reserves. The diversification created by the pooling of loans and reserves will reduce the risk that a public entity will incur a catastrophic loss to its CDBG program if a business

defaults on an economic development loan made with Section 108 funds. The CDBG Risk Reduction Pool will also assist public entities in satisfying the collateral requirements for Section 108 loans. The pool's reserves and incremental cash flows will provide an additional credit enhancement for the Section 108 loan and thereby satisfy Section 108 additional collateral requirements.

HUD is developing this pooling mechanism in consultation with other Federal agencies and outside experts. HUD is considering a \$10 to \$20 million demonstration in FY 1999 (only \$10 million of this demonstration will be from FY 1999 funds). If the demonstration occurs, then \$25 million will be available for the EDI competition announced in this SuperNOFA. In this event, HUD will publish a notice announcing the availability of the funds for the FY 1999 demonstration of this mechanism. Should there be no demonstration in FY 1999, then HUD reserves the right to utilize the \$10 million in FY 1999 funds for the EDI competition announced in this SuperNOFA, making the total amount available \$35 million.

### III. Program Description; Eligible Applicants; Eligible Activities.

#### (A) Program Description.

EDI is designed to enable local governments to enhance both the security of loans guaranteed through HUD's Economic Development Loan Fund (also known as the Section 108 loan guarantee program) and the feasibility of the economic development and revitalization projects that Section 108 guarantees finance. EDI accomplishes this by providing grants to local governments to be used in conjunction with Section 108 loan guarantees.

(1) **Definitions.** Terms used in this program section of this SuperNOFA have the meanings given in 24 CFR part 570 unless otherwise specified.

Act means Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-*et seq.*).

CDBG funds means those funds collectively defined at 24 CFR 570.3, including grant funds received pursuant to section 108(q) of the Act and this program section of this SuperNOFA.

Economic Development Initiative (EDI) means the provision of economic development grant assistance under section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub.L. 103-233, approved April 11, 1994).

*Economic development project* means an activity or activities (including mixed use projects with housing components) that are eligible under the Act and under 24 CFR 570.703, and that increase economic opportunity for persons of low- and moderate-income or that stimulate or retain businesses or jobs or that otherwise lead to economic revitalization.

*Empowerment Zone or Enterprise Community* means an urban area so designated by the Secretary of HUD pursuant to 24 CFR part 597 or 598, or a rural area so designated by the Secretary of Agriculture pursuant to 7 CFR part 25, subpart B.

*Strategic Plan* means a strategy developed and agreed to by the nominating local government(s) and State(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone or Enterprise Community designated pursuant to 24 CFR part 597 or 598.

(2) *Background.* (a) HUD has multiple programs which are intended to stimulate and promote economic and community development. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

(b) The CDBG program provides grant funds (approximately \$4.232 billion in FY 1999) by formula to local governments (either directly or through States) to carry out community and economic development activities. The Section 108 loan guarantee program provides local governments with a source of financing for economic development, housing rehabilitation and other eligible large scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the State CDBG program. The Section 108 program is subject to the regulations of 24 CFR part 570 applicable to the CDBG program, with the exception of changes embodied in 24 CFR part 570, subpart M. EDI grants support Section 108 loan guarantees as generally described under the above section entitled "Purpose of the Program."

(c) For FY 1999, the Section 108 program is authorized at \$1.261 billion in loan guarantee authority. The full faith and credit of the United States will be pledged to the payment of all guarantees made under Section 108. Under this program, communities (and States, if applicable) pledge their future years' CDBG allocations as security for

loans guaranteed by HUD. The Section 108 program, however, does *not* require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security and included in the applicable "Contract for Loan Guarantee Assistance"). This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

(3) *EDI Program.* The EDI program was enacted in 1994 and is intended to complement and enhance the Section 108 Loan Guarantee program. A purpose of EDI grant funds is to further minimize the potential loss of future CDBG allocations:

(a) By strengthening the economic feasibility of the projects financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);

(b) By directly enhancing the security of the guaranteed loan; or

(c) Through a combination of these or other risk mitigation techniques.

(4) *Purpose of EDI Funding.* HUD intends the approximately \$35 million in EDI funds to stimulate economic development by local governments and private sector parties. HUD desires to see EDI and Section 108 funds used to finance projects and activities that will provide near-term results and demonstrable economic benefits, such as job creation and increases in the local tax base.

(5) *Additional Security for Section 108 Loan Guarantee.* Public entities should be mindful of the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). Although a public entity is required by the Act to pledge its current and future CDBG funds as security for the Section 108 loan guarantee, the public entity will usually be required to furnish additional collateral. In most cases, the additional collateral consists (in whole or in part) of the asset financed with the Section 108 loan funds (e.g., a loan made to a business as part of an economic development project). Applications proposing uses for EDI funding that enhance the viability of projects will help ensure that the project-based asset(s) will satisfy the additional collateral requirements.

(6) *Typical Project Structures.* Provided that proposals are consistent with other CDBG requirements, including national objectives, HUD envisions that the following project structures could be typical:

(a) *Funding Reserves.* The cash flow generated by an economic development project may be expected to be relatively "thin" in the early stages of the project, i.e. potentially insufficient cash flows to meet operating expenses and debt service obligations. The EDI grant can make it possible for reserves to be established in a way that enhances the economic feasibility of the project.

(b) *Over-Collateralizing the Section 108 Loan.* (i) The use of EDI grant funds may be structured in appropriate cases so as to improve the likelihood that project-generated cash flow will be sufficient to cover debt service on the Section 108 loan and directly to enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization of the Section 108 loan.

(ii) An example is the creation of a loan pool funded with Section 108 and EDI grant funds. The community would make loans to various businesses from the combined pool at an interest rate equal to or greater than the rate on the Section 108 loan. The total loan portfolio would be pledged to the repayment of the Section 108 loan.

(c) *Direct Enhancement of the Security of the Section 108 Loan.* The EDI grant can be used to cover the cost of providing credit enhancements. An example of how the EDI grant can be used for this purpose is by using the grant funds to cover the cost of a standby letter of credit, issued in favor of HUD. This letter of credit will be available to fund amounts due on the Section 108 loan if other sources fail to materialize and thus will serve to protect the public entity's future CDBG funds.

(d) *Provision of Financing to For-Profit Businesses at a Below Market Interest Rate.* (i) While the rates on loans guaranteed under Section 108 are only slightly above the rates on comparable U.S. Treasury obligations, they may nonetheless be higher than can be afforded by businesses in severely economically distressed neighborhoods. The EDI grant can be used to make Section 108 financing affordable.

(ii) EDI grant funds could serve to "buy down" the interest rate up front, or make full or partial interest payments, allowing the businesses to be financially viable in the early start-up period not otherwise possible with Section 108 alone. This strategy would be particularly useful where a community was undertaking a large commercial/retail project in a distressed neighborhood to act as a catalyst for other development in the area.

(e) *Combination of Techniques.* You could employ a combination of these or other techniques in order to implement a strategy that carries out an economic development project.

*(B) Eligible Applicants.*

Any public entity eligible to apply for Section 108 loan guarantee assistance pursuant to 24 CFR 570.702 may apply for EDI grant assistance under Section 108(q). *Eligible applicants are CDBG entitlement units of general local government and non-entitlement units of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M.* Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for EDI funds; units of general local government which participate in an Urban County program are not independently eligible applicants. For non-entitlement applicants other than those in the States of Hawaii and New York, non-entitlement applicants will be required to provide proof that the State will support the related Section 108 loan with a pledge of its CDBG funds pursuant to the requirements of 24 CFR 570.705(b)(2). Note that effective January 25, 1995, non-entitlement public entities in the states of New York and Hawaii were authorized to apply to HUD for Section 108 loans (see 59 FR 47510, December 27, 1994). Thus, non-entitlement public entities in all 50 states and Puerto Rico are eligible to participate in the Section 108 and EDI programs.

*(C) Eligible Activities and National Objectives.*

(1) EDI grant funds may be used for activities listed at 24 CFR 570.703, provided such activities are carried out as part of an economic development project as described in Section III(A) of this EDI section of this SuperNOFA. If your application fails to meet the requirements for an EDI project as set forth in this SuperNOFA, HUD will not give it a rating.

(2) Each activity assisted with Section 108 loan guarantee or EDI funds must meet a national objective of the CDBG program as described in 24 CFR 570.208. You must clearly identify in your narrative statement (as described in Section V.(B) below) the CDBG national objective your proposed project will achieve and provide the appropriate CDBG national objectives regulatory citation found at 24 CFR 570.208. Also, you must address, when applicable, how your proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR

570.209 for the CDBG Entitlement program and 24 CFR 570.482 for the State CDBG program.

(3) In the aggregate, your use of CDBG funds, including any Section 108 loan guarantee proceeds and section 108(q) (EDI) funds provided pursuant to this program section of this SuperNOFA, must comply with the CDBG primary objectives requirement as described in section 101(c) of the Act and 24 CFR 570.200(c)(3), or 24 CFR 570.484 in the case of State grantees.

**IV. Program Requirements**

*(A) CDBG Program Regulations*

In addition to 24 CFR 570.701 (Definitions), 570.702 (Eligible applicants), and 570.703 (Eligible activities), as explained elsewhere in this program section of the SuperNOFA, the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews) govern the use of EDI funds, as applicable.

*(B) Compliance with Applicable Laws*

An award of EDI funding does not in any way relieve you or third party users of EDI funds from compliance with all applicable Federal, State and local laws.

*(C) Related Section 108 Loan Guarantee Application*

(1) Each EDI application must be accompanied by a request for new Section 108 loan guarantee assistance. Both the EDI and Section 108 funds must be used in conjunction with the same economic development project. This request may take any of several forms as defined below.

(a) A formal application for new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b).

(b) A brief description (not to exceed three pages) of a new Section 108 loan guarantee application(s). Such 108 application(s) will be submitted within 60 days, with HUD reserving the right to extend such period for good cause on a case-by-case basis, of a notice of EDI selection. EDI awards will be conditioned on approval of actual Section 108 loan commitments. This Section 108 application description must be sufficient to support the basic eligibility of the proposed project or activities for Section 108 assistance. (See Section III(C) of this program section of this SuperNOFA.)

(c) A copy of a pending, unapproved Section 108 loan guarantee application, and any proposed amendments to the Section 108 application which are

related to the EDI application. The applicant's submission of such a EDI/Section 108 application shall be deemed by HUD to constitute a request to suspend separate processing of the Section 108 application. The Section 108 application will not be approved until on or after the date of the related EDI award.

(d) A request for a Section 108 loan guarantee amendment (analogous to Section IV(C)(1)(a) or (b) above) that proposes to increase the amount of a previously approved application. However, any amount of Section 108 loan guarantee authority approved before HUD's announcement of an EDI grant for the same project pursuant to this SuperNOFA is not eligible to be used in conjunction with a EDI grant under this SuperNOFA.

(2) Further, a Section 108 loan guarantee amount that is required to be used in conjunction with a prior EDI or Brownfields Economic Development Initiative (BEDI) grant award, whether or not the Section 108 loan guarantee has been approved as of the date of this SuperNOFA, is not eligible for an EDI award under this SuperNOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded an EDI grant of \$1 million and had certified that it will submit a Section 108 loan application for \$10 million in support of that EDI grant, the public entity's EDI application under this SuperNOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts (the \$12 million or \$10 million in this example) to which it has previously agreed.

*(D) Limitations on Use of EDI and Section 108 Funds*

Certain restrictions shall apply to the use of EDI and Section 108 funds:

(1) EDI grants must not be used as a resource to immediately repay the principal of a loan guaranteed under Section 108. Repayment of principal is only permissible with EDI grant funds as a matter of security if other sources projected for repayment of principal prove to be unavailable.

(2) You should not use Section 108 funds to finance activities that also include financing generated through the issuance of federally tax exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A-129 (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108 guaranteed loan funds may not directly or

indirectly support federally tax-exempt obligations.

(3) HUD will not consider for funding any EDI proposal in which the related Section 108 loan guarantee would be used solely as security. EDI funds are to be used to support and enhance activities financed with Section 108 loan guarantee proceeds from HUD's interim lending or public offering mechanisms and thereby leverage greater use of the Section 108 program. Awarding EDI funds to a project which would use the Section 108 guarantee only as a security guarantee for other financing can be tantamount to making a simple grant to the project and thereby fails to fulfill the goals of the EDI program.

*(E) Limitations on Grant Amounts*

(1) HUD expects to approve EDI grant amounts for approvable applications at a range of ratios of EDI grant funds awarded to new Section 108 loan guarantee commitments, but the minimum ratio will be \$1 of Section 108 loan guarantee commitments for every \$1 of EDI grant funds. However, if you propose a leverage ratio of 1:1, you will not receive any points under Rating Subfactor 4(1): "Leverage of Section 108 Funds." For example, an applicant requesting an EDI grant of \$1 million will be required to leverage a minimum of at least \$1 million in new Section 108 loan guarantee commitments. This will be a special condition of the EDI grant award. Of course, even though there is a minimum ratio of 1:1, applications with higher ratios will receive more points under Rating Factor 4, "Leveraging Resources/Financial Need" and, all other things being equal, will be more competitive. You should propose projects with a greater leverage ratio of new Section 108 to EDI grant funds (assuming such projects are financially viable). For example, \$1 million of EDI could leverage \$12 million of new Section 108 loan commitments. HUD intends that the EDI funds will be used for projects which leverage the greatest possible amount of Section 108 loan guarantee commitments. Because a fundable application is competitive in part because of the applicant's proposed ratio of EDI funds to funds guaranteed by a Section 108 loan guarantee, HUD will condition a EDI grant award on the grantee's achievement of that specific ratio. Your failure to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the EDI grant award.

(2) HUD will cap EDI awards at a maximum of \$2 million. Any application in excess of \$1 million may be reduced below the amount requested by the applicant if HUD determines that such a reduction is appropriate.

(3) If additional EDI grant funds become available to HUD as the result of recaptures prior to the date of this SuperNOFA, HUD reserves the right to award grants under this SuperNOFA whose aggregate total may exceed the \$35 million announced in this SuperNOFA, up to the maximum amount authorized by law.

(4) In the event you are awarded an EDI grant that has been reduced below the original request (e.g. the application contained some activities that were ineligible or there were insufficient funds to fund the last competitive application at the full amount requested), you will be required to modify your project plans and application to conform to the terms of HUD's approval before HUD will execute a grant agreement. HUD also will proportionately reduce or deobligate the EDI award if you do not submit approvable Section 108 loan guarantee applications on a timely basis (including any extension authorized by HUD) in the amount required by the EDI/108 leveraging ratio which will be approved by HUD as a special condition of the EDI grant award (see Section IV(E)(1) above of this program section of the SuperNOFA). Any modifications or amendments to your application approved pursuant to this SuperNOFA, whether requested by you or by HUD, must be within the scope of the approved original EDI application in all respects material to rating the application, unless HUD determines that the revised application remains within the competitive range and is otherwise approvable under this SuperNOFA competition.

(5) In the case of requested amendments to a previously approved Section 108 loan guarantee commitment (as further discussed in Section IV(C)(1)(d), above), the EDI assistance approved will be based on the increased amount of Section 108 loan guarantee assistance.

(6) Pursuant to another portion of this SuperNOFA, HUD is simultaneously announcing the availability of \$25 million of Brownfields Economic Development Initiative (BEDI) funds. While HUD will permit applicants to pursue BEDI and EDI funds for the same project, HUD requires that the BEDI and EDI applications (and their components) be independent of one another. Thus, each application should have an identifiable amount of Section 108

funding associated with its respective request for EDI and BEDI funds for purposes of determining the leverage of Section 108 funding to the corresponding amount of EDI or BEDI funds requested. Further, the proposed amount of Section 108 borrowing associated with the BEDI or EDI grant shall not be used to determine leverage of other financial resources under Rating Subfactor 4(3). Further, if you seek both BEDI and EDI funds for the same project, you must include in your response to Rating Factor 3 and the "Financial feasibility" portion of Rating Factor 4 a discussion of how the project can be financed and implemented if you fail to obtain either BEDI or EDI funds under this SuperNOFA.

*(F) Timing of Grant Awards*

(1) To the extent you submit a full Section 108 application with your EDI grant application, HUD will evaluate the Section 108 application concurrently with the request for EDI grant funds. Note that EDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of an EDI grant pursuant to this SuperNOFA. However, the EDI grant may be awarded before HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act.

(2) HUD notice to you of the amount and conditions of EDI funds awarded, based upon review of the EDI application, constitutes an obligation of grant funds, subject to compliance with the conditions of award and execution of a grant agreement. EDI funds must not be disbursed to the public entity before the issuance of the related Section 108 guaranteed obligations.

*(G) Economic Opportunities for Low and Very Low-Income Persons (Section 3)*

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is applicable to EDI grant recipients. Please see Section II(E) of the General Section of the SuperNOFA.

**V. The Application Selection Process**

*(A) Rating and Ranking*

(1) Each rating factor and the maximum number of points is provided below. The maximum number of points to be awarded is 102. This includes two EZ/EC bonus points as described in the General Section of this SuperNOFA.

(2) Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points.

Applications will be funded in rank order.

(3) Prior to award, if HUD determines that your application rated, ranked and fundable could be funded at a lesser EDI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of the Act, HUD reserves the right to reduce the amount of the EDI award and/or increase the Section 108 loan guarantee commitment, if necessary, in accordance with such determination. An application in excess of \$1 million may be reduced below the amount requested by the applicant if HUD determines that such a reduction is appropriate.

(4) HUD may decide not to award the full amount of EDI grant funds available under this program section of this SuperNOFA and may make any remaining amounts available under a future SuperNOFA, or under a supplementary notice.

(5) HUD desires to fund projects which will quickly produce demonstrable results. EDI grant awards will contain conditions requiring you to adhere to your stated timeframes for implementing your proposed projects and drawing Section 108 and EDI funds. If you fail to adhere to these schedules, HUD may recapture the EDI funds.

#### *(B) Narrative Statement*

(1) Provide narrative statements describing the activities that you will carry out with the EDI grant funds. Your narrative statement must not exceed three (3) 8.5" by 11" pages.

(2) Describe how your proposed uses of EDI funds will meet the national objectives under 24 CFR 570.208 for the CDBG program and qualify as eligible activities under 24 CFR 570.703. You must include citations to the specific regulatory subsections supporting eligibility and national objective. (See Section III(D) of this program section of this SuperNOFA).

(3) Respond to the rating factors below. Each of the listed rating factors (or, where applicable, each subfactor) below also has a separate page limitation specified.

(4) Print your narrative statement in 12 point type/font, and use sequentially numbered pages.

#### *(C) Factors for Award Used to Evaluate and Rate Applications*

HUD will consider your application for selection based on the following factors that demonstrate the quality of your proposed project or activities, and your creativity, capacity and commitment to obtain maximum benefit

from the EDI funds, in accordance with the purposes of the Act.

#### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points)

[Your response to this factor is limited to three (3) pages.]

This factor addresses the extent to which you have the organizational resources necessary to successfully implement your proposed activities in a timely manner. The rating of the "applicant" or the "applicant's organization and staff" for technical merit or threshold compliance, unless otherwise specified, will include any subcontractors, consultants, subrecipients, and members of consortia that are firmly committed (i.e., has a written agreement or a signed letter of understanding with the applicant agreeing in principle to its participation and role in the project). In rating this factor, HUD will consider the following:

(1) With regard to the EDI/Section 108 project you propose, you should demonstrate that you have the capacity to implement the specific steps required to successfully carry out your proposed EDI/Section 108 project. This includes factors such as your:

(a) Performance in the administration of your CDBG, HOME or other programs;

(b) Previous experience, if any, in administering a Section 108 loan guarantee;

(c) Performance and capacity in carrying out economic development projects;

(d) Ability to conduct prudent underwriting;

(e) Capacity to manage and service loans made with the guaranteed loan funds or previous EDI or BEDI grant funds;

(f) Capacity to carry out your projects and programs in a timely manner; and,

(g) If applicable, your capacity to manage projects under this program section of this SuperNOFA along with any federal funds awarded as a result of a federal urban Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community (EEC) designation).

(2)(a) If you have previously received an EDI or BEDI grant award(s), you must describe the status of the implementation of those project(s) assisted with EDI or BEDI funds, any delays that have been encountered and the actions you are taking to overcome any such delays in order to carry out the project in a timely manner. For such previously funded EDI or BEDI grant projects, HUD will consider the extent to which you have used the awarded

EDI or BEDI grant funds and the associated Section 108 guaranteed loan funds.

(b) Further, if you have EDI or BEDI funds and related Section 108 loan guarantee authority available as a result of earlier HUD awards and commitments for activities such as (but not limited to) economic development loan funds, community development banks, and community and individual investment corporations, you should use those existing financial resources before applying for additional EDI or BEDI funds and Section 108 commitments. If HUD determines that you could fund your project from such existing resources, HUD will reduce your score under this rating factor to 0.

(3) The capacity of subrecipients, nonprofit organizations and other entities that have a role in implementing the proposed program will be included in this review. HUD also may rely on information from performance reports, financial status information, monitoring reports, audit reports and other information available to HUD in making its determination under this factor.

#### Rating Factor 2: Distress/Extent of the Problem (15 Points)

[Your response to this factor is limited to three (3) pages.]

This factor addresses the extent to which there is need for funding your proposed activities based on levels of distress, and an indication of the urgency of meeting the need/distress in your target area.

(1) In applying this factor, HUD will consider current levels of distress in the immediate community to be served by your project and the jurisdiction applying for assistance. If you are able to indicate a level of distress in the immediate project area that is greater than the level of distress in your jurisdiction as a whole, HUD will give your application a higher score under this factor than other applications that do not. HUD requires you to use sound and reliable data that is verifiable to support the level of distress you claim in your application. You must provide a source for all information you cite and indicate the publication date or origination date of the data.

(2) In previous EDI competitions, the poverty rate was often considered the best indicator of distress. You must provide the poverty rate for your jurisdiction as a whole and for the areas to be served and/or where the EDI/Section 108 funded project is located; however, in addition, you may demonstrate the level of distress with other factors such as income levels and unemployment rates.

(3) To the extent that your Consolidated Plan and your Analysis of Impediments to Fair Housing choice (AI) identifies the level of distress in the community and the neighborhood in which your project is being carried out, you should include references to such documents in preparing your response to this factor. Also, you should discuss the extent to which the analysis of impediments identifies unhealthy environmental conditions in your project area, and how such conditions negatively impact your target neighborhood.

**Rating Factor 3: Soundness of Approach (25 Points)**

[Your response to this factor is limited to three (3) pages.]

This factor addresses the quality and cost-effectiveness of your proposed plan. There must be a clear relationship between the proposed activities, community needs and purposes of the program funding for you to receive points for this factor. In rating this factor, HUD will consider the following:

(1) The quality of your plan/proposal for the use of EDI funds and Section 108 loan funds, including the extent to which your proposed plan for effective use of EDI grant/Section 108-guaranteed loan funds will address the needs you described in Rating Factor 2 above regarding the distress and extent of the problem in your immediate community and/or jurisdiction. As part of the response to this factor, you should identify the eligible activities you will carry out and fully describe how your project will achieve a national objective. You should make substantial efforts to demonstrate how your proposed project would mitigate or otherwise address the distress identified in Rating Factor 2 above.

(2) The extent to which the plan is logically, feasibly, and substantially likely to achieve its stated purpose. HUD's desire is to fund projects and activities which will quickly produce demonstrable results and advance the purposes of the EDI program, including the number of jobs to be created by the project and the impact of the project on job creation that will benefit individuals on or previously on welfare. You should demonstrate that you have a clear understanding of the steps required to implement your project, the actions that you and others responsible for implementing your project must complete. You must include a reasonable time schedule for carrying out your project. The application kit contains a timeline form that you must use to indicate your project timing.

(3) The extent to which your proposed project addresses your Analysis of Impediments and the needs identified in Rating Factor 2; the extent to which such project activities will result in the physical and economic improvement for the residents in the neighborhood in which your project will be carried out; the extent to which you will offer residents an opportunity to relocate to environmentally healthy housing or neighborhoods; or the extent to which residents will benefit from the funded project to enable them to continue to live in a redeveloped or revitalized neighborhood and thus share in the anticipated economic benefits your project is expected to generate.

(4) The extent to which your project incorporates one or more elements that facilitate a successful transition of welfare recipients from welfare to work. Such an element could include, for example, linking your proposed project or loan fund to social and/or other services needed to enable welfare recipients to successfully secure and carry out full-time jobs in the private sector; provision of job training to welfare recipients who might be hired by businesses financed through the proposal; and/or incentives for businesses financed with EDI/section 108 funds to hire and train welfare recipients.

(5) Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application submitted by the City of Dallas, Texas, HUD's consideration of the response to this factor, "Soundness of Approach," will include the extent to which Dallas' plan for the use of EDI funds and Section 108 loans will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order. Up to two (2) additional points will be awarded to any application submitted by the City of Dallas, Texas, to the extent this subfactor is addressed.

**Rating Factor 4: Leveraging Resources/ Financial Need (35 Points)**

[Page limits for the response to this factor are listed separately for each subfactor under this factor.]

In evaluating this factor, HUD will consider the extent to which your response demonstrates the financial need and feasibility of your project and the leverage ratio of Section 108 loan proceeds to EDI grant funds. This factor has three subfactors, each with its own maximum point total:

(1) *Leverage of Section 108 funds* (20 points). Your response to this subfactor is limited to one (1) page. The minimum

ratio of Section 108 funds to EDI funds in any project may not be less than 1:1. The extent to which your proposed project leverages an amount of Section 108 funds beyond the 1:1 ratio will be considered a positive factor. If you have a ratio of 1:1, your application will not receive any points under this subfactor. If you use your EDI grant to leverage more new Section 108 commitments, your application will receive more points under this subfactor.

(2) *Financial feasibility* (10 points). [Your response to this subfactor is limited to three (3) pages.] HUD will consider the extent to which you demonstrate that your project is financially feasible. In responding to this subfactor, you must clearly address the question of why the EDI funds are critical to the success of this project. This may include factors such as:

(a) Project costs and financial requirements. You should provide a funding sources and uses statement (not included in the 3 page narrative limit), as well as justifications for project costs.

(b) The amount of any debt service or operating reserve accounts you will establish in connection with the economic development project.

(c) The reasonableness of the costs of any credit enhancement paid with EDI grant funds.

(d) The amount of program income (if any) you will receive each year during the repayment period for the guaranteed loan.

(e) Interest rates on those loans to third parties (other than subrecipients) (either as an absolute rate or as a plus/minus spread to the Section 108 rate).

(f) Underwriting criteria that you will use in determining project feasibility.

(3) *Leverage of other financial resources* (5 points). [Your response to this subfactor is limited to one (1) page plus supporting documentation evidencing third party commitment (written and signed) of funds.] HUD will evaluate the extent to which you leverage other funds (public or private) with EDI grant funds and Section 108 guaranteed loan funds and the extent to which such other funds are firmly pledged to the project. This could include the use of CDBG funds, other Federal or state grants or loans, your general funds, project equity or commercial financing provided by private sources or funds from non-profits or other sources. Funds will be considered pledged to the project if there is evidence of the third party's written commitment to make the funds available for the EDI/108 project, subject to approval of the EDI and Section 108 assistance and completion of any environmental review required under 24

CFR part 50 for the project. Note, that with respect to CDBG funds, your pledge of its CDBG funds will be considered sufficient commitment.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

[Your response to this factor is limited to two (2) pages.]

This factor addresses the extent to which you have coordinated your activities with other known organizations; you participate or promote participation in your or a State's Consolidated Planning process; and you are working towards addressing a need in a comprehensive manner through linkages with other activities in the community.

In evaluating this factor, HUD will consider the extent to which you demonstrate you have:

(1) Coordinated your proposed activities with those of other groups or organizations before submission, in order to best complement, support and coordinate all known activities; and developed specific steps to share information on solutions and outcomes with others. Describe any written agreements, memoranda of understanding in place, or that will be in place after award.

(2) Developed linkages, or specific steps to develop linkages with other activities, programs or projects (through meetings, information networks, planning processes or other mechanisms to coordinate its activities), so that solutions are holistic and comprehensive. Describe any linkages with other HUD-funded projects/ activities outside the scope of those covered by the Consolidated Plan, as well as established linkages and outreach with residents of your project area.

**VI. Application Submission Requirements**

(A) Public entities seeking EDI assistance must make a specific request for that assistance, in accordance with the requirements of this program section of this SuperNOFA.

(B) You must submit an original and one copy of the items listed below to HUD Headquarters (see the section "Addresses For Submitting Applications in this program section of

this SuperNOFA). In addition, you must submit one additional copy directly to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction.

(C) Your EDI application shall consist of the following items:

- (1) Your transmittal letter;
- (2) Table of contents;
- (3) Application check list (supplied in application kit);

(4) A request for loan guarantee assistance under Section 108 as further described in Section IV(C) of this program section of the SuperNOFA. Application guidelines for the Section 108 loan guarantee program are found at 24 CFR 570.704;

(5) As described in Section V(B) of this program section of this SuperNOFA, a narrative statement (3 page limit) describing the activities that you will carry out with the EDI grant funds;

(6) Responses to each of the rating factors (within the page limits provided for each factor or subfactor as applicable);

(7) Completion of a funding sources and uses statement and a EDI and Section 108 eligibility statement (see the application kit);

(8) Written agreements or signed letters of understanding in support of Rating Factor 1: "Capacity of the Applicant and Relevant Organizational Experience;"

(9) Signed third party commitment letters pledging funds in support of subfactor 4(2): "Leverage of other financial resources;"

(10) In addition to the certifications specified in section II(G) of the General Section of this SuperNOFA, the forms and certifications required at 24 CFR 570.704(b)(3), (b)(4), (b)(8)(i), (b)(8)(ii), (b)(8)(vi), (b)(8)(vii), (b)(8)(viii), (b)(8)(x), and (b)(9); and

(11) Acknowledgement of Application Receipt form.

(D) A single application must contain a request for funds for a single EDI project. You may submit more than one application for each additional unrelated EDI project. Each application will be rated and ranked individually. In no event will HUD rate and rank more than one EDI project per application.

(E) Your application must meet all of the applicable threshold requirements of Section IIB of the General Section of this SuperNOFA.

**VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

**VIII. Environmental Requirements**

*(A) Environmental Review*

After the completion of this competition and after HUD's award of EDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58, including limitations on the EDI grant and Section 108 public entity's commitment of HUD and non-HUD funds prior to the completion of environmental review, notification and release of funds. No such assistance will be released by HUD until a request for release of funds is submitted and the requirements of 24 CFR part 58 have been met. All public entities, including nonentitlement public entities, shall submit the request for release of funds and related certification, required pursuant to 24 CFR part 58, to the appropriate HUD field office for each project to be assisted.

*(B) Environmental Justice*

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs Federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

**IX. Authority**

Section 108(q), Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5320); 24 CFR part 570.



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**BROWNFIELDS ECONOMIC  
DEVELOPMENT INITIATIVE (BEDI)**



## Funding Availability for the Brownfields Economic Development Initiative (BEDI)

### Program Overview

**Purpose of the Program.** BEDI funds are used to enhance the security of the Section 108 guaranteed loan for the same project or to improve the viability of a project financed with a Section 108-guaranteed loan. A BEDI grant is required to be used in conjunction with a new Section 108 guaranteed loan commitment.

**Available Funds.** Approximately \$25 million is available for BEDI grants under this SuperNOFA.

**Eligible Applicants.** Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702 may apply for BEDI grant assistance under section 108(q) and this SuperNOFA. (See Section III(B) below for additional information regarding eligible applicants.)

**Application Deadline.** June 25, 1999.  
**Match.** None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance.

**Application Due Date.** Submit your completed applications (one original and two copies) on or before 12:00 midnight, Eastern time, on June 25, 1999, to the addresses shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

**Addresses for Submitting Applications.** To HUD Headquarters. Submit your completed application (an original and one copy) to: Processing and Control Unit, Room 7251, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, Attention: BEDI Grant, by mail or hand delivery.

To the Appropriate CPD Field Office. At the same time you submit your application to HUD Headquarters, you must submit an additional copy of the application to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction.

When submitting your application, please refer to BEDI, and include your

name, mailing address (including zip code) and telephone number (include area code).

**For Application Kits.** For an application kit and any supplemental information, please call HUD's SuperNOFA Information line toll free at 1-800-HUD-8929. When requesting an application kit, please refer to BEDI. Please be sure to provide your name, address (including zip code), and telephone number (including area code). Persons with hearing or speech impairments may call the Center's TTY number at 1-800-HUD-2209 to obtain an application kit. The application kit will also be available on the Internet through the HUD web site at <http://www.hud.gov>.

**For Further Information and Technical Assistance.** Contact either Stan Gimont or Paul Webster, Financial Management Division, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7178, Washington, DC 20410, telephone (202) 708-1871 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

See the General Section of this SuperNOFA for guidance on technical assistance. With respect to the Section 108 Loan Guarantee program, which is not a competitive program and thus not subject to those provisions of the HUD Reform Act pertaining to competitions, HUD staff will be available to provide advice and assistance to develop Section 108 loan applications.

### II. Amount Allocated

HUD has available a maximum of \$25 million for the BEDI program, as appropriated in Pub.L. 105-276 (the FY 1999 VA-HUD Appropriations Act) for the purpose of assisting public entities in the redevelopment of brownfields.

### III. Program Description; Eligible Applicants; Eligible Activities

#### (A) Program Description.

BEDI is designed to help cities redevelop abandoned, idled, or underutilized industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination—brownfields. BEDI accomplished this by providing funding to local governments to be used in conjunction with Section 108 loan guarantees to finance redevelopment of brownfield sites.

(1) **Definitions.** Unless otherwise defined herein, terms defined in 24 CFR

part 570 and used in this program section of this SuperNOFA shall have the respective meanings given thereto in that part.

**Act** means Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 *et seq.*).

**Brownfield** means abandoned, idled, or under-used real property (including industrial and commercial facilities) where expansion or redevelopment is complicated by real or perceived contamination.

**Brownfields Economic Development Initiative (BEDI)** means the competitive award of up to \$25 million, as appropriated in the FY 1999 VA-HUD Appropriations Act, for economic development grant assistance under section 108(q) of the Act for the purpose of assisting public entities in the redevelopment of brownfields.

**Brownfields economic development initiative (BEDI) project** means an activity or activities (including mixed use projects with housing components) that are eligible under the Act and under 24 CFR 570.703, and that increase economic opportunity for persons of low- and moderate-income or that stimulate or retain businesses or jobs or that otherwise lead to economic revitalization in connection with brownfields.

**CDBG funds** means those funds collectively defined at 24 CFR 570.3, including grant funds received pursuant to section 108(q) and this program section of this SuperNOFA.

**Economic Development Initiative (EDI)** means the provision of economic development grant assistance under section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233, approved April 11, 1994).

**Empowerment Zone or Enterprise Community** means an urban area so designated by the Secretary of HUD pursuant to 24 CFR part 597 or 598, or a rural area so designated by the Secretary of Agriculture pursuant to 7 CFR part 25, subpart B.

**EPA** means the U.S. Environmental Protection Agency.

**Showcase Community** means an applicant chosen by the Federal Government's Brownfields National Partnership for inclusion in the Federal Government's Brownfields Showcase Communities program.

**Strategic Plan** means a strategy developed and agreed to by the nominating local government(s) and State(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone

or Enterprise Community designated pursuant to 24 CFR part 597 or 598.

(2) *Background.*

(a) HUD has multiple programs which are intended to stimulate and promote economic and community development and can be effectively employed to address and remedy brownfield conditions. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

(b) The CDBG program provides grant funds (approximately \$4.232 billion in FY 1999) by formula to local governments (either directly or through States) to carry out community and economic development activities. The Section 108 loan guarantee program provides local governments with a source of financing for economic development, housing rehabilitation, and other eligible large scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the State CDBG program. Regulations governing the Section 108 program are found at 24 CFR part 570, subpart M. It must be noted that the Section 108 program is subject to the regulations of 24 CFR part 570 applicable to the CDBG program with the exception of changes embodied in 24 CFR part 570, subpart M. EDI and BEDI grants support Section 108 loan guarantees as generally described under the above section entitled "Purpose of the Program."

(c) For FY 1999, the Section 108 program is authorized at \$1.261 billion in loan guarantee authority. The full faith and credit of the United States will be pledged to the payment of all guarantees made under Section 108. Under this program, communities (and States, if applicable) pledge their future years' CDBG allocations as security for loans guaranteed by HUD. The Section 108 program, however, does *not* require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security) and included in the applicable "Contract for Loan Guarantee Assistance." This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

(3) *EDI Program.* The EDI program was enacted in 1994 and is intended to complement and enhance the Section 108 Loan Guarantee program. A purpose of EDI (and BEDI) grant funds is to

further minimize the potential loss of future CDBG allocations:

(a) By strengthening the economic feasibility of the projects financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);

(b) By directly enhancing the security of the guaranteed loan; or

(c) Through a combination of these or other risk mitigation techniques.

(4) *BEDI Program.* For FY 1999, Congress has made a specific appropriation of \$25 million for the EDI program to assist in financing "brownfields" redevelopment. HUD intends the \$25 million in Brownfields EDI (BEDI) funds available pursuant to this program section of this SuperNOFA to be used with a particular emphasis upon the redevelopment of brownfield sites consistent with the statutory purpose of the FY 1999 HUD Appropriations Act. Accordingly, BEDI funds shall be used as the stimulus for local governments and private sector parties to commence redevelopment or continue phased redevelopment efforts on brownfield sites where contamination is known or suspected and a redevelopment plans exist. HUD desires to see BEDI and Section 108 funds used to finance projects and activities that will provide near-term results and demonstrable economic benefits, such as job creation and increases in the local tax base. HUD does not encourage applications whose scope is limited only to site acquisition and/or remediation (i.e., land banking), where there is no immediately planned redevelopment.

(5) *Redevelopment Focus.* The redevelopment focus for BEDI-assisted projects is also prompted by the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). While public entities are required by the Act to pledge their current and future CDBG funds as a source of security for the Section 108 loan guarantee, the public entity will usually be required to furnish additional collateral which, ideally, will be the assets financed with the Section 108 loan funds. Clearly, a redevelopment focus for the BEDI funds will help achieve this goal by enhancing the value and improving the viability of projects assisted with Section 108 financing.

(6) *Integration of Other Government Brownfield Programs.* HUD expects and encourages local governments which are designated through (a) the Federal Government's Brownfields Showcase Community program, (b) other Federal brownfields programs (e.g., EPA's

Assessment Pilot or Revolving Loan Fund programs), (c) a State-supported brownfields program, or (d) a State or local related economic development program, to integrate efforts arising from those programs in developing projects for assistance under HUD's BEDI and Section 108 programs. Applicants should elaborate upon these ties in their response to the rating factors, where appropriate (e.g. "Capacity of the Applicant," "Soundness of Approach," "Leveraging Resources," or "Comprehensiveness and Coordination,"—Rating Factors 1, 3, 4, and 5 respectively.)

(7) *Typical Project Structures.*

Provided that proposals are consistent with other CDBG requirements, including national objectives, HUD envisions that the following project structures could be typical:

(a) *Land Writedowns.* Local governments may use a combination of Section 108 and BEDI funds to acquire a brownfield site for purposes of reconveying the site to a private developer at a discount from its purchase price. This approach would provide the developer with an asset of enhanced value which could be used as collateral for other sources of funding. Such other sources of financing could be used to finance environmental remediation or other development costs. In theory, the level of BEDI assistance would approximate the difference between the original cost of the site and its remediation in comparison to the market value of the remediated property.

(b) *Site Remediation Costs.* Local governments may use BEDI funds in any of several ways to address site remediation costs. If the local government used Section 108 funds to acquire real property, BEDI funds could be used to address assessment and site remediation costs as part of demolition, clearance, or site preparation activities. If the local government used Section 108 funds to make a loan to a developer, BEDI funds could be granted to the developer for the purpose of addressing remediation costs as part of an economic development activity.

(c) *Funding Reserves.* The cash flow generated by an economic development project may be expected to be relatively "thin" in the early stages of the project, i.e. potentially insufficient cash flows to meet operating expenses and debt service obligations. The BEDI grant can make it possible for reserves to be established in a way that enhances the economic feasibility of the project.

(d) *Over-Collateralizing the Section 108 Loan.*

(i) The use of BEDI grant funds may be structured in appropriate cases so as to improve the likelihood that project-generated cash flow will be sufficient to cover debt service on the Section 108 loan and directly to enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization of the Section 108 loan.

(ii) An example is the creation of a loan pool made up of Section 108 and BEDI grant funds. The community would make loans to various businesses from the combined pool at an interest rate equal to or greater than the rate on the Section 108 loan. The total loan portfolio would be pledged to the repayment of the Section 108 loan.

(e) *Direct Enhancement of the Security of the Section 108 Loan.* The BEDI grant can be used to cover the cost of providing enhanced security. An example of how the BEDI grant can be used for this purpose is by using the grant funds to cover the cost of a standby letter of credit, issued in favor of HUD. This letter of credit will be available to fund amounts due on the Section 108 loan if other sources fail to materialize and thus will serve to protect the public entity's future CDBG funds.

(f) *Provision of Financing to For-Profit Businesses at a Below Market Interest Rate.*

(i) While the rates on loans guaranteed under Section 108 are only slightly above the rates on comparable U.S. Treasury obligations, they may nonetheless be higher than can be afforded by businesses in severely economically distressed neighborhoods. The BEDI grant can be used to make Section 108 financing affordable.

(ii) BEDI grant funds could serve to "buy down" the interest rate up front, or make full or partial interest payments, allowing the businesses to be financially viable in the early start-up period not otherwise possible with Section 108 alone. This strategy would be particularly useful where a community was undertaking a large commercial/retail project in a distressed neighborhood to act as a catalyst for other development in the area.

(g) *Combination of Techniques.* An applicant could employ a combination of these or other techniques in order to implement a strategy that carries out an economic development project.

(B) *Eligible Applicants.* Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702 may apply for BEDI grant assistance under section 108(q). *Eligible applicants are CDBG entitlement units of general local government and non-entitlement units*

*of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M.* Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for BEDI funds; units of general local government which participate in an Urban County program are not independently eligible applicants. Non-entitlement applicants, other than those in the States of Hawaii and New York, will be required to provide proof that the State will support the related Section 108 loan with a pledge of its CDBG funds pursuant to the requirements of 24 CFR 570.705(b)(2). Note that effective January 25, 1995, non-entitlement public entities in the states of New York and Hawaii were authorized to apply to HUD for Section 108 loans (see 59 FR 47510, December 27, 1994). Thus non-entitlement public entities in all 50 states and Puerto Rico are eligible to participate in the Section 108 and BEDI programs.

(C) *Eligible Activities and National Objectives*

(1) BEDI grant funds may be used for activities listed at 24 CFR 570.703, provided such activities are carried out as part of a BEDI project as defined in Section III(A) of this BEDI section of this SuperNOFA. You are required to submit applications that seek funding for BEDI projects that will contribute to the redevelopment and revitalization of brownfields. Applications that fail to meet the requirements for a BEDI project as set forth in this SuperNOFA will not be rated by HUD.

(2) Each activity assisted with Section 108 loan guarantee or BEDI funds must meet a national objective of the CDBG program as described in 24 CFR 570.208. Applicants must clearly identify in their narrative statement (as described in Section V.(B) below) the CDBG national objective to be achieved by the proposed project and provide the appropriate CDBG national objective regulatory citation found at 24 CFR 570.208. Applicants must also address, when applicable, how the proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR 570.209 for the Entitlement program and 24 CFR 570.482 for the State CDBG program.

(3) In the aggregate, a grantee's use of CDBG funds, including any Section 108 loan guarantee proceeds and section 108(q) (EDI) funds provided pursuant to this program section of this SuperNOFA, must comply with the CDBG primary objectives requirements as described in section 101(c) of the Act

and 24 CFR 570.200(c)(3) or 570.484 in the case of State grantees.

#### IV. Program Requirements

##### (A) CDBG Program Regulations

In addition to 24 CFR 570.701 (Definitions), 570.702 (Eligible applicants), and 570.703 (Eligible activities), as explained elsewhere in this program section of the SuperNOFA, the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews) govern the use of BEDI funds, as applicable.

##### (B) Compliance with Applicable Laws

Applicants are advised that an award of BEDI funding does not in any way relieve the applicant or third party users of BEDI funds from compliance with all applicable Federal, State and local laws, particularly those addressing the environment. Applicants are further advised that HUD may require evidence that any project involving remediation has been or will be carried out in accordance with State law, including voluntary clean up programs.

##### (C) Related Section 108 Loan Guarantee Application

(1) Each BEDI application must be accompanied by a request for new Section 108 loan guarantee assistance. Both the BEDI and Section 108 funds must be used in conjunction with the same BEDI project. The request may take any of several forms as defined below.

(a) A full application for new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b).

(b) A brief description (not to exceed three pages) of a new Section 108 loan guarantee application(s). Such 108 application(s) will be submitted within 60 days of a notice of BEDI selection, with HUD reserving the right to extend such period for good cause on a case-by-case basis. BEDI awards will be conditioned on approval of actual Section 108 loan commitments. The application description must be sufficient to support the basic eligibility of the proposed project or activities for Section 108 assistance. (See Section III(C) of this program section of this SuperNOFA.); or

(c) A copy of a pending, unapproved Section 108 loan guarantee application, and any proposed amendments to the Section 108 application which are related to the BEDI application. The applicant's submission of such a BEDI/Section 108 application shall be deemed by HUD to constitute a request to

suspend separate processing of the Section 108 application. The Section 108 application will not be approved until on or after the date of the related BEDI award.

(d) A request for a Section 108 loan guarantee amendment (analogous to Section IV(C)(1)(a) or (b) of this BEDI section of the SuperNOFA) that proposes to increase the amount of a previously approved application. However, any amount of Section 108 loan guarantee authority approved *before* HUD's announcement of a BEDI grant for the same project pursuant to this SuperNOFA is not eligible to be used in conjunction with a BEDI grant under this SuperNOFA.

(2) Further, a Section 108 loan guarantee amount that is required to be used in conjunction with a prior EDI or BEDI grant award, whether or not the Section 108 loan guarantee has been approved as of the date of this SuperNOFA, is not eligible for a BEDI award under this SuperNOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of \$12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded an EDI grant of \$1 million and had certified that it will submit a Section 108 loan application for \$10 million in support of that EDI grant, the public entity's application under this program section of this SuperNOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts (the \$12 million or \$10 million in this example) to which it has previously agreed.

#### *(D) Limitations on Use of BEDI and Section 108 Funds*

Certain restrictions shall apply to the use of BEDI and Section 108 funds:

(1) BEDI grants shall not be used as a resource to immediately repay the principal of a loan guaranteed under Section 108. Repayment of principal is only permissible with BEDI grant funds as a matter of security if other sources projected for repayment of principal prove to be unavailable.

(2) You should not use Section 108 funds to finance activities which also include financing generated through the issuance of federally tax exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A-129 (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108 guaranteed loan funds may not directly or indirectly support federally tax-exempt obligations.

(3) HUD will not consider for funding any BEDI proposal in which the related Section 108 loan guarantee would be used solely as security. BEDI funds are to be used to support and enhance activities financed with Section 108 loan guarantee proceeds from HUD's interim lending or public offering mechanisms and thereby leverage greater use of the Section 108 program. Awarding BEDI funds to a project which would use the Section 108 guarantee only as a security guarantee for other financing can be tantamount to making a simple grant to the project and thereby fails to fulfill the goals of the BEDI program.

(4) BEDI grant funds shall not be used in any manner by grantees to provide public or private sector entities with funding to remediate conditions caused by their actions, where the public entity (or other known prospective beneficiary of the proposed BEDI grant) has been determined responsible for causation and remediation by order of a court or a Federal, State, or local regulatory agency, or is responsible for the remediation as part of a settlement approved by such a court or agency.

(5) Applicants may not propose projects on sites which are listed or proposed to be listed on EPA's National Priority List (NPL). Further, applicants are cautioned against proposing projects on sites where the nature and degree of environmental contamination is not well quantified or which are the subject of on-going litigation or environmental enforcement action.

#### *(E) Limitations on Grant Amounts*

(1) HUD expects to approve BEDI grant amounts for approvable applications at a range of ratios of BEDI grant funds awarded to new Section 108 loan guarantee commitments but the minimum ratio will be \$1 of Section 108 loan guarantee commitments for every \$1 of BEDI grant funds. However, if you propose a leverage ratio of 1:1, your application will not receive any points under the Rating Subfactor 4(1): "Leverage of Section 108 Funds."

For example, if you request a BEDI grant of \$1 million, you will be required to leverage a minimum of at least \$1 million in new Section 108 loan guarantee commitments. Of course, even though there is a minimum ratio of 1:1, applications with higher ratios will receive more points under Rating Factor 4, "Leveraging Resources/Financial Need" and, all other things being equal, will be more competitive. You are encouraged to propose projects with a greater leverage ratio of new Section 108 to BEDI grant funds (assuming such projects are financially viable). For

example \$1 million of BEDI could leverage \$12 million of new Section 108 loan commitments. HUD intends that the BEDI funds will be used for projects that leverage the greatest possible amount of Section 108 loan guarantee commitments. Because a fundable application is competitive in part because of the applicant's proposed ratio of BEDI funds to funds guaranteed by a Section 108 loan guarantee, HUD will condition a BEDI grant award on the grantee's achievement of that specific ratio. Your failure to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the BEDI grant award.

(2) HUD will cap BEDI awards at a maximum of \$2 million. Any application in excess of \$1 million may be reduced below the amount requested by the applicant if HUD determines that such a reduction is appropriate.

(3) In the event you are awarded a BEDI grant that has been reduced below the original request (e.g., your application contained some activities that were ineligible or there were insufficient funds to fund the last competitive application at the full amount requested), you will be required to modify your project plans and application to conform to the terms of HUD approval before execution of a grant agreement. HUD also will proportionately reduce or deobligate the BEDI award if you do not submit an approvable Section 108 loan guarantee application on a timely basis (including any extension authorized by HUD) in the amount required by the BEDI/108 leveraging ratio, which will be approved by HUD as a special condition of the BEDI grant award (see Section IV(E)(1) above of this program section of the SuperNOFA). Any modifications or amendments to your application approved pursuant to this SuperNOFA, whether requested by you or by HUD, must be within the scope of the approved original BEDI application in all respects material to rating the application, unless HUD determines that your revised application remains within the competitive range and is otherwise approvable under this SuperNOFA competition.

(4) In the case of requested amendments to a previously approved Section 108 loan guarantee commitment (as further discussed in section IV(C)(1)(d) above), the BEDI assistance approved will be based on the increased amount of Section 108 loan guarantee assistance.

(5) Pursuant to another portion of this SuperNOFA, HUD is simultaneously announcing the availability of up to \$35 million of EDI funds. While HUD will permit you to pursue BEDI and EDI funds for the same project, HUD requires that your BEDI and EDI applications (and components contained in the applications) be independent of one another. Thus, each application should have an identifiable amount of Section 108 funding associated with its respective request for EDI and BEDI funds, for purposes of determining the leverage of Section 108 funding to the corresponding amount of EDI or BEDI funds requested. Further, the proposed amount of Section 108 borrowing associated with either the BEDI or EDI grant must not be used to determine leverage of other financial sources under Rating Subfactor 4(3). Further, if you seek both BEDI and EDI funds for the same project, you must include, in your response to Rating Factor 3 and the "Financial feasibility" portion of Rating Factor 4, a discussion of how your project can be financed and implemented if you fail to obtain either BEDI or EDI funds under this SuperNOFA.

*(F) Timing of Grant Awards*

(1) To the extent you submit a full Section 108 application with the BEDI grant application, HUD will evaluate your Section 108 application concurrently with your request for BEDI grant funds. Note that BEDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of a BEDI grant pursuant to this SuperNOFA. However, the BEDI grant may be awarded prior to HUD approval of the Section 108 commitment if HUD determines that such award will further the purposes of the Act.

(2) HUD's notice to you of the amount and conditions of BEDI funds awarded, based upon review of the BEDI application, constitutes an obligation of grant funds, subject to compliance with the conditions of award and execution of a grant agreement. BEDI funds will not be disbursed to the public entity before the issuance of the related Section 108 guaranteed obligations.

*(G) Economic Opportunities for Low and Very Low-Income Persons (Section 3)*

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is applicable to BEDI grant recipients. Please see Section II(E) of the General Section of the SuperNOFA.

**V. The Application Selection Process**

*(A) Rating and Ranking*

(1) Each rating factor and the maximum number of points is provided below. The maximum number of points to be awarded is 102. This includes two EZ/EC bonus points as described in the General Section of the SuperNOFA, or two bonus points for having received a Federal designation as a Brownfields Showcase Community. (Please note that in any event, the maximum number of bonus points is limited to a total of two (2).)

(2) Once scores are assigned, HUD will rank all applications in order of points assigned, with the applications receiving more points ranking above those receiving fewer points. Applications will be funded in rank order.

(3) Prior to award, if HUD determines that an application rated, ranked and fundable could be funded at a lesser BEDI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of the Act, HUD reserves the right to reduce the amount of the BEDI award and/or increase the Section 108 loan guarantee commitment, if necessary, in accordance with such determination. An application in excess of \$1 million may be reduced below the amount requested by the applicant if HUD determines that such a reduction is appropriate.

(4) HUD may decide not to award the full amount of BEDI grant funds available under this program section of this SuperNOFA and may make any remaining amounts available under a future SuperNOFA.

(5) HUD desires to fund projects which will quickly produce demonstrable results. BEDI grant awards will contain conditions requiring you to adhere to your stated timeframes for implementing your proposed projects and drawing Section 108 and EDI funds. Failure to adhere to these schedules may be cause for HUD to recapture the BEDI funds.

*(B) Narrative Statement*

(1) Provide a narrative statement describing the activities that you will carry out with the BEDI grant funds, explaining the nature and extent of the Brownfield's problems(s) affecting the project. Your narrative statement must not exceed three (3) 8.5" by 11" pages for the description of the activities to be carried out with the BEDI grant funds.

(2) Describe how your proposed uses of BEDI funds will meet the national objectives for the CDBG program under 24 CFR 570.208 and qualify as eligible

activities under 24 CFR 570.703. You must include citations to the specific regulatory subsections supporting eligibility and national objectives. (See Section III(C) of this program section of this SuperNOFA.)

(3) Respond to the rating factors below. Each of the listed rating factors (or, where applicable, each subfactor) below also has a separate page limitation specified.

(4) Print your narrative statement in 12 point type/font, and use sequentially numbered pages.

*(C) Factors for Award Used to Evaluate and Rate Applications*

HUD will consider your application for selection based on the following factors that demonstrate the quality of your proposed project or activities, and your creativity, capacity and commitment to obtain maximum benefit from the BEDI funds, in accordance with the purposes of the Act.

**Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (15 Points)**

[Your response to this factor is limited to three (3) pages.]

This factor addresses the extent to which you have the organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of the "applicant" or the "applicant's organization and staff" for technical merit or threshold compliance, unless otherwise specified, will include any subcontractors, consultants, subrecipients, and members of consortia that are firmly committed (i.e. have a written agreement or a signed letter of understanding with you agreeing in principle to their participation and role in the project). In rating this factor, HUD will consider the following:

(1) With regard to the BEDI/Section 108 project you propose, you should demonstrate that you have the capacity to implement the specific steps required to successfully carry out the proposed BEDI/Section 108 project. This includes factors such as your:

(a) Performance in the administration of your CDBG, HOME or other programs;

(b) Previous experience, if any, in administering a Section 108 loan guarantee;

(c) Performance and capacity in carrying out economic development projects;

(d) Performance and capacity to carry out Brownfields redevelopment projects;

(e) Ability to conduct prudent underwriting;

(f) Capacity to manage and service loans made with the guaranteed loan funds or previous EDI or BEDI grant funds;

(g) Capacity to carry out your projects and programs in a timely manner; and,

(h) If applicable, your capacity to manage projects under this program section of this SuperNOFA along with any federal funds awarded as a result of a federal urban Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community (EEC) designations).

(2)(a) If you have previously received an EDI or BEDI grant award(s), you must describe the status of the implementation of those project(s) assisted with EDI or BEDI funds, any delays that have been encountered and the actions you are taking to overcome any such delays in order to carry out the project in a timely manner. For such previously funded EDI or BEDI grant projects, HUD will consider the extent to which you have used the awarded EDI or BEDI grant funds and the associated Section 108-guaranteed loan funds.

(b) Further, if you have EDI or BEDI funds and related Section 108 loan guarantee authority available as a result of earlier HUD awards and commitments for activities such as (but not limited to) economic development loan funds, community development banks, and community and individual investment corporations, you should use those existing financial resources before applying for additional BEDI or EDI funds and Section 108 commitments. If HUD determines that you could fund your project from such existing resources, HUD will reduce your score under this rating factor to 0.

(3) The capacity of subrecipients, nonprofit organizations and other entities that have a role in implementing your proposed program will be included in this review. HUD also may rely on information from performance reports, financial status information, monitoring reports, audit reports and other information available to HUD in making its determination under this factor.

#### Rating Factor 2: Distress/Extent of the Problem (15 Points)

[Your response to this factor is limited to three (3) pages.]

This factor addresses the extent to which there is need for funding your proposed activities based on levels of distress, and an indication of the urgency of meeting the need/distress in your target area.

(1) In applying this factor, HUD will consider current levels of distress in the immediate community to be served by

your project and the jurisdiction applying for assistance. If you are able to indicate a level of distress in the immediate project area that is greater than the level of distress in your jurisdiction as a whole, HUD will give your application a higher score under this factor than other applications that do not. HUD requires you to use sound and reliable data that is verifiable to support the level of distress you claim in your application. You must provide a source for all information you cite and indicate the publication date or origination date of the data.

(2) In previous EDI competitions, the poverty rate was often considered the best indicator of distress. You must provide the poverty rate for your jurisdiction as a whole and for the areas to be served and/or where the BEDI/Section 108-funded project is located; however, in addition, you may demonstrate the level of distress with other factors such as income levels and unemployment rates.

(3) To the extent that your Consolidated Plan and its Analysis of Impediments to Fair Housing choice (AI) identifies the level of distress in the community and the neighborhood in which your project is being carried out, you should include references to such documents in preparing your response to this factor. Also, you should discuss the extent to which the analysis of impediments identifies unhealthy environmental conditions, such as contaminated soil and/or water and how such conditions negatively impact your target neighborhood.

#### Rating Factor 3: Soundness of Approach (25 Points)

[Your response to this factor is limited to three (3) pages.]

This factor addresses the quality and cost-effectiveness of your proposed plan. There must be a clear relationship between the proposed activities, community needs and purposes of the program funding for you to receive points for this factor. In rating this factor, HUD will consider the following:

(1) The quality of your plan/proposal for using BEDI funds and Section 108 loan funds, including the extent to which your proposed plan for effective use of BEDI grant/Section 108-guaranteed loan funds will address the needs you described in Rating Factor 2 above regarding the distress and extent of the problem in your immediate community and/or jurisdiction. As part of the response to this factor, you should identify the eligible activities you will carry out and fully describe how your project will achieve a CDBG national objective. You should make

substantial efforts to demonstrate how your proposed project would mitigate or otherwise address the distress you identified in Rating Factor 2 above.

(2) The extent to which your plan is logically, feasibly, and substantially likely to achieve your stated purpose. HUD's desire is to fund projects and activities that will quickly produce demonstrable results and advance the public interest including the number of jobs to be created by the project. You should demonstrate that you have a clear understanding of the steps required to implement your project, the actions that you and others responsible for implementing the project must complete. You must include a reasonable time schedule for carrying out your project. The application kit contains a timeline form that you must use to indicate your project timing.

(3) The extent to which your response to this factor takes into account certain site selection, planning, and environmental issues. Further, you are cautioned against proposing projects on sites where the nature and degree of environmental contamination is not well quantified or that are the subject of on-going litigation or environmental enforcement. Sites with unknown or exceptionally expensive contamination problems may be beyond the scope of the BEDI program's financial resources, and sites subject to pending and current litigation may not be available for remediation and development in a timeframe consistent with HUD's desire for rapid progress in the use of BEDI and Section 108 funds.

(4) The extent to which your projects will integrate environmental justice concerns and provide demonstrable benefits for affected communities and their residents. The BEDI program is intended to promote the clean up and redevelopment of brownfield sites.

(5) The extent to which your proposed project addresses your Analysis of Impediments and the needs identified in Rating Factor 2; the extent to which such project activities will result in the physical and economic improvement for the residents in the neighborhood in which your project will be carried out; the extent to which you will offer residents an opportunity to relocate to environmentally healthy housing or neighborhoods; or the extent to which residents will benefit from the funded project to enable them to continue to live in a redeveloped or revitalized neighborhood and thus share in the anticipated economic benefits and environmental improvements your project is expected to generate.

(6) The extent to which your project incorporates one or more elements that

facilitate a successful transition of welfare recipients from welfare to work. Such an element could include, for example, linking your proposed project or loan fund to social and/or other services needed to enable welfare recipients to successfully secure and carry out full-time jobs in the private sector; provision of job training to welfare recipients who might be hired by businesses financed through the proposal; and/or incentives for businesses financed with BEDI/section 108 funds to hire and train welfare recipients.

(7) Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application submitted by the City of Dallas, Texas, HUD's consideration of the response to this factor, "Soundness of Approach" will include the extent to which Dallas' plan for BEDI funds and Section 108 loans will speed eradication of the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order. Up to two (2) additional points will be awarded to any application submitted by the City of Dallas, Texas, to the extent this subfactor is addressed.

#### Rating Factor 4: Leveraging Resources/ Financial Need (35 Points)

[Page limits for the response to this factor are listed separately for each subfactor under this factor.]

In evaluating this factor, HUD will consider the extent to which your response demonstrates the financial need and feasibility of your project and the leverage ratio of Section 108 loan proceeds to BEDI grant funds. This factor has three subfactors, each with its own maximum point total:

(1) *Leverage of Section 108 funds* (20 points). [Your response to this subfactor is limited to one (1) page.] The minimum ratio of Section 108 funds to BEDI funds in any project may not be less than 1:1. The extent to which your proposed project leverages an amount of Section 108 funds beyond the 1:1 ratio will be considered a positive factor. If you have a ratio of 1:1, your application will not receive any points under this subfactor. If you use your BEDI grant to leverage more new Section 108 commitments, your application will receive more points under this subfactor.

(2) *Financial feasibility* (10 points). [Your response to this subfactor is limited to three (3) pages.] HUD will consider the extent to which you demonstrate that your project is financially feasible. In responding to this subfactor, you must clearly address the question of why the BEDI funds are

critical to the success of your project. This may include factors such as:

(a) Project costs and financial requirements. You should provide a funding sources and uses statement (not included in the 3 page narrative limit), as well as justifications for project costs.

(b) The amount of any debt service or operating reserve accounts you will establish in connection with your economic development project.

(c) The reasonableness of the costs of any credit enhancement you pay with BEDI grant funds.

(d) The amount of program income (if any) you will receive each year during the repayment period for the guaranteed loan.

(e) Interest rates on those loans to third parties (other than subrecipients) (either as an absolute rate or as a plus/minus spread to the Section 108 rate).

(f) Underwriting criteria that you will use in determining project feasibility.

(3) *Leverage of other financial resources* (5 points). [Your response to this subfactor is limited to one (1) page plus supporting documentation evidencing third party commitment (written and signed) of funds.] HUD will evaluate the extent to which you leverage other funds (public or private) with BEDI grant funds and section 108 guaranteed loan funds, and the extent to which such other funds are firmly pledged to the project. This could include the use of CDBG funds, other Federal or state grants or loans, your general funds, project equity or commercial financing provided by private sources or funds from non-profits or other sources. Funds will be considered pledged to your project if there is evidence of the third party's written commitment to make the funds available for the BEDI/108 project, subject to approval of the BEDI and Section 108 assistance and completion of any environmental clearance required under 24 CFR part 58 for the project. Note that with respect to CDBG funds, your pledge of your CDBG funds will be considered sufficient commitment.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

[Your response to this factor is limited to two (2) pages.]

This factor addresses the extent to which you have coordinated your activities with other known organizations; you participate or promote participation in your or a State's Consolidated Planning process; and you are working towards addressing a need in a comprehensive manner through linkages with other activities in the community.

In evaluating this factor, HUD will consider the extent to which you demonstrate you have:

(1) Coordinated your proposed activities with those of other groups or organizations before submitting your application, in order to best complement, support and coordinate all known activities; and developed specific steps to share information on solutions and outcomes with others. Describe any written agreements, memoranda of understanding in place, or that will be in place after award.

(2) Developed linkages, or specific steps to develop linkages with other activities, programs or projects (through meetings, information networks, planning processes or other mechanisms to coordinate your activities), so that solutions are holistic and comprehensive. Describe any linkages with other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan, as well as established linkages and outreach with residents of your project area.

(3) Coordinated your efforts with other Federal, State or locally supported activities, including EPA's various Brownfields initiatives, and those proposed or on-going in the community.

#### VI. Application Submission Requirements

(A) Public entities seeking BEDI assistance must make a specific request for that assistance, in accordance with the requirements of this program section of this SuperNOFA.

(B) You must submit an original and one copy of the items listed below to HUD Headquarters (see the section "Addresses For Submitting Applications in this program section of this SuperNOFA). In addition, you must submit one additional copy directly to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction.

(C) Your BEDI application consists of the following items:

- (1) Your transmittal letter;
- (2) Table of contents;
- (3) Application check list (supplied in application kit);
- (4) A request for loan guarantee assistance under Section 108, as further described in Section IV(C) of this program section of this SuperNOFA. Application guidelines for the Section 108 program are found at 24 CFR 570.704;

(5) As described in Section V(B) of this program section of this SuperNOFA, a narrative statement (3 page limit) describing the activities that

you will carry out with the BEDI grant funds;

(6) Responses to each of the rating factors (within the page limits provided for each factor or subfactor as applicable);

(7) Completion of a funding sources and uses statement and a BEDI and Section 108 eligibility statement (see the application kit);

(8) Written agreements or signed letters of understanding in support of Rating Factor 1: "Capacity of the Applicant and Relevant Organizational Experience;"

(9) Signed third party commitment letters pledging funds in support of subfactor 4(2): "Leverage of other financial resources;"

(10) In addition to the certifications specified in section II(G) of the General Section of this SuperNOFA, the forms and certifications required at 24 CFR 570.704(b)(3), (b)(4), (b)(8)(i), (b)(8)(ii), (b)(8)(vi), (b)(8)(vii), (b)(8)(viii), (b)(8)(x), and (b)(9); and

(11) Acknowledgement of Application Receipt form.

(D) A single application must contain a request for funds for a single BEDI project. You may submit more than one application for each additional unrelated BEDI project. Each application will be rated and ranked individually. In no event will HUD rate and rank more than one BEDI project per application.

(E) Your application must meet all of the applicable threshold requirements of Section II.B. of the General Section of this SuperNOFA.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Environmental Requirements**

##### *(A) Environmental Review*

After the completion of this competition and after HUD's award of BEDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58, including limitations on the EDI grant and Section 108 public entity's commitment of HUD and non-HUD funds prior to the completion of environmental review, notification and release of funds. HUD will not release such assistance until you submit a request for release of funds and you satisfy the requirements of 24 CFR part 58. All public entities, including nonentitlement public entities, must submit the request for release of funds and related certification, pursuant to 24 CFR part 58, to the appropriate HUD field office for each project to be assisted.

##### *(B) Environmental Justice*

(1) Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs Federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

(2) Brownfields are often located in distressed neighborhoods, contribute to neighborhood blight, and lower the quality of social, economic, and environmental health of communities. The BEDI program is intended to promote the clean up and redevelopment of brownfield sites and, to this end, HUD expects that projects presented for BEDI funding will integrate environmental justice concerns and provide demonstrable benefits for affected communities and their residents.

#### **IX. Authority**

Section 108(q), Title I, Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5320); 24 CFR part 570.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**SELF-HELP HOMEOWNERSHIP  
PROGRAM (SHOP)**



## Funding Availability for Self-Help Homeownership Opportunity (SHOP) Program

### Program Overview

*Purpose of the Program.* To facilitate and encourage innovative homeownership opportunities through self-help housing where the homebuyer contributes a significant amount of sweat-equity toward the construction of the new dwelling.

*Available Funds.* \$20,000,000.

*Eligible Applicants.* You must be a nonprofit national or regional organization or consortium.

*Application Deadline.* April 29, 1999.

*Match.* None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information:

#### I. Application Due Date, Standard Forms, Further Information, and Technical Assistance

*Application Due Date.* Applications for SHOP grants must be physically received by HUD on or before 12:00 midnight Eastern Time on April 29, 1999.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Address for Submitting Applications.* Submit one original and two copies of the application to Department of Housing and Urban Development, Office of Community Planning and Development, Processing and Control Unit, 451 Seventh Street, SW, Room 7251, Washington, DC 20410, ATTN: Self-Help Program.

*Standard Forms.* No kit will be made available. For copies of the standard forms, please call HUD's SuperNOFA Information Center at: 1-800-HUD-8929. Please refer to the "Self-Help Program" in your request.

*Further Information.* Further information and technical assistance is available from Joan Morgan, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-3226, ext. 2213; (this is not a toll-free number). This number can be accessed via TTY by calling the Federal Information Relay Service Operator at 1-800-877-TDDY (1-800-877-8339).

#### II. Amount Allocated

The amount available for this program is \$20,000,000

#### III. Program Description; Eligible Applicants; Eligible Activities

##### (A) Program Description

SHOP is intended to facilitate and encourage innovative homeownership opportunities on a national geographically-diverse basis through self-help housing where the homebuyer contributes a significant amount of sweat-equity toward the construction or rehabilitation of the dwelling.

Decent, safe, and sanitary non-luxury dwellings developed under SHOP must be made available to eligible homebuyers at prices below the prevailing market prices. Eligible homebuyers are low-income families (families whose annual incomes do not exceed 80 percent of the median income for the area, as established by HUD) who are unable to purchase a dwelling. Housing assisted under this Notice must involve community participation through the use of homebuyers and/or volunteers in the construction of dwellings and by other activities which involve the community in the project.

##### (B) Eligible Applicants

You must be a nonprofit national or regional organization or consortium that has the capacity and experience to provide or facilitate self-help housing homeownership opportunities. Local affiliates of national or regional organizations or consortia must apply as part of the national or regional organization and may not apply for SHOP independently. "Regional" is defined for the purpose of this program section of the SuperNOFA to be a "regional area" such as the Southwest or Northeast which must include at least two or more States (the States need not be contiguous and the operational boundaries of the organization need not precisely conform to State boundaries). If you are a consortium, one organization must be chosen as the lead entity. The lead entity must submit the application and, if selected for funding, will execute the grant agreement and assume primary responsibility for carrying out grant activities in compliance with all program requirements. Other participants in your consortium must be identified in your application.

Your application may not propose a partnership with or funding for any affiliate or consortium member which is also included in another SHOP application. You must assure that any affiliate, consortium member, or

potential subrecipient under your FY 1999 application is not also seeking funding from another SHOP applicant for FY 1999 funds.

##### (C) Eligible Activities

The only eligible activities are land acquisition (including financing and closing costs), infrastructure improvement (installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure, including removal of environmental hazards), and administration, planning and management development (as defined under the HOME Investment Partnerships Program (24 CFR Part 92.207) and not to exceed 20 percent of any SHOP grant). Costs associated with the rehabilitation, improvement, or construction of dwellings are *not eligible* uses of program funds.

#### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, you are subject to the following SHOP requirements:

##### (A) Statutory Requirements

You must comply with all statutory requirements applicable to SHOP as cited in Section VIII below. There are no regulations for this program. You must be capable of:

- (1) Developing, through significant amounts of sweat-equity and volunteer labor, at least 30 dwellings at an average cost of no more than \$10,000 per unit in SHOP funds;
- (2) Using your grant to leverage other sources of funding, including private or other public funds;
- (3) Developing quality dwellings that comply with local building and safety codes and standards and which will be available to homebuyers at prices below the prevailing market price; and
- (4) Scheduling activities to expend all grant funds awarded and substantially fulfill your construction obligations under your grant agreement within 24 months after grant funds are first made available to you.

##### (B) Economic Opportunities for Low and Very Low-Income Persons (Section 3)

If you fund infrastructure improvements under this program, you are required to comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and the HUD regulations at 24 CFR part 135, including the reporting requirements subpart E. Section 3 requires that you

provide training, employment and other economic opportunities, to the greatest extent feasible, to (1) low and very low income persons, particularly those who are recipients of government assistance for housing and (2) business concerns which provide economic opportunities to low and very low income persons.

## V. Application Selection Process

### (A) Rating

HUD will review all applications in accordance with the Application Selection Process in the General Section of this SuperNOFA. HUD will review all applications based on the threshold factors listed in Section V.(C) below. Applications which meet all threshold requirements will be rated according to the selection factors in this section of the SuperNOFA. Applications which do not meet all threshold factors will be rejected and will not be rated.

### (B) Ranking and Selection Procedures

Applications that receive a total rating of 60 points or more (without the addition of EC/EZ bonus points) will be eligible for selection, and HUD will place them in rank order. After adding any bonus points for EC/EZ, HUD will select these applications based on rank order, up to and including the last application that can be funded, up to amount of funding available.

HUD reserves the right to fund less than the full amount requested in any application to ensure fair distribution of the funds and that dwellings will be developed on a national geographically-diverse basis as required by the statute. HUD may choose not to fund portions of your application that are ineligible for funding under program statutory requirements, or which do not meet the requirements of the General Section of this SuperNOFA or the requirements in the SHOP section of the SuperNOFA, and fund eligible portions of your applications. HUD will not fund any eligible applicant for less than the minimum amount necessary to complete at least 30 homes (at a maximum of \$10,000 per home or a lesser amount if lower costs are reflected in the application). If funds remain after all selections have been made, these funds may be available for other competitions.

### (C) Threshold Requirements

The following threshold requirements apply specifically to SHOP. You must also be sure to address the threshold requirements listed in the General Section of the SuperNOFA and must submit all forms, certifications, and

assurances identified in the General Section.

(1) You, the applicant, must be eligible to apply under SHOP (see Section III(B) of this program section of the SuperNOFA.

(2) The amount of funding you request must support no less than 30 self-help units and may not exceed an average amount of \$10,000 per unit.

(3) The population you plan to serve must be eligible under SHOP (see Section III(A) of this program section of the SuperNOFA.

(4) You must demonstrate that you have completed at least 30 self-help homeownership units within a national or regional area (where the homebuyers contributed a significant amount of sweat-equity and/or volunteer labor toward the construction of the dwellings) within the 24 month period preceding the publication of this SuperNOFA.

### Submission Requirements for Thresholds:

(1) Evidence of your non-profit status, such as a copy of a current Internal Revenue Service ruling that your organization is exempt from taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986. Where an IRS ruling is unavailable, you may submit a certified copy of your approved charter, articles of incorporation or bylaws demonstrating that you are established as a nonprofit organization under state law. If you are a consortium, each participant in your consortium must be a nonprofit organization, but only the lead entity should submit evidence of its nonprofit status. However, the lead entity must maintain a copy of the above-described documentation for each participant in your consortium.

Submission requirements (2) through (4) require no additional submissions, these requirements are addressed under the submission requirements for the rating factors listed in Section V(D) of this program section of the SuperNOFA below.

### (D) Factors for Award Used to Evaluate Applications

HUD will rate all SHOP applications that successfully complete technical processing using the Rating Factors and the Application Submission Requirements described below. The maximum number of points for this program is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (20 Points)

This factor examines the extent to which you, as a single applicant or as a consortium (including sub-recipients and/or members of the consortium, if any), have the experience and organizational resources necessary to carry out the proposed activities in a timely manner.

In evaluating this factor, HUD will consider your recent and relevant experience in carrying out the activities you propose, and your administrative ability, and fiscal management ability. HUD may also rely on information from performance reports, financial status information, monitoring reports, audit reports and other information available to HUD in making its determination under this factor. If you are not a current recipient of HUD funds, you may submit evidence of internal or external performance reports or other information which will assist HUD in making this determination.

### Submission Requirements for Factor 1

(1) You must describe your past experience in carrying out activities that are the same as, or similar to, the activities you propose for funding, and demonstrate reasonable success in carrying out those activities. You may demonstrate such reasonable success by showing that your previous activities were carried out as proposed and in a timely manner. You must show that established benchmarks were met and performance reports were prepared, as required. You must also describe any delays that were encountered, and the actions you took to overcome such delays to successfully complete your program.

(2) You must demonstrate that you have completed at least 30 self-help homeownership units within a national or regional area (where the homebuyers contributed sweat-equity and/or volunteer labor toward the construction of the dwellings) within the 24 month period preceding the publication of this SuperNOFA.

(3) You must provide a description of your management structure. You must also describe how you will staff and manage your proposed activities.

(4) You must demonstrate your ability to handle financial resources with adequate financial control and accounting procedures. Your existing financial control procedures must meet 24 CFR Part 84.21, "Standards for Financial Management Systems". You must provide a copy of your most recent audit (only an audit of the lead entity

must be provided with an application for a consortium).

(5) You must demonstrate your experience and ability in constructing and altering homes with accessibility features, when necessary.

**Rating Factor 2: Need/Extent of the Problem (15 Points)**

This factor examines the extent to which you identify the community need, or problem, or distress that your proposed activities will target, and the urgency of meeting that need.

The purpose of this factor is to make sure that funding is provided where a need for funding exists. Under this factor, you must identify the need or needs in the community that your proposed activities are designed to address or, if you plan to select specific subrecipients only after you receive SHOP funding, you must demonstrate how you plan to identify need prior to your selection of any subrecipients.

**Submission Requirements for Factor 2.**

(1) Identify the communities or areas in which your proposed activities will be carried out or how you will select communities or projects based on need after you have received an award under SHOP.

(2) Depending on the type of activities proposed, the kind of information you submit to demonstrate the need or needs in the target area may include, but is not limited to, one or more of the following:

- (a) Housing market data such as information included in the local Five Year Comprehensive Plan or other data sources;
- (b) Data dealing with such factors as housing density, housing affordability, housing age or deterioration, and lack of adequate infrastructure or utilities;
- (c) Data on the need for accessible homes in the area;
- (d) Evidence of housing discrimination;
- (e) Evidence from the local Analysis of Impediments to Fair Housing Choice which shows the need for this program.

**Rating Factor 3: Soundness of Approach (40 Points)**

This factor examines the quality of your plan of proposed activities. In evaluating this factor HUD will consider the specificity in your plan; your established benchmarks for performance; your schedule; your proposed budget and the cost effectiveness of your program; and your plans to reach all potentially-eligible homebuyers, including those with disabilities or least-likely to apply.

In addition, HUD will consider how your planned activities further one or

more of the policy priorities of the Department. Department policy priorities are: (i) Affirmatively furthering fair housing by promoting greater opportunities for housing choice for all segments of the population regardless of race, color, religion, national origin, sex, familial status and disability; (ii) Promoting healthy homes; (iii) Providing opportunities for self-sufficiency, particularly for persons enrolled in Welfare to Work programs; (iv) Providing educational and job training opportunities through such initiatives as Neighborhood Networks, and linking programs to AmeriCorps activities; and (v) Enhancing on-going efforts to eliminate drugs and crime from neighborhoods through program policy efforts such as "One Strike and You're Out" or the "Officer Next Door" initiative.

**Submission Requirements for Factor 3.**

- (1) You must identify all activities you propose to fund with SHOP.
- (2) Provide a timetable for the selection of your participating local affiliates or partners, if they are not specified in the application.
- (3) You must submit a construction and completion schedule which expends SHOP funds within 24 months.
- (4) List the benchmarks against which HUD is to measure your performance progress in expending funds, completing activities, and substantially fulfilling the obligations of SHOP.
- (5) Describe how your proposed activities address the need or needs you have identified under Factor 2, above.
- (6) List the long and short term benefits from your activities to the community and targeted groups within the community, and describe how you will ascertain and measure the benefits.
- (7) Provide a detailed budget with a break-out for each proposed task and each budget category in the SF-424A.
- (8) Demonstrate that projected costs for the proposed activities do not deviate substantially from the norm in the locale in which your activities will take place, will not exceed an average cost of \$10,000 per home in SHOP funds, and your ability to carry out your proposed activities cost effectively.

(9) Describe how the policy priorities of the Department are furthered by your proposed activities.

(10) Describe how you will reach potential homebuyers through the use of services and materials that are accessible or visitable to all persons, including persons with disabilities (e.g., languages, formats, locations, distribution, use of minority media to attract those least likely to apply).

(11) Describe how activities will benefit eligible homebuyers and your selection factors for participating homebuyers.

(12) Describe how your proposed activities will yield long-term results and innovative strategies or "best practices" that can be readily disseminated to other organizations, communities, and/or State and local governments.

**Rating Factor 4: Leveraging Resources (15 Points)**

This factor addresses your ability to secure other resources that can be combined with HUD's program resources to achieve the purposes of SHOP. HUD will consider the extent to which you document firm commitments of resources in the form of cash funding, in-kind contributions, or personnel from Federal, State, local, and private sources, who are jointly referred to as your leverage partners. HUD will also consider the extent that the applicant's proposed sweat-equity requirements and other leveraged resources will serve to reduce costs to the homebuyers.

**Submission Requirements for Factor 4.**

(1) Provide a list of amounts and sources of all firm commitments of cash funding, in-kind contributions, or personnel from other Federal, State, local, and private sources which will be available to complete your project. Together with the grant funds, these commitments must be sufficient to develop not less than 30 units.

(2) Provide copies of written evidence to support your list of firm commitments from the source of the commitment. There must be a written agreement to provide the resources. The written agreement may be contingent upon you receiving a grant award.

(3) You must provide a description of the individual sweat-equity requirements of your program and how this contribution of labor will serve to reduce the costs of the home to the homebuyer. Reasonable accommodation must be allowed for persons with a variety of disabilities to participate in your program.

**Rating Factor 5: Comprehensiveness and Coordination (10 Points)**

This factor addresses the extent to which your application reflects a coordinated, comprehensive approach to identifying community needs and addressing them on an ongoing basis. In evaluating this factor, HUD will consider:

(1) The extent to which you demonstrate the support and participation of the community's

residents, organizations, businesses, and government in the design and implementation of the proposed activities.

(2) The specific steps you will take to share information on solutions, outcomes, and best practices resulting from the activities, if funded.

(3) The specific steps you have taken or will take to coordinate, through meetings, information networks, planning processes, or other mechanisms, your activities with other proposed or on-going activities in the community funded by Federal, State, local, or private sources.

#### *Submission Requirements for Factor 5*

(1) Describe what role residents, community leaders and organizations, and government and private entities in the targeted community have had, or will have, in planning the activities described in your application and what role they will have in carrying out such activities.

(2) Describe how you will share with others information on solutions and outcomes resulting from the activities, if funded.

(3) Describe the specific steps you have taken or will take to become active in the community's Consolidated Plan and Analysis of Impediments to Fair Housing Choice process; or the community's Indian Housing Plan process; and to address, through these processes, the needs that are the focus of the proposed activities.

(4) Describe the specific steps you have taken, or will take, to coordinate your activities with other proposed or on-going activities in the community funded by Federal, State, local, or private sources (through meetings,

information networks, planning processes, or other mechanisms).

#### **VI. Checklist for Application Submission**

- \_\_\_\_\_ Standard Form 424, Application for Federal Assistance
- \_\_\_\_\_ Signed by organization eligible to receive funds
- \_\_\_\_\_ Evidence of Non-Profit status
- Narrative Statement Addressing:
  - \_\_\_\_\_ Factor 1—Capacity of the Applicant and Relevant Organizational Staff
  - \_\_\_\_\_ Factor 2—Need/Extent of the Problem
  - \_\_\_\_\_ Factor 3—Soundness of Approach
  - \_\_\_\_\_ Factor 4—Leveraging Resources
  - \_\_\_\_\_ Factor 5—Comprehensiveness and Coordination Forms, Certifications and Assurances:
    - \_\_\_\_\_ SF 424A, Budget Information, Non-Construction Programs
    - \_\_\_\_\_ SF 424B, Assurances—Non-Construction Programs
    - \_\_\_\_\_ SF 424M, Federal Assistance Funding Matrix
    - \_\_\_\_\_ HUD-50070, Certification for a Drug-Free Workplace
    - \_\_\_\_\_ HUD-50071, Certification of Payment to Influence Federal Transactions
    - \_\_\_\_\_ SF LLL, Disclosure of Lobbying Activity
    - \_\_\_\_\_ HUD-2880, Applicant/Recipient Disclosure/Update Report
    - \_\_\_\_\_ HUD-2990, Certification of Consistency with the EZ/EC Strategic Plan
    - \_\_\_\_\_ HUD-2992, Certification Regarding Debarment and Suspension
    - \_\_\_\_\_ Acknowledgement of Application Receipt

**Note:** No kit will be made available. (See Section I for information on how to obtain standard forms.)

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Environmental Requirements**

The provisions contained in Section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, Environmental Review, implemented in the Environmental Review regulations at 24 CFR part 58, are applicable to properties assisted with SHOP funds. All SHOP assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities. SHOP grant applicants are cautioned that no federal or non-federal funds or assistance which limits reasonable choices or could produce a significant adverse environmental impact may be committed to a project until all required environmental reviews and notifications have been completed by a unit of general local government, tribe or State and until HUD approves a recipient's request for release of funds under the environmental provisions contained in 24 CFR part 58.

#### **VIII. Authority**

The funding made available under this program section of the SuperNOFA is authorized by section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) (the "Extension Act"). No separate implementing regulations will be issued.

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**YOUTHBUILD**



## Funding Availability for the Youthbuild Program

### Program Overview

**Purpose of the Program.** The purpose of the Youthbuild program is to provide disadvantaged young adults with education, employment, and leadership skills.

**Available Funds.** Approximately \$40,000,000 is available for the Youthbuild Program.

**Eligible Applicants.** Eligible applicants are public or private nonprofit agencies, State or local housing agencies or authorities, State or local units of general local government, or any entity eligible to provide education and employment training under other Federal employment training programs, as further defined in 24 CFR 585.4.

**Application Deadline.** April 30, 1999.

**Match.** None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Your completed application (one original and two copies) is due on or before 12:00 midnight, Eastern time, on April 30, 1999.

See the General Section of this SuperNOFA for specific procedures that you must follow for the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

#### Addresses for Submitting

**Applications. To HUD Headquarters.** Submit your original completed application (that contains the original application and one copy), by hand or mail delivery, to: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7255, Washington, D.C. 20410, Attention: Youthbuild Grant.

**To the Appropriate CPD Field Office.** Submit the second copy of your application to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction.

**For Application Kits.** For an application kit and any supplemental information please call the SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech

impairments may call the Center's TTY number at 1-800-483-2209. An application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov>. When requesting an application kit, please refer to Youthbuild and provide your name, address (including zip code), and telephone number (including area code).

**For Further Information.** Phyllis Williams, Office of Economic Development and Empowerment Service in the Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7140, Washington, DC 20410, telephone (202) 708-2035. Persons with speech or hearing impairments may call HUD's TTY number (202) 708-0770, or 1-800-877-8399 (the Federal Information Relay Service TTY). Other than the "800" number, these numbers are not toll-free.

**For Technical Assistance.** Peter Twichell, YouthBuild USA, 58 Day Street, Somerville, MA 02144, telephone (617) 623-9900, ext. 1211, under contract with HUD to provide technical assistance in developing your application.

### II. Amount Allocated

Approximately \$40,000,000 is available for the Youthbuild Program. The net available program funds will be divided between two categories of grants (as further specified in Section III(C)):

1. \$ 4,800,000—Grants for new applicants for up to \$300,000; and
2. \$35,200,000—Grants for up to \$700,000.

### III. Program Description; Eligible Applicants; Eligible Activities; Eligible Participants

#### (A) Program Description

The purposes of the Youthbuild Program are:

- (1) To provide economically-disadvantaged young adults with opportunities to obtain education, employment skills, and meaningful on-site construction work experience as a service to their communities and a means to achieve self-sufficiency;
- (2) To foster the development of leadership skills and commitment to community;
- (3) To expand the supply of permanent affordable housing for homeless and low- and very low-income persons by providing implementation grants for carrying out a Youthbuild program.
- (4) To provide disadvantaged young adults with meaningful on-site training

experiences in housing construction and rehabilitation to enable them to provide a service to their communities by helping to meet the housing needs of homeless and low-income families;

(5) To give, to the greatest extent feasible, job training, employment, contracting and other economic opportunities to low-income persons.

#### (B) Eligible Activities

(1) Work and activities associated with the acquisition, rehabilitation or construction of the housing and related facilities to be used in the program;

(2) Relocation payments and other assistance required to comply with 24 CFR 585.308;

(3) Costs of ongoing training and technical assistance needs related to carrying out a Youthbuild program;

(4) Education, job training, counseling, employment leadership development services and activities;

(5) Wages, benefits, and need-based stipends for participants; and (6) Administrative costs—Youthbuild funds for these costs should not exceed 15 percent of the total amount of Youthbuild assistance, unless a higher amount is justified to support capacity development by a private nonprofit organization.

Please refer to 24 CFR 585.305 for further details on eligible activities.

#### (C) Eligible Participants

Participants in a Youthbuild program must be very low-income high school dropouts between the ages of 16 and 24, inclusive, at the time of enrollment. Up to 25 percent of participants may be above very low-income or high school graduates (or equivalent), but must have educational needs that justify their participation in the program.

### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, as an applicant you must comply with the following requirements:

#### (A) Resources From Other Federal, State, Local or Private Entities

You should use existing housing and homeless assistance programs administered by HUD or other Federal, State, local, or private and nonprofit housing programs as part of your Youthbuild program. In addition, you should use other non-Youthbuild funds available for vocational, adult, and bilingual education programs or for job training under the Job Training Partnership Act and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The

selection process described in this Youthbuild Program section of the SuperNOFA provides for applicants to receive points where grant applications contain firm commitments from Federal, State, local, or private sources to provide resources to carry out Youthbuild activities.

*(B) Grant Period*

You should expend funds awarded within 30 months of the effective date of the grant agreement, or such other period specified.

*(C) Locational Limitations*

You may submit more than one application in the current competition if your program's participant recruitment and housing areas are in different jurisdictions. Each application you submit may only propose activities to carry out one Youthbuild program, i.e., to start a new Youthbuild program or to fund new classes of Youthbuild participants for an existing program.

*(D) Youthbuild Program Components*

Youthbuild programs that receive assistance under this Youthbuild Program section of the SuperNOFA must contain the three components described in paragraphs (1), (2), and (4) below. Other activities described in paragraph (3) are optional.

(1) Educational and job training services.

(2) Leadership training, counseling, and other support activities.

(3) Special activities such as entrepreneurial training, drivers' education, internships, programs for those with learning disabilities, and in-house staff training. (Optional)

(4) On-site training through actual housing rehabilitation and/or construction work, including the provision of alternative training experiences that are necessary as reasonable accommodation for students with disabilities. Each program must be structured so that 50 percent of each participant's time is spent in on-site training.

*(E) Desirable Elements of a Youthbuild Program*

You should document the extent to which HUD's policy priorities are furthered by the proposed activities. Such policy priority areas are:

- (1) Affirmatively furthering fair housing by promoting greater opportunities for housing choice for minorities and persons with disabilities;
- (2) Promoting healthy homes;
- (3) Providing opportunities for self-sufficiency, particularly for persons enrolled in welfare to work programs;

(4) Providing educational and job training opportunities and linking programs to Americorps activities; and

(5) Promoting welfare reform. Refer to 24 CFR 585.3 for a detailed description of program components.

**V. Application Selection Process**

You, the applicant, must meet all of the applicable threshold requirements of Section II(B) of the General Section of the SuperNOFA. HUD will review each application and assign points in accordance with the selection factors described in this section. The maximum number of points is 102 (except for an application submitted by the City of Dallas, Texas, which would be eligible for a maximum of 104 points, in accordance with Rating Factor 3, paragraph (3), below). This maximum includes two EZ/EC bonus points as described in the General Section of the SuperNOFA.

To afford applicants every opportunity to submit a ratable application, while at the same time ensure the fairness, integrity and timeliness of the selection process, the following application submission and selection procedures apply to this program:

(A) *Rating and Ranking.* HUD will rate each eligible application based upon the rating factors described in Section V of this Youthbuild Program section of the SuperNOFA. Using the scores assigned, HUD will place the application in rank order within each category. HUD will select applications for funding in accordance with their rank order. An application will be eligible for EZ/EC bonus points and for the Housing Program Priority points in Rating Factor 3, paragraph (2), only if the application receives a combined score of at least 50 points for Rating Factor 1, Rating Factor 2, and Rating Factor 3, paragraph (1), under this Section V.

If two or more applications are rated fundable, and have the same score, but there are insufficient funds to fund all of them, HUD will select the application(s) with the highest score for Rating Factor 3(1) under Soundness of Approach.

(B) *Initial Screening.* During the period immediately following the application deadline, HUD will screen each application to determine eligibility. Applications will be rejected if they:

- (1) Are submitted by ineligible applicants, or
  - (2) Propose a program for which significant activities are ineligible.
- (C) *Categories of Grants.*

HUD will award Youthbuild implementation grants only to eligible applicants for the purpose of carrying out Youthbuild programs in accordance with subtitle D of title IV of the Act. HUD will select applications in a competition in accordance with the grant selection process described in Section V of this Youthbuild Program section of the SuperNOFA.

HUD will make grants in two categories:

(1) Grants for new applicants that have not previously received Youthbuild Implementation Grants and that have elected not to apply under category (2), below. These grants will be limited to \$300,000, for a period of 18 months, with a maximum of 20 students.

(2) Grants for up to \$700,000 to implement a full range of Youthbuild activities for up to a 30-month period. HUD will award half the funding in this category to applicants that propose grants of \$400,000 or less for up to 24 months. Applicants in category (1) will receive twelve percent of the funds available. Applicants in category (2) will receive the remainder of the funds available, which in turn will be split evenly between grants for up to and including \$400,000, and grants over \$400,000. If you have not received funding before, you may apply in either category. If you have received funding before for implementation, you may apply only in category (2).

*(D) Maximum Awards.*

Under the competition established by this Youthbuild Program section of the SuperNOFA, the maximum award for a Youthbuild grant is \$700,000. HUD reserves the right to determine the maximum or minimum of any Youthbuild award per application, project, program or budget line item. HUD will not make amendments to awards under this competition that will increase previously approved grant amounts. In order to ensure reasonable geographic diversity, HUD will not give a CDBG entitlement jurisdiction more than \$2.1 million in Youthbuild grants.

(E) *Potential Environmental Disqualification.* HUD reserves the right to disqualify an application where one or more environmental thresholds are exceeded if HUD determines that it cannot conduct the environmental review and satisfactorily complete the review within the HUD review period. (See 24 CFR 585.307.)

(F) *Notification of Approval or Disapproval.* HUD will notify you whether or not you have been selected for an award. If you are selected, HUD's notice to you of the amount of the grant award based on the approved

application will constitute HUD's preliminary approval, subject to execution of the grant agreement by HUD.

(G) *Economic Opportunities for Low and Very Low-Income Persons (Section 3)*. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is applicable to Youthbuild implementation grant recipients. Please see Section II(E) of the General Section of the SuperNOFA.

(H) Factors for Award Used to Evaluate and Rate Applications.

**Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (30 Points)**

This factor addresses the qualification and experience of the applicant and participating parties to implement a successful young adult education and training program within a reasonable time period. HUD will review and evaluate the information provided documenting capability. In assigning points for this criterion, HUD will consider evidence in the application that demonstrates the following:

(1) Experience in implementing a comprehensive, integrated, multidisciplinary program with the following components:

(a) Young adult education and training programs, including programs for low-income persons from economically distressed neighborhoods.

(b) Young adult leadership development training and related activities for young adults.

(c) Young adult on-site training in housing construction or rehabilitation for the production of sound and affordable housing for the homeless and low-income families.

(2) The extent to which you or participating parties have been successful in past education, training, and employment programs and activities, including Federally-funded Youthbuild programs. If you have received a Youthbuild grant, you must submit a performance narrative as outlined in the application package, and copies of your last two progress reports or, if applicable, a closeout report. In applying the rating criteria, HUD will take into consideration your performance (including meeting target dates and schedules) as reported.

(3) The extent to which you, including your program director, principal staff, or participating parties have demonstrated past ability to leverage other resources to cover administrative, educational, and training costs.

(4) Staff capacity should address the extent to which you demonstrate that

your proposed Staff and Program Manager possess the background, experience, and capacity to conduct the proposed project, as evidenced by recent work experience in managing projects of the same or similar size, dollar amount, and types of activities as those proposed in the application.

**Rating Factor 2: Need/Extent of the Problem (15 Points)**

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the urgency of meeting the need in the target area. Documentation of need should address the extent to which you document a critical level of need for the proposed activities in the area where activities will be implemented. The documentation must apply to the targeted area rather than the entire locality. If the target area is an entire locality or State, then documenting need at this level is appropriate.

Your documentation of need should demonstrate the extent and urgency of the problem the proposed activities address. To the extent that your community's Consolidated Plan or Analysis of Impediments to Fair Housing Choice (AI) identifies the level of the problem and the urgency in meeting the need, you should include references to these documents in your response. HUD will review more favorably those applicants that use these documents to identify need, when applicable. Examples of data you might use to demonstrate need include, but are not limited to, economic and demographic data relevant to the target area, including poverty and unemployment rates; levels of homelessness; extent of drug usage and crime statistics; lead poisoning rates; housing market data available from HUD or other data sources including the Public Housing Authorities' Five Year Comprehensive Plan, State or local Welfare Department's Welfare Reform Plan (including, where applicable, the Welfare to Work Plan Addendum); and/or lack of other Federal, State, or local funding that could be or are used to address the problem HUD program funds are designed to address. If the proposed activity is not covered under the scope of the Consolidated Plan and AI, you should indicate such, and use other sound data sources to identify the level of need and the urgency in meeting the need. Types of other sources include, but are not limited to, Census reports, Continuum of Care gaps analysis, law enforcement agency crime reports, Public Housing Authorities' Five Year Comprehensive Plan, etc.

**Rating Factor 3: Soundness of Approach (40 Points)**

(1) (30 points) HUD will consider the overall quality and feasibility of the proposed program as measured by the principles and goals of the proposed program; whether proposed program activities meet the overall objectives of the Youthbuild program; whether the proposed program activities will be accomplished within the projected time frame; whether the proposed program activities are comprehensive and integrated; and the potential for success of the proposed program. Areas HUD will consider in evaluating the overall quality of the proposed program are:

(a) Outreach, recruitment and selection activities including:

(i) Specific steps you will take to attract potential eligible participants who are unlikely to be aware of this program (because of race, ethnicity, sex or disability) and selection strategies;

(ii) Special outreach efforts you will make to recruit eligible young women, young women with dependent children, and persons receiving public assistance; and

(iii) Recruitment arrangements you have made with public agencies, courts, homeless shelters, local school systems, local workforce development systems, community-based organizations, etc.

(b) Educational and job training services and activities including:

(i) The types of instructional services you will provide;

(ii) The number and qualification of program instructors and ratio of instructors to participants;

(iii) Realistic scheduling plan for classroom and on-the-job training; and

(iv) Reasonable payments of participants' wages, stipends, and incentives.

(c) Leadership development, including the leadership development training you will offer to participants, and including the strategies, activities, and plans to build group cohesion and peer support.

(d) Support services, including documentation of counseling and referral services to be offered to participants, including the type of counseling, social services, and/or need-based stipends you will provide (supported by letters of commitments from providers).

(e) On-site training, including:

(i) The housing construction or rehabilitation activities participants will undertake at the site(s) to be used for the on-site training component of the program;

(ii) The qualification and number of on-site supervisors;

(iii) The ratio of trainers to students;  
(iv) The number of students per site;  
and

(v) The amounts, reasonable wages, and/or stipends you will pay to participants during on-site work.

(f) Job placement assistance, including your commitments, strategies, and procedures for:

(i) Participant placement in meaningful employment, enrollment in postsecondary education programs, job development, starting business enterprises, or other opportunities leading to economic independence; and

(ii) Follow-up assistance and support activities to program graduates.

(g) Americorps support or participation as evidenced by approval of Americorps or appropriate State agency.

(2) (10 points) HUD will assign Housing Program Priority Points to all applications that contain evidence that housing resources from other Federal, State, local, or private sources that are available to cover the cost, in full, for the following housing activities for the proposed Youthbuild program: acquisition, architectural and engineering fees, construction, and rehabilitation. It also is imperative that your proposed housing sites provide quality training. The number of units you propose to rehabilitate or construct is secondary in rating this factor. Applications that do not include proper documentation of commitment of non-Youthbuild resources or propose to use Youthbuild grant funds, in whole or in part, for any one of the housing activities listed above will not be entitled to the full priority points. HUD will not use housing resources in evaluating the Leveraging Resources factor.

HUD considers that the quality of the training to be provided is more important than the number of units per se, in evaluating housing sites proposed for Youthbuild training.

(3) HUD will award up to two (2) additional points to any application submitted by the City of Dallas, Texas, to the extent this subfactor is addressed. Due to an order of the U.S. District Court for the Northern District of Texas, Dallas Division, with respect to any application submitted by the City of Dallas, Texas, HUD will consider the extent to which the application's proposed activities will eradicate the vestiges of racial segregation in the Dallas Housing Authority's programs consistent with the Court's order.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses the extent to which firm commitment of resources are obtained from Federal, State, local, and private and nonprofit sources other than the applicant. In assigning points for this criterion, HUD will consider the level of nonhousing resources obtained for cash or in-kind contribution to cover the following kinds of areas:

(1) Social services (i.e., counseling and training);

(2) Use of existing vocational, adult, and bilingual educational courses;

(3) Donation of labor, resource personnel, supplies, materials, classroom, and/or meeting space;

(4) Other commitments.

In rating this element, HUD will consider only those contributions for which current firm commitments have been provided. HUD will evaluate the level of nonhousing resources proposed based on their importance to the total program.

Rating Factor 5: Comprehensiveness and Coordination (5 Points)

This factor addresses the extent to which your program reflects a coordinated, community-based process of identifying needs and building a system to address the needs by using available HUD funding resources and other resources available to the community.

In evaluating this factor, HUD will consider the extent to which you demonstrate that you have:

(1) Coordinated your proposed activities with those of other groups or organizations in order to best complement, support, and coordinate all known activities, and the specific steps you will take to share information on solutions and outcomes with others. You should describe any written agreements, memoranda of understanding in place, or those that will be in place after award.

(2) Taken or will take specific steps to become active in the community's Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice) established to identify and address a need/problem that is related to the activities you propose.

(3) Taken or will take specific steps to develop linkages to coordinate comprehensive solutions through meetings, information networks, planning processes, or other mechanisms with:

(a) Other HUD funded projects/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other activities funded by HUD, Federal, State, or local sources, including those proposed or on-going in the community(s) served.

## VI. Application Submission Requirements

You must complete and submit your application for a Youthbuild grant in accordance with the instructions in the FY 1999 Youthbuild application kit. The application kit will request information in sufficient detail for HUD to determine whether your proposed activities are feasible and meet all the requirements of applicable statutes and regulations. The application kit requires you to describe: your and participating parties' experiences in young adult and housing programs; your proposed Youthbuild program; the other public and private resources to be used for the program, including other housing resources (including documentation of these). In addition, you must submit a schedule for the program, budgets, identification of housing sites, and demonstration of site access. The application kit also contains necessary certifications regarding Federal requirements. In addition, you must provide the required certification that the proposed activities are consistent with the HUD-approved Consolidated Plan in accordance with 24 CFR part 91. You should refer to the Youthbuild application kit for further instructions and take into account the uniform guidebook available to all applicants.

## VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

Environmental procedures apply to HUD approval of grants when you propose to use Youthbuild funds to cover any costs for the lease, acquisition, rehabilitation, or new construction of real property proposed for housing project development. Environmental procedures do not apply to HUD approval of your application when you propose to use your Youthbuild funds solely to cover costs for classroom and/or on-the-job construction training and support services.

If you propose to use your Youthbuild funds to cover any costs of the lease, acquisition, rehabilitation, or new construction of real property, you must submit all relevant environmental information in your application to support HUD decisionmaking in accordance with the environmental

procedures and standards set forth in 24 CFR 585.307.

**IX. Authority**

This program is authorized under subtitle D of title IV of the Cranston-

Gonzalez National Affordable Housing Act (the Act), as added by section 164 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, 106 Stat. 3723, 42 U.S.C. 12899).

The Youthbuild Program regulations are found in 24 CFR part 585.

BILLING CODE 4210-32-P



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**CONTINUUM OF CARE HOMELESS  
ASSISTANCE PROGRAMS**

Supportive Housing Program (SHP)

Shelter Plus Care (S+C)

Section 8 Moderate Rehabilitation Single  
Room Occupancy for Homeless Individuals  
(SRO)



**Funding Availability for Continuum of Care Homeless Assistance Programs—Supportive Housing Program (SHP), Shelter Plus Care (S+C), Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (SRO)**

*Program Overview*

*Purpose of the Programs.* The purpose of the Continuum of Care Homeless Assistance Programs is to fund projects that will fill gaps in locally developed Continuum of Care systems to assist homeless persons move to self-sufficiency and permanent housing.

*Available Funds.* Approximately \$750 million.

*Eligible Applicants.* The chart in the Appendix to this program section of this SuperNOFA identifies the eligible applicants for each of the three programs under the Continuum of Care.

*Application Deadline.* June 2, 1999.

*Match.* Yes.

*Additional Information*

If you are interested in applying for funding under any of the Continuum of Care Homeless Assistance programs, please review carefully the General Section of the SuperNOFA and the following additional information.

**I. Application Due Date, Application Kits, Further Information, and Technical Assistance**

*Application Due Date.* Your completed application (an original containing the signed documentation and two copies) is due on or before 12:00 midnight, Eastern time, on June 2, 1999 to the addresses shown below. See the General Section of this SuperNOFA for specific procedures that you must follow for the form of application submissions (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Addresses for Submitting Applications.* To HUD Headquarters. Submit your original completed application (the application with the original signed documentation) to: Room 7270, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Attention: Continuum of Care Programs.

*To the Appropriate CPD Field Office.* Also submit two copies of your completed application to the Community Planning and Development Division of the appropriate HUD Field Office for your jurisdiction. The HUD Field Office must receive the two copies of your application by the deadline date as well. The determination, however,

that your application was received on time will be made *solely on receipt of the application at HUD Headquarters in Washington*. Reviews will be based upon the contents of the application submitted to HUD Headquarters.

*For Application Kits.* For an application kit, please call the SuperNOFA Information Center at 1-800-HUD-8929 (voice) or 1-800-483-2209 (TTY), or you may download an application by Internet at <http://www.HUD.gov>.

*For Further Information.* For answers to your questions, you may call the HUD Field Office serving your area, at the telephone number shown in the application kit for this program, or you may contact the Community Connections Information Center at 1-800-998-9999 (voice) or 1-800-483-2209 (TTY) or by Internet at: <http://www.comcon.org/ccprog.html>.

*For Technical Assistance.* Before the application deadline, HUD staff will be available to provide you with general guidance. HUD staff, however, cannot provide you with guidance in actually preparing your application. HUD Field Office staff also will be available to help you identify organizations in your community that are involved in developing the Continuum of Care system and, in the case of renewals, to determine the HUD final year amount (e.g., leasing, supportive services and operations for SHP, and rental assistance for S+C). Following conditional selection of applications, HUD staff will be available to assist selected applicants in clarifying or confirming information that is a prerequisite to the offer of a grant agreement or Annual Contributions Contract by HUD. However, between the application deadline and the announcement of conditional selections, HUD will accept no information that would improve the substantive quality of your application pertinent to HUD's funding decision.

**II. Amount Allocated**

Approximately \$750 million is available for this competition in FY 1999. Any unobligated funds from previous competitions or additional funds that may become available as a result of deobligations or recaptures from previous awards may be used in addition to 1999 appropriations to fund applications submitted in response to this program section of this SuperNOFA. The funds available for the Continuum of Care program can be used under any of three programs that can assist in creating community systems for combating homelessness. The three programs are:

- (1) Supportive Housing;
- (2) Shelter Plus Care; and
- (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals.

The chart in the Appendix to this program section of this SuperNOFA summarizes key aspects of the programs, and also provides the citations for the statutes and regulations that authorize these programs. The regulations listed in the chart provide more detailed descriptions of each of the programs.

As in previous funding availability announcements for the Continuum of Care Homeless Assistance Programs, HUD will not specify amounts for each of the three programs this year. Instead, the distribution of funds among the three programs will depend largely on locally determined priorities and overall demand. Local priorities notwithstanding, due to recent Congressional action, not less than 30 percent of this year's total homeless assistance appropriation of \$975 million must be used for permanent housing projects. Pursuant to the provisions of the FY 1998 NOFA, up to \$60 million of the FY 1999 appropriation may be made available under the FY 1998 NOFA. Permanent housing projects funded with that \$60 million will be counted toward the 30 percent requirement. (See Sections V(A)(4)(b) and V(A)(7) of this program section of the SuperNOFA for additional information.)

**III. Program Description; Eligible Applicants; Eligible Activities**

*(A) Program Description*

(1) *Developing Continuum of Care Systems.* The purpose of the Continuum of Care Homeless Assistance Programs is to fund projects that will fill gaps in locally developed Continuum of Care systems to assist homeless persons move to self-sufficiency and permanent housing. The process of developing a Continuum of Care system to assist homeless persons is part of the community's larger effort of developing a Consolidated Plan. For a community to successfully address its often complex and interrelated problems, including homelessness, the community must marshal its varied resources—community and economic development resources, social service resources, housing and homeless assistance resources—and use them in a coordinated and effective manner. The Consolidated Plan, including the Analysis of Impediments to Fair Housing Choice, serves as the vehicle for a community to comprehensively

identify each of its needs and to coordinate a plan of action for addressing them.

A Continuum of Care system consists of four basic components:

- (a) A system of outreach and assessment for determining the needs and conditions of an individual or family who is homeless;
- (b) Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing finders;
- (c) Transitional housing with appropriate supportive services to help those homeless individuals and families who are not prepared to make the transition to permanent housing and independent living; and
- (d) Permanent housing, or permanent supportive housing, to help meet the long-term needs of homeless individuals and families.

A Continuum of Care system is developed through a community-wide or region-wide process involving nonprofit organizations (including those representing persons with disabilities), government agencies, other homeless providers, housing developers and service providers, private foundations, neighborhood groups, and homeless or formerly homeless persons. A Continuum of Care system should address the specific needs of each homeless subpopulation: the jobless, veterans, persons with serious mental illnesses, persons with substance abuse issues, persons with HIV/AIDS, persons with multiple diagnoses, victims of domestic violence, youth, and any others. The term "multiple diagnoses" may include diagnoses of multiple physical disabilities or multiple mental disabilities or a combination of these two types.

As an applicant, the community process you use in developing a Continuum of Care system should include interested veteran service organizations. To ensure that the Continuum of Care system addresses the needs of homeless veterans, it is particularly important that you involve veteran service organizations with specific experience in serving homeless veterans. In addition, given the large number of youths aging out of the Foster Care system each year, you should seek to include persons knowledgeable on this issue in the planning process and ensure that your continuum of Care system adequately addresses this need.

Your application will be given a high score under the Continuum of Care scoring factors if the application

demonstrates the achievement of two basic goals:

- That you have provided maximum participation by non-profit providers of housing and services; homeless and formerly homeless persons; state and local governments and agencies; veteran service organizations; organizations representing persons with disabilities; the private sector; housing developers; foundations and other community organizations.
- That you have created, maintained and built upon a community-wide inventory of housing and services for homeless families and individuals; identified the full spectrum of needs of homeless families and individuals; and coordinated efforts to obtain resources, particularly resources sought through this program section of the SuperNOFA, to fill gaps between the current inventory and existing needs. This coordinated effort must appropriately address all aspects of the continuum, especially permanent housing.

In deciding the geographic area you will cover in your Continuum of Care strategy, you should be aware that the single most important factor in being awarded funding under this competition will be the strength of your Continuum of Care strategy when measured against the Continuum of Care rating factors described in this SuperNOFA. When you determine what jurisdictions to include in your Continuum of Care strategy area, include only those jurisdictions that are involved in the development and implementation of the Continuum of Care strategy.

The more jurisdictions you include in the Continuum of Care strategy area, the larger the pro rata need share that will be allocated to the strategy area (as described in Section V(A)(4) of this program section of the SuperNOFA). However, it would be a mistake to include jurisdictions that are not fully involved in the development and implementation of the Continuum of Care strategy since this would adversely affect the Continuum of Care score. If you are a rural county, you may wish to consider working with larger groups of contiguous counties to develop a region-wide or multi-county Continuum of Care strategy covering the combined service areas of these counties.

Since the basic concept of a Continuum of Care strategy is to create a single, coordinated, inclusive homeless assistance system for an area, the areas covered by Continuum of Care strategies should not overlap. If your Continuum of Care strategy geographically overlaps to the extent that they are essentially competing with each other, projects in the applications/

Continuum of Care that receive the highest score out of the possible 60 points for Continuum of Care will be eligible for up to 40 points under Need. Projects in the competing applications/ Continuum of Care with the less effective Continuum of Care strategies will be eligible for only 10 points under Need. In no case will the same geographical area be used more than one time in assigning Need points. The local HUD Field Office can help you determine if any of the areas proposed for inclusion by your Continuum of Care system is also likely to be claimed under another Continuum of Care system in this competition.

(2) *Prioritizing.* HUD's policy is that decisions about priority are best made through a locally-driven process and are key to the ultimate goal of reducing homelessness. Again this year, you must list all projects proposed for funding under this program section of the SuperNOFA in priority order from the highest priority to the lowest. Generally, this priority order will mean, for example, that if HUD has funds available only to award 8 of 10 proposed projects, then it will award funding to the first eight eligible projects listed, except as may be necessary to achieve the new 30 percent overall permanent housing requirement—in which case higher priority non-permanent housing projects may be skipped over in order to fund lower priority permanent housing projects. You should give non-profit organizations an opportunity to participate in establishing these priorities.

In order to promote permanent housing, a special incentive is being provided to continuum of care systems that place an eligible, new permanent housing project in the number one priority slot on the priority list. See Section V(A)(4)(b) of this program section of the SuperNOFA for a description of this incentive.

HUD will use this priority list to award up to 40 points per project under the "Need" scoring factors. Higher priority projects will receive more points under Need than lower priority projects. A project priority chart is included in the application kit and you should complete and submit it. If you do not submit clear project priority designations for the continuum, or if HUD, at its sole discretion, cannot determine priority designations, then HUD will give all projects the lowest score for Need.

Project renewals. If your Supportive Housing, Supportive Housing Demonstration Program, SAFAH, or Shelter Plus Care grants will be expiring in calendar year 2000, you must apply

under this Continuum of Care program section of the SuperNOFA to get continued funding.

Your local needs analysis process must consider the need to continue funding for projects expiring in calendar year 2000, and you must assign a priority to those projects requesting renewal. HUD will not fund renewals out of order on the priority list except as may be necessary to achieve the new 30 percent overall permanent housing requirement. HUD reserves the authority to use FY 2000 funds, if available, to conditionally select lower-rated eligible SHP renewal projects that are assigned 40 need points in continuum of care systems that would not otherwise receive funding.

Regardless of the priority assigned to expiring projects, you should fully consider how persons currently being served by those projects will continue to be served, and address this issue in your gaps analysis. In previous competitions, some renewal projects that were not assigned top priority by a locality did not receive funding. To the extent your community desires to have such projects renewed, you should give them the top priorities on the priority projects listing in the application. Since renewal projects receive no special consideration during the review, it is important that they meet minimum project eligibility, capacity, and quality standards identified in this program section of the SuperNOFA or they will be rejected.

For the renewal of a Supportive Housing Program project, Supportive Housing Demonstration Program project or SAFAH project, you may request funding for one (1), two (2) or three (3) years. The amount of this request can be up to the total of HUD grant funds for leasing, operations, and supportive services approved for the final year of the expiring grant's term. For the renewal of a Shelter Plus Care project, the grant term is fixed at five (5) years as required by statute. You may request up to the amount determined by multiplying the number of units under lease at the time of application for renewal funding under this SuperNOFA by the applicable current Fair Market Rent(s) by 60 months. While full funding of existing grants may be requested, there is no guarantee that the entire amount will be awarded. As is the case with SHP, HUD will recapture Shelter Plus Care grant funds remaining unspent at the end of the original grant period when it renews a grant.

This program section of the SuperNOFA is not applicable to the renewal of funding under the SRO program. For further guidance on SRO

renewals, please contact your local HUD Field Office.

As a project applicant, you are eligible to apply for renewal of a grant only if you have executed a grant agreement for the project directly with HUD. If you are a project sponsor or subrecipient who has not signed such an agreement, you are not eligible to apply for renewal of these projects. HUD will reject applications for renewal submitted by ineligible applicants. If you have questions about your eligibility to apply for project renewal, contact the local HUD field office. To be considered an applicant when applying as part of a consolidated application, you must submit an originally signed HUD Form SF-424 and the necessary certifications and assurances.

*(B) Eligible Applicants*

See Appendix.

*(C) Eligible Activities*

See Appendix.

**IV. Program Requirements**

*(A) Statutory and Regulatory Requirements*

*(1) SRO Program.* As an applicant, you need to know that the following limitations apply to the Section 8 SRO program:

- Under section 8(e)(2) of the United States Housing Act of 1937, no single project may contain more than 100 assisted units;
- Under 24 CFR 882.802, applicants that are private nonprofit organizations must subcontract with a Public Housing Authority to administer the SRO assistance;
- Under section 8(e)(2) of the United States Housing Act of 1937 and 24 CFR 882.802, rehabilitation must involve a minimum expenditure of \$3000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade conditions to comply with the Housing Quality Standards.

- Under section 441(e) of the McKinney Act and 24 CFR 882.805(d)(1), HUD publishes the SRO per unit rehabilitation cost limit each year to take into account changes in construction costs. This cost limitation applies to rehabilitation that is compensated for in a Housing Assistance Payments Contract. For purposes of Fiscal Year 1999 funding, the cost limitation is raised from \$17,200 to \$17,500 per unit to take into account increases in construction costs during the past 12-month period.

*(2) Shelter Plus Care/Section 8 SRO Component.* With regard to the SRO

component of the Shelter Plus Care program, if you are a State or a unit of general local government, you must subcontract with a Public Housing Authority to administer the Shelter Plus Care assistance. Also with regard to this component, no single project may contain more than 100 units.

*(B) Match*

You must match Supportive Housing Program funds provided for acquisition, rehabilitation, and new construction with an equal amount of funds from other sources. In addition, in this year's competition, you must match by 25% all funding for supportive services. The cash source may be you, the Federal Government, State and local governments, or private resources. You must match rental assistance provided through the Shelter Plus Care Program in the aggregate with supportive services.

*(C) Linking Supportive Housing Programs and AmeriCorps*

Applicants for the Supportive Housing Program are encouraged to link their proposed projects with AmeriCorps, a national service program engaging thousands of Americans on a full or part-time basis to help communities address their toughest challenges, while earning support for college, graduate school, or job training. For information about AmeriCorps SHP partnerships, call the Corporation for National Service at (202) 606-5000, extension 486.

*(D) Timeliness Standards*

As an applicant, you are expected to initiate your approved projects promptly. HUD may take action if you fail to satisfy certain timeliness standards:

- (1) Supportive Housing Program.*
- HUD will deobligate SHP funds if you have not demonstrated site control within one (1) year after you were initially notified of the grant award, as provided in 24 CFR 583.320(a), subject to the exceptions noted in that regulation.
    - Except where HUD finds that delay was due to factors beyond your control, HUD may deobligate SHP funds if you do not meet the following additional timeliness standards:
      - You must begin construction activities within eighteen (18) months after initial notification of your grant award and complete them within thirty-six (36) months after that notification.
      - For activities that cannot begin until construction activities are completed, such as supportive service or

operating activities that will be conducted within the building being rehabilitated or newly constructed, you must begin these activities within three (3) months after you complete construction.

—You must begin all activities that may proceed independent of construction activities within twelve (12) months after initial notification of your grant award.

(2) *Shelter Plus Care Program*

*Components Except SRO Component.*

Except where HUD finds that delay was due to factors beyond your control, HUD will deobligate S+C funds if you do not meet the following timeliness standards:

- For Tenant-based Rental Assistance, for Sponsor-based Rental Assistance, and for Project-based Rental Assistance without rehabilitation, you must start the rental assistance within twelve (12) months of the initial announcement of the grant award.

- For Project-based Rental Assistance with rehabilitation, you must complete the rehabilitation within twelve (12) months of initial notification of the grant award.

(3) *SRO Program and SRO*

*Component of the Shelter Plus Care Program.*

For projects carried out under the SRO program and the SRO component of the S+C program, the rehabilitation work must be completed and the Housing Assistance Payments contract executed within twelve (12) months of execution of the Annual Contributions Contract. HUD may reduce the number of units or the amount of the annual contribution commitment if, in HUD's determination, the Public Housing Authority fails to demonstrate a good faith effort to adhere to this schedule.

## V. Application Selection Process

### (A) *Review, Rating and Conditional Selection*

HUD will use the same review, rating, and conditional selection process for all three programs (S+C, SRO, and SHP). The standard factors for award identified in the General Section of this SuperNOFA have been modified in this program section as described below. Only the factors described in this program section—Continuum of Care and Need—will be used to assign points. To review and rate applications, HUD may establish panels. To obtain certain expertise and outside points of view, including views from other Federal agencies, these panels may include persons not currently employed by HUD. Two types of reviews will be conducted. Paragraphs (1) and (2) below describe threshold reviews and

paragraphs (3) and (4) describe factors—Continuum of Care and Need—that will be used to assign points. Up to 104 points (including bonus points and points for the court-ordered consideration described in Section III(C) (1) and (2) of the General Section of the SuperNOFA) will be assigned using these factors.

(1) *Applicant and sponsor eligibility and capacity.* HUD will review your capacity as the applicant and project sponsor to ensure the eligibility and capacity standards in this section are met. If HUD determines these standards are not met, the project will be rejected from the competition. The eligibility and capacity standards are:

- You must be eligible to apply for the specific program;

- You must demonstrate ability to carry out the project(s). With respect to each proposed project, this means that in addition to knowledge of and experience with homelessness in general, the organization carrying out the project, its employees, or its partners, must have the necessary experience and knowledge to carry out the specific activities proposed, such as housing development, housing management, and service delivery;

- If you or the project sponsors are current or past recipients of assistance under a HUD McKinney Act program or the HUD Single Family Property Disposition Homeless Program, there must have been no delay in implementing projects exceeding applicable program timeliness standards that HUD determines is within your or the project sponsor's control, unresolved HUD finding, or outstanding audit finding of a material nature regarding the administration of HUD McKinney Act programs or the HUD Single Family Property Disposition Homeless Program; and

- You and the project sponsors must be in compliance with applicable civil rights laws and Executive Orders, and must meet the threshold requirements of Section II(B) of the General Section of the SuperNOFA.

(2) *Project eligibility and quality.* HUD will review projects to determine if they meet the following eligibility and quality standards. If HUD determines the following standards are not met by a specific project or activity, the project or activity will be rejected from the competition.

- The population to be served must meet the eligibility requirements of the specific program, as described in the application instructions;

- At least one of the activity(ies) for which assistance is requested must be

eligible under the specific program, as described in the program regulations;

- The housing and services proposed must be appropriate to the needs of the persons to be served. HUD may find a project to be inappropriate if:

- The type and scale of the housing or services clearly does not fit the needs of the proposed participants (e.g., housing homeless families with children in the same space as homeless individuals, or separating members of the same family, without an acceptable rationale provided);

- Participant safety is not ensured;

- The housing or services are clearly designed to principally meet emergency needs rather than helping participants achieve self-sufficiency;

- Transportation and community amenities are not available and accessible; or

- Housing accessibility for persons with disabilities is not provided as required by applicable laws;

- The project must be cost-effective in HUD's opinion, including costs associated with construction, operations, and administration, with such costs not deviating substantially from the norm in that locale for the type of structure or kind of activity;

- Supportive services only projects, and all others, must show how participants will be helped to access permanent housing and achieve self-sufficiency;

- For the Section 8 SRO program, at least 25 percent of the units to be assisted at any one site must be vacant at the time of application; and

- For those projects proposed under the SHP innovative category: Whether or not a project is considered innovative will be determined on the basis that the particular approach proposed is new within its geographic area, and can be replicated.

(3) *Continuum of Care.* HUD will award up to 60 points as follows:

(a) *Process and Strategy.* HUD will award up to 30 points based on the extent to which your application demonstrates:

- The existence of a coordinated and inclusive community process, including organizational structure(s), for developing and implementing a Continuum of Care strategy which includes nonprofit organizations (such as veterans service organizations, organizations representing persons with disabilities, and other groups serving homeless persons), State and local governmental agencies, other homeless providers, housing developers and service providers, private foundations, local businesses and the banking

community, neighborhood groups, and homeless or formerly homeless persons; and

- That a well-defined and comprehensive strategy has been developed which addresses the components of a Continuum of Care system (i.e., outreach, intake, and assessment; emergency shelter; transitional housing; permanent and permanent supportive housing) and that strategy has been designed to serve all homeless subpopulations in the community (e.g., seriously mentally ill, persons with multiple diagnoses, veterans, persons with HIV/AIDS), including those persons living in emergency shelters, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(b) *Gaps and Priorities.* HUD will award up to 20 points based on the extent to which your application:

- Describes the gap analysis performed, uses reliable information and sources that are presented completely and accurately, and establishes the relative priority of homeless needs identified in the Continuum of Care strategy; and
- Proposes projects that are consistent with the priority analysis described in the Continuum of Care strategy, describes a fair project selection process, explains how gaps identified through the analysis are being addressed, and correctly completes the priority chart.

When HUD reviews a community's Continuum of Care to determine the points to assign, HUD will consider whether the community took its renewal needs into account in preparing its project priority list. (See discussion on renewals in Section III(A)(2) of this NOFA.)

(c) *Supplemental Resources.* HUD will award up to 10 points based on the extent to which your application demonstrates leveraging of funds requested under this program section of the SuperNOFA with other resources, including private, other public, and mainstream services and housing programs.

(d) *EZ/EC bonus points.* As provided for in Section III(C)(1) of the General Section of this SuperNOFA, HUD will add a bonus of up to 2 points to the Continuum of Care score when: (1) at least one proposed homeless assistance project will be located within the boundaries and/or will principally serve the residents of a high performing federal Empowerment Zone, Enterprise Community or Enhanced Enterprise Community (collectively "EZ/EC"); and

(2) if priority placement will be given by the project(s) to homeless persons living on the streets or in shelters within the EZ/EC, or whose last known address was within the high performing EZ/EC. In addition, and in order for a Continuum of Care system to receive any of the bonus points, the applicant must specifically state how it meets the requirements for the two EZ/EC bonus points, and provide a narrative describing the extent of the linkages and coordination between proposed projects and the EZ/EC. Examples of such coordination include having common board or committee membership (EZ/EC and Continuum of Care), and having EZ/EC resources directed toward Continuum of Care activities. The greater the extent of EZ/EC involvement in and coordination with the implementation strategy for the Continuum of Care system and projects, the greater the likelihood that bonus points will be awarded.

(e) *Court-ordered consideration.* Section III(C)(2) of the General Section is applicable to this program.

(4) *Need.* HUD will award up to 40 points for need. There is a three-step approach to determining the need scores to be awarded to projects:

(a) *Determining relative need:* To determine the homeless assistance need of a particular jurisdiction, HUD will use nationally available data, including the following factors as used in the Emergency Shelter Grants program: data on poverty, housing overcrowding, population, age of housing, and growth lag. Applying those factors to a particular jurisdiction provides an estimate of the relative need index for that jurisdiction compared to other jurisdictions applying for assistance under this program section of the SuperNOFA.

(b) *Applying relative need:* HUD will then apply that relative need index to the total amount of funding estimated to be available under this program section of the SuperNOFA to determine a jurisdiction's pro rata need. However, in order to promote permanent housing for the homeless, if a continuum of care's number one priority project qualifies as an eligible, new permanent housing project, then the full amount of that project's eligible activities, up to \$250,000, will be added to the final pro rata need amount for the continuum. HUD also reserves the right to adjust pro rata need, if necessary, to address the issue of project renewals.

(c) *Awarding need points to projects:* Once the pro rata need is established, it is applied against the priority project list in the application. Starting from the highest priority project, HUD proceeds

down the list to award need points to each project. An eligible project will receive the full 40 points for need if at least one half of its requested amount falls within the pro rata need amount for that Continuum of Care (COC). Thereafter, HUD proceeds further down the priority project list and awards 20 points for need to each project if at least one half of its requested amount falls within the "second tier" of pro rata need amount for that Continuum of Care (COC). The "second tier" is the amount between the pro rata need and twice the pro rata need for the COC. Remaining projects each receive 10 points. If projects are not prioritized for the continuum, then all projects will receive 10 points for Need.

In the case of competing applications from a single jurisdiction or service area, projects in the application that received the highest score out of the possible 60 points for Continuum of Care are eligible for up to 40 points under Need. Projects in the competing applications with lower Continuum of Care scores are eligible for only 10 points under Need.

(5) *Ranking.* HUD will add the score for Continuum of Care to the Need score in order to obtain a total score for each project. The projects will then be ranked from highest to lowest according to the total combined score.

(6) *Conditional Selection and Adjustments to Funding.*

(a) *Conditional Selection.* Whether a project is conditionally selected, as described in Section V(B) below, will depend on its overall ranking compared to others, except that HUD reserves the right to select lower rated eligible projects in order to meet the new 30 percent overall permanent housing requirement.

When insufficient funds remain to fund all projects having the same total score, HUD will first fund permanent housing projects if necessary to achieve the 30 percent overall permanent housing requirement. HUD will then break ties among the remaining projects with the same total score by comparing scores received by the projects for each of the following scoring factors, in the order shown: Need, Overall Continuum of Care (COC) score, COC Process and Strategy, COC Gaps and Priorities, and COC Supplemental Resources. The final tie-breaking factor is the priority number of the competing projects on the applicable COC priority list(s).

(b) *Adjustments to Funding.* The Secretary of HUD has determined that geographic diversity is appropriate to carrying out homeless assistance programs in an effective manner. HUD believes that geographic diversity can be

achieved best by awarding grants to as many COCs as possible. To this end, in instances where any of the 50 States does not have at least one funded COC, HUD reserves the right to fund eligible project(s) receiving 40 Need points in the COC with the highest total score in that State. In the case of two or more COCs with the same total score, HUD will use the tie-breaking rules described above. In addition, if the highest priority project passing threshold requirements within a COC fails to meet the criteria for receiving 40 Need points, HUD reserves the right to reduce the total requested amount for that project in order to allow it to qualify for 40 Need points. HUD may otherwise adjust funding of applications in accordance with the provisions of Section III(E) of the General Section of the SuperNOFA. In addition, HUD reserves the right to ensure that a project that is applying for, and eligible for, selection under this competition is not awarded funds that duplicate activities.

(7) *Additional selection considerations.* HUD also will apply the limitations on funding described below in making conditional selections.

In accordance with the appropriation for homeless assistance grants in the Fiscal Year 1999 Appropriation Act for HUD (Pub. L. 105-276, approved October 21, 1998), HUD will use not less than 30 percent of the total FY 1999 homeless grant assistance appropriation to fund projects that meet the definition of permanent housing. Projects meeting the definition of permanent housing are: (1) New Shelter Plus Care projects; (2) Shelter Plus Care renewal projects; (3) Section 8 SRO projects; and (4) new and renewal projects designated as permanent housing for homeless persons with disabilities under the Supportive Housing Program. Since the FY 1999 homeless grant assistance appropriation is \$975 million, not less than \$292.5 million must be awarded to permanent housing projects unless an insufficient number of approvable permanent housing projects is submitted in which case HUD will carry over the amount of the permanent housing funding shortfall to next year's competition. This permanent housing funding requirement may result in higher scoring non-permanent housing projects being skipped over in order to fund lower scoring permanent housing projects or, within a continuum, higher priority non-permanent housing projects being skipped over in order to fund lower priority permanent housing projects.

In accordance with section 429 of the McKinney Act, HUD will award Supportive Housing funds as follows:

not less than 25 percent for projects that primarily serve homeless families with children; not less than 25 percent for projects that primarily serve homeless persons with disabilities; and not less than 10 percent for supportive services not provided in conjunction with supportive housing. After projects are rated and ranked, based on the factors described above, HUD will determine if the conditionally selected projects achieve these minimum percentages. If not, HUD will skip higher-ranked projects in order to achieve these minimum percentages.

In accordance with section 463(a) of the McKinney Act, as amended by the Housing and Community Development Act of 1992, at least 10 percent of Shelter Plus Care funds will be awarded for each of the four components of the program: Tenant-based Rental Assistance; Sponsor-based Rental Assistance; Project-based Rental Assistance; and Section 8 Moderate Rehabilitation of Single Room Occupancy Dwellings for Homeless Individuals (provided there are sufficient numbers of approvable projects to achieve these percentages). After projects are rated and ranked, based on the factors described above, HUD will determine if the conditionally selected projects achieve these minimum percentages. If necessary, HUD will skip higher-ranked projects in order to achieve these minimum percentages.

In accordance with section 455(b) of the McKinney Act, no more than 10 percent of the assistance made available for Shelter Plus Care in any fiscal year may be used for programs located within any one unit of general local government. In accordance with section 441(c) of the McKinney Act, no city or urban county may have Section 8 SRO projects receiving a total of more than 10 percent of the assistance made available under this program. HUD is defining the 10 percent availability this fiscal year as \$10 million for Shelter Plus Care and \$10 million for Section 8 SRO. However, if the amount awarded under either of these two programs exceeds \$100 million, then the amount awarded to any one unit of general local government (for purposes of the Shelter Plus Care program) or city or urban county (for the purposes of the SRO program) could be up to 10 percent of the actual total amount awarded for that program.

Lastly, HUD reserves the right to reduce the amount of a grant if necessary to ensure that no more than 10 percent of assistance made available under this program section of the SuperNOFA will be awarded for

projects located within any one unit of general local government or within the geographic area covered by any one Continuum of Care. If HUD exercises a right it has reserved under this program section of the SuperNOFA, that right will be exercised uniformly across all applications received in response to this program section of the SuperNOFA.

#### *(B) Action on Conditionally Selected Applications*

HUD will notify conditionally selected applicants in writing. As necessary, HUD will subsequently request them to submit additional project information, which may include documentation to show the project is financially feasible; documentation of firm commitments for cash match; documentation showing site control; information necessary for HUD to perform an environmental review, where applicable; and such other documentation as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application. HUD will notify SHP, SRO, S+C and S+C/SRO applicants of the deadline for submission of such information. If an applicant is unable to meet any conditions for fund award within the specified timeframe, HUD reserves the right not to award funds to the applicant, but instead to either: use them to select the next highest ranked application(s) from the original competition for which there are sufficient funds available; or add them to funds available for the next competition for the applicable program.

#### **VI. Application Submission Requirements**

The application kit provides the application materials, including Form SF-424 and certifications, that must be used in applying for homeless assistance under this SuperNOFA. These application materials substitute for the forms, certifications, and assurances listed in Section II(G) of the General Section of the SuperNOFA.

The application requires a description of the Continuum of Care system and proposed project(s). The application kit also contains certifications that the applicant will comply with fair housing and civil rights requirements, program regulations, and other Federal requirements, and (where applicable) that the proposed activities are consistent with the HUD-approved Consolidated Plan of the applicable State or unit of general local government, including the Analysis of Impediments to Fair Housing Choice and the Action Plan to address these impediments. Projects funded under

this SuperNOFA shall operate in a fashion that does not deprive any individual of any right protected by the Fair Housing Act (42 U.S.C. 3601-19), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) or the Age Discrimination Act of 1974 (42 U.S.C. 6101). Section II(D) of the General Section of this SuperNOFA regarding Affirmatively Furthering Fair Housing does not apply to the Continuum of Care Homeless Assistance programs.

There are three options for submitting an application under this program section of the SuperNOFA.

*One:* A "Consolidated Application" is submitted when a jurisdiction (or a consortium of jurisdictions) submits a single application encompassing a Continuum of Care strategy and containing all the projects within that strategy for which funding is being requested. Individual projects are contained within the one consolidated application. Grant funding may go to one entity which then administers all funded projects submitted in the application, or under this option, grant funding may go to all or any of the projects individually. Your application will specify the grantee for each project.

*Two:* "Associated Applications" are submitted when applicants plan and organize a single Continuum of Care strategy which is adopted by project sponsors or operators who choose to submit separate applications for projects while including the identical Continuum of Care strategy. In this case, project funding would go to each successful applicant individually and each would be responsible to HUD for administering its separate grant.

*Three:* A "Solo Application" is submitted when an applicant applies for a project exclusive of participation in any community-wide or region-wide Continuum of Care development process.

Options one and two are not substantively different and will be considered equally competitive. Applicants are advised that projects that are not a part of a Continuum of Care strategy will receive few, if any, points under the Continuum of Care rating factors.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications (See Section V of the General Section).

#### **VIII. Environmental and Local Resident Employment Requirements**

##### *(A) Environmental Requirements*

All Continuum of Care assistance is subject to the National Environmental Policy Act of 1969 and related Federal environmental authorities. No Federal or non-Federal funds or assistance that limits reasonable choices or could produce a significant adverse environmental impact may be committed to a project until all required environmental reviews and notifications have been completed. Conditional selection of projects under the Continuum of Care Program is subject to the environmental review requirements under 24 CFR 582.230, 583.230, and 882.804(c), as applicable.

##### *(B) Local Resident Employment*

To the extent that any housing assistance (including rental assistance) funded through this program section of the SuperNOFA is used for housing rehabilitation (including reduction and

abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement) or housing construction, then it is subject to section 3 of the Housing and Urban Rehabilitation Act of 1968, and the implementing regulations at 24 CFR part 135. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

#### **IX. Authority**

The Supportive Housing Program is authorized by title IV, subtitle C, of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), 42 U.S.C. 11381. Funds made available under this program section of the SuperNOFA for the Supportive Housing Program are subject to the program regulations at 24 CFR part 583.

The Shelter Plus Care program is authorized by title IV, subtitle F, of the McKinney Act, 42 U.S.C. 11403. Funds made available under this program section of the SuperNOFA for the Shelter Plus Care program are subject to the program regulations at 24 CFR part 582.

The Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals (SRO) is authorized by section 441 of the McKinney Act, 42 U.S.C. 11401. Funds made available under this NOFA for the SRO program are subject to the program regulations at 24 CFR part 882, subpart H.

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## Appendix

## CONTINUUM OF CARE HOMELESS ASSISTANCE PROGRAMS

ELEMENT	SUPPORTIVE HOUSING	SHELTER PLUS CARE	SECTION 8 SRO
AUTHORIZING LEGISLATION	Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act	Subtitle F of Title IV of the Stewart B. McKinney Homeless Assistance Act	Section 441 of the Stewart B. McKinney Homeless Assistance Act
IMPLEMENTING REGULATIONS	24 CFR part 583	24 CFR part 582	24 CFR part 882
ELIGIBLE APPLICANT(S)	<ul style="list-style-type: none"> <li>● States</li> <li>● Units of general local government</li> <li>● Special purpose units of government such as public housing agencies (PHAs)</li> <li>● Private nonprofit organizations</li> <li>● CMHCs that are public nonprofit organizations</li> </ul>	<ul style="list-style-type: none"> <li>● States</li> <li>● Units of general local government</li> <li>● PHAs</li> </ul>	<ul style="list-style-type: none"> <li>● PHAs</li> <li>● Private nonprofit organizations</li> </ul>
ELIGIBLE COMPONENTS	<ul style="list-style-type: none"> <li>● Transitional housing</li> <li>● Permanent housing for disabled persons only</li> <li>● Supportive services not in conjunction with supportive housing</li> <li>● Safe Havens</li> <li>● Innovative supportive housing</li> </ul>	<ul style="list-style-type: none"> <li>● Tenant-based</li> <li>● Sponsor-based</li> <li>● Project-based</li> <li>● SRO-based</li> </ul>	<ul style="list-style-type: none"> <li>● SRO housing</li> </ul>
ELIGIBLE ACTIVITIES See footnotes 1, 2, and 3	<ul style="list-style-type: none"> <li>● Acquisition</li> <li>● Rehabilitation</li> <li>● New construction</li> <li>● Leasing</li> <li>● Operating costs</li> <li>● Supportive services</li> </ul>	<ul style="list-style-type: none"> <li>● Rental assistance</li> </ul>	<ul style="list-style-type: none"> <li>● Rental Assistance</li> </ul>
ELIGIBLE POPULATIONS See footnote 2	<ul style="list-style-type: none"> <li>● Homeless persons</li> </ul>	<ul style="list-style-type: none"> <li>● Homeless disabled individuals</li> <li>● Homeless disabled individuals and their families</li> </ul>	<ul style="list-style-type: none"> <li>● Homeless individuals</li> <li>● Section 8 eligible current occupants</li> </ul>

POPULATIONS GIVEN SPECIAL CONSIDERATION	<ul style="list-style-type: none"> <li>● Homeless persons with disabilities</li> <li>● Homeless families with children</li> </ul>	Homeless persons who: <ul style="list-style-type: none"> <li>● are seriously mentally ill</li> <li>● have chronic problems with alcohol and/or drugs</li> <li>● have AIDS and related diseases</li> </ul>	N/A
INITIAL TERM OF ASSISTANCE	3 years	5 years: TRA, SRA, and PRA if no rehab 10 years: SRO and PRA with rehab	10 years

Footnote 1: Homeless prevention activities are statutorily ineligible under these programs.

Footnote 2: Persons at risk of homelessness are statutorily ineligible for assistance under these programs.

Footnote 3: Acquisition, construction, rehabilitation, leasing, and operating costs for emergency shelters are statutorily ineligible for assistance under Shelter Plus Care and Section 8 SRO.



**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**HOUSING OPPORTUNITIES FOR  
PERSONS WITH AIDS (HOPWA)  
PROGRAM**



## Funding Availability for the Housing Opportunities for Persons With AIDS (HOPWA) Program

### Program Overview

*Purpose of the Program.* To provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with HIV/AIDS and their families.

*Available funds.* \$22,275,000 (and under a related part of this SuperNOFA, up to \$2,250,000 for technical assistance for the HOPWA program).

*Eligible Applicants.* (1) States, units of general local government, and nonprofit organizations for grants for Special Projects of National Significance (SPNS) grants.

(2) States and units of general local government may apply for projects under the Long-Term category of grants, if activities will serve areas that were not eligible for HOPWA formula allocations in fiscal year 1999. An appendix in the application kit identifies the formula areas.

*Application Deadline.* June 2, 1999.

*Match.* None.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

*Application Due Date.* You must submit applications on or before 12:00 midnight, Eastern time, on June 2, 1999 at HUD Headquarters.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Address for Submitting Applications.* You must submit your completed original application to: Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC 20410. The original application submitted to HUD headquarters is considered the official application.

In addition, you must submit two (2) copies of your application to the area CPD Field Office or Offices that serve the area in which activities are proposed; the list of addresses for area CPD Field Offices is provided in the HOPWA application kit. If you propose nationwide activities, you must send all copies to the HUD headquarters office.

When submitting your applications, please refer to HOPWA, and include your name, mailing address (including zip code) and telephone number (including area code).

*For Application Kits.* For an application kit, please call the SuperNOFA Information Center at 1-800-HUD-8929 (1-800-483-8929). Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. The application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov>.

*For Further Information and Technical Assistance.* For answers to your questions, you may call the HUD Field Office serving your area, at the telephone number shown in the application kit for this program, or you may contact the Community Connections Information Center at 1-800-998-9999 (voice) or 1-800-483-2209 (TTY) or by Internet at: <http://www.comcon.org/ccprog.html>.

### II. Amount Allocated

Approximately \$22,275,000 is being made available for funding under this program section of the SuperNOFA. Additional funds may be awarded if funds are recaptured, deobligated, appropriated or otherwise made available during the fiscal year.

(A) *Maximum grant amounts.* The maximum amount that you may receive is \$1,200,000 for program activities (e.g., activities that directly benefit low-income persons living with HIV/AIDS and their families). You may also add-on up to 3 percent of this program activities amount for grantee administrative costs and, if your program involves project sponsors, add-on up to 7 percent for their administrative costs. In addition, up to \$50,000 may be requested to collect data on project outcomes. HUD reserves the right to reduce the amount requested for data collection on project outcomes in relation the amount requested for program activities.

(B) *Award Modifications.* See the General Section of this SuperNOFA for information with regard to adjustments to funding. HUD also reserves the right to ensure that activities funded under the FY 1999 Continuum of Care will not duplicate activities funded under this competition.

### III. Program Description; Eligible Applicants, Eligible Activities

#### (A) Program Description

Funds under this program are to be used to fund projects for low-income persons with HIV/AIDS and their

families under two categories of assistance:

(1) Grants for Special Projects of National Significance (SPNS) that, due to their innovative nature or their potential for replication, are likely to serve as effective models in addressing the housing and related supportive service needs of low-income persons living with HIV/AIDS and their families; and

(2) Grants for projects that are part of Long-Term Comprehensive Strategies (Long-Term) which provide housing and related supportive services for low-income persons living with HIV/AIDS and their families in areas that are not eligible for HOPWA FY 99 formula allocations.

#### (B) Eligible Applicants and Project Sponsors

(1) States, units of general local government, and nonprofit organizations may apply for grants for Special Projects of National Significance;

(2) States and units of general local government may apply for grants for projects under the Long-Term category of grants, if proposed activities will serve areas that were not eligible to receive HOPWA formula allocations in fiscal year 1999. An appendix in the application kit describes the formula areas. Nonprofit organizations are not eligible to apply directly for the Long-Term grants but may serve as a project sponsor for an eligible State or local government grantee. You must identify your project sponsors in your application.

(3) Nonprofit organizations must have appropriate credentials, in accordance with HOPWA regulations at 24 CFR 574.3. If you are a nonprofit organization, to be an eligible applicant or project sponsor, you must either:

- Have, by the application due date, an IRS ruling that grants you tax exempt status under section 501(c)(3) of the Internal Revenue Code; or
- Provide documentation that shows that your organization satisfies the criteria in the statutory definition of nonprofit organization in 42 U.S.C. 12902(13).

The statutory definition reads:

The term "nonprofit organization" means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—(A) is organized under State or local laws; (B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; (C) complies with standards of financial accountability acceptable to the Secretary; and (D) has among its purposes significant activities related to providing services or

housing to persons with acquired immunodeficiency syndrome or related diseases.

HUD interprets the use of the term "related diseases" in this definition to include HIV infection.

Adequate documentation of nonprofit status includes the following:

(a) In lieu of an IRS exemption for nonprofits in Puerto Rico, a ruling from the Treasury Department of the Commonwealth of Puerto Rico granting income tax exemption under section 101 of the Income Tax Act of 1954, as amended (13 LPRA 3101);

(b) In lieu of documentation under section 501(c)(3), documentation of an IRS ruling of tax exempt status under section 501(c)(4), (6), (7), (9), or (19);

(c) Documentation of satisfying the statutory criteria by submitting the following four items:

(i) Certification by the appropriate official of the jurisdiction under whose laws the nonprofit organization was organized that the organization was so organized and is in good standing;

(ii) Documentation that the organization is a certified United Way member agency or other documentation that shows that no inurement of benefits to the managers of the organization occurs;

(iii) Documentation from a CPA or Public Accountant that the organization has a functioning accounting system that is operated in accordance with generally acceptable accounting principles or that a qualifying entity is designated for that activity, or the United Way member agency certification noted in item (ii); and

(iv) A certified copy of the nonprofit organization's articles of incorporation, by-laws, statement of purposes, board of director's resolution or a similar document that includes a provision demonstrating its purpose regarding significant activities for persons living with HIV/AIDS.

If your organization does not provide the requested documentation, you are not eligible to receive funds and serve as the grantee or as a project sponsor. However, you may collaborate with eligible nonprofit organizations or with a government agency that applies for the grant and assist them, for example, in planning for the proposed activities, identifying needs in your community and identifying clients who will be assisted. In addition, you may do work under contract with a grantee for services funded by this grant.

#### (C) Eligible Activities

(1) The following eligible activities are subject to standards and limitations found in 24 CFR part 574, however,

HUD will not approve proposals that depend on future decisions on how funds are to be used, for example, a proposal to establish a local request-for-proposal process to select activities:

(a) Housing information services (including fair housing counseling).

(b) Project-based or tenant-based rental assistance.

(c) New construction of a community residence or SRO dwelling.

(d) Acquisition, rehabilitation, conversion, lease or repair of facilities to provide housing and services.

(e) Operating costs for housing.

(f) Short-term rent, mortgage and utility payments to prevent homelessness.

(g) Supportive services.

(h) Administrative expenses (see limits for grantees and sponsors).

(i) Resource identification to establish, coordinate and develop housing assistance resources and technical assistance in establishing and operating a community residence. HUD will not select under this notice an application that is primarily directed at providing these activities, since national HOPWA technical assistance funds are being made available under the CDTA part of this notice for this purpose. You may propose a resource identification or technical assistance component in your application, if the amount of funds designated for these activities are less than 20 percent of the proposed program activity costs; and

(j) As authorized by the statute, you may propose other activities in your application, if approved by HUD, including data collection on project outcomes, as described below in paragraph (2).

#### (2) Project Outcomes.

You may request up to \$50,000 to collect information and report to HUD, or a third party designated by HUD, on project outcomes. If you requested these funds, you must propose data collection activities in your application. The persons who will conduct these activities may include an expert third-party. Generally, this assistance will help a project:

(a) Define monitoring questions that will be addressed and examined during the project period;

(b) Specify outcome measures;

(c) Develop instruments to assess project outcomes and systems outcomes;

(d) Train project staff in the collection of data;

(e) Monitor data collection activities to assure that submissions are complete and accurate, including data coding and entry;

(f) Summarize data collected; and

(g) Prepare reports summarizing findings, including the standard HOPWA Annual Progress Report.

#### IV. Program Requirements

##### (A) Performance Measures and Project Goals and Objectives

You must use HUD's required performance measures that will show your accomplishments in using HOPWA funds to expand the housing options that benefit low-income persons with HIV/AIDS and their families. You may also establish individual goals and objectives for your proposal. They should be specific, achievable and measured within set time periods. Your individual goals and objectives should result in possible findings on the successes and lessons learned in undertaking your activities that would be shared with other communities. In designing your proposal, please use the following:

(1) The required HOPWA performance goals. Your proposed activities must:

(a) Increase the amount of housing assistance and related supportive services to low-income persons living with HIV/AIDS and their families;

(b) Enable them to achieve housing stability; and

(c) Enable them to access health-care and supportive services.

(2) Measurement of your performance. After each year of operation, report on the number of short-term and permanent housing units that were provided with HOPWA funding, in connection with related supportive services. The following are examples of performance measurement:

(a) In your community over the last year, a transitional housing facility providing 5 units of housing was operated with HOPWA funds. Residents also received drug and/or alcohol abuse treatment and counseling by qualified staff. During that year, ten persons resided in the facility and benefited from the intense on-site assistance, which also included helping them develop and follow a plan to find permanent housing and continue treatment after leaving the facility, including monthly phone contacts or visits by staff; and

(b) Over the last 12 months, a nonprofit organization distributed tenant-based rental assistance vouchers to 15 households within your three-county metropolitan area. The vouchers provided for on-going housing assistance (up to three years) and the program advised the clients on tenant-landlord issues and arranged for housing quality standard inspections of

the apartments selected. A case manager who is funded under the Ryan White CARE Act program, advised the tenants and helped them access health-care and other services from providers in this community. During this year, 22 persons received permanent housing assistance with HOPWA funds and for three of these families who were unable to find housing within 30 days, additional efforts were made and an appropriate apartment was located and used.

#### *(B) Performance Benchmarks*

Funds received under this competition are expected to be expended within 3 years following the effective date of a grant agreement. If you undertake the listed activities, you will be expected to meet the following performance benchmarks:

(1) If you acquire or lease a site, you are required to gain site control within one year of their selection (i.e., one year from the date of the signing of their selection letter by HUD);

(2) If you propose to use HOPWA funds to undertake rehabilitation or new construction activities, you are required to begin the rehabilitation or construction within 18 months of your selection and to complete that activity within 3 years from the date of your selection letter by HUD; and

(3) Except as noted in paragraph (2) for rehabilitation or construction activities, you must begin to operate your program within one year from your selection. If a selected project does not meet the appropriate performance benchmark, HUD reserves the right to cancel or withdraw the grant funds.

#### *(C) Availability of FY 1999 Formula Allocations*

You are also encouraged to consider seeking funds for your proposed activities under the formula component of the HOPWA program and from other resources that are made available in communities. Ninety (90) percent of the HOPWA program is allocated by formula and recipient States and cities are required to consult with the public on designing the use of these funds. In FY 1999, a total of \$200.475 million was allocated by formula to the qualifying cities for 63 eligible metropolitan statistical areas (EMSAs) and to 34 eligible States for areas outside of EMSAs. All HOPWA formula grants are available as part of the jurisdiction's Consolidated Plan, which also includes the Community Development Block Grant, HOME Investment Partnerships program, and Emergency Shelter Grants. Plans are developed through a public process that assesses area needs, creates

a multiple-year strategy and proposes an action plan for use of Federal funds and other community resources in a coordinated and comprehensive manner. Information on consolidated planning, including HOPWA formula programs and descriptions of previously awarded competitive grants, is available on the HUD HOME Page at [www.hud.gov/cpd/cpdalloc.html](http://www.hud.gov/cpd/cpdalloc.html).

#### *(D) Availability of National HOPWA Technical Assistance*

If you are interested in providing technical assistance activities with HOPWA funds, submit an application for funds under the Community Development Technical Assistance part of this notice, which is published elsewhere in this SuperNOFA. The CDTA notice provides up to \$2,250,000 in HOPWA funds to organizations for technical assistance support on a national or regional basis.

### **V. Application Selection Process**

#### *(A) HOPWA Application Reviews*

HUD will review your HOPWA application to ensure that:

(1) It meets the threshold requirements found in the General Section of the SuperNOFA;

(2) A Certification of Consistency with Consolidated Plans is provided. Under the HOPWA program, proposed activities that are located in a jurisdiction are required to be consistent with the jurisdiction's current, approved Consolidated Plan, including the Analysis of Impediments to Fair Housing and the Action Plan to address these impediments, except that this certification is not required for projects that propose to undertake activities on a national basis; and

(3) You are currently in compliance with the Federal requirements contained in 24 CFR part 574, subpart G, "Other Federal Requirements."

#### *(B) The HOPWA Competition*

This national competition will involve the review, rating, and selection of HOPWA applications under each of the two categories of assistance (Special Projects of National Significance (SPNS) and Long-Term Comprehensive Strategies (Long-Term) in areas that do not qualify for HOPWA formula allocations.

#### *(C) Procedures for the Rating of Applications*

HUD will rate all HOPWA applications based on the criteria listed below.

#### *(D) Factors for Award Used to Evaluate and Rate Applications*

The factors for rating and ranking your application, and the maximum points for each factor, are provided below. The points awarded for the factors total 100. In addition, bonus points for projects in high performing EZ/EC areas and by the City of Dallas may be available under Section III(C)(2) of the General Section of this SuperNOFA apply to this competition. After rating, all applications will be placed in the rank order of their final score for selection within the appropriate category of assistance.

Rating Factor 1: Capacity of the Applicant and Project Sponsors and Relevant Organizational Experience (20 Points)

This factor addresses the extent to which you and any project sponsor has the organizational resources necessary to successfully implement the proposed activities in a timely manner. HUD will award up to 20 points based on your and any project sponsor's ability to develop and operate the proposed program, such as housing development, management of housing facilities or units, and service delivery, in relation to which entity is carrying out an activity.

(1) With regard to both you and any project sponsor(s), HUD will consider:

(a) Past experience and knowledge in serving persons with HIV/AIDS and their families;

(b) Past experience and knowledge in programs similar to those proposed in your application;

(c) Experience and knowledge in monitoring and evaluating program performance and disseminating information on project outcomes; and

(d) Past experience as measured by expenditures and measurable progress in achieving the purpose for which funds were provided.

(2) In reviewing the elements of paragraph (1), HUD will consider the extent to which your proposal demonstrates:

(a) The knowledge and experience of the proposed project director and staff, including the day-to-day program manager, consultants and contractors in planning and managing the kind of activities for which you are requesting funds. You and any project sponsor will be judged in terms of recent, relevant and successful experience of staff to undertake eligible program activities, including experience and knowledge in serving persons with HIV/AIDS and their families.

(b) Your and/or the sponsor's experience in managing complex

interdisciplinary programs, especially those involving housing and community development programs directly relevant to the work activities proposed and carrying out grant management responsibilities.

(c) If you and/or the sponsor received funding in previous years in the program area for which you are currently seeking funding, you and your sponsor's past experience will be evaluated in terms of their ability to attain demonstrated measurable progress in the implementation of their *recent grant awards*, as measured by expenditures and measurable progress in achieving the purpose for which funds were provided.

#### Rating Factor 2: Need/Extent of the Problem (20 Points)

This factor addresses the extent to which there is a need for funding the proposed program activities and an indication of the urgency of meeting the need in the target area. For up to 15 points, HUD will award points as follows under paragraphs (1) to (3), and 5 points under paragraph (4).

(1) (5 Points) AIDS Cases. Up to five of these points will be determined by the relative numbers of AIDS cases and per capita AIDS incidence, in metropolitan areas of over 500,000 population and in areas of a State outside of these metropolitan areas, in the State for proposals involving state-wide activities, and in the nation for proposals involving nation-wide activities. To determine these points, HUD will obtain AIDS surveillance information from the Director of the Centers for Disease Control and Prevention.

(2) (5 Points) Description of Unmet Need. Up to five of these points will be determined by the extent to which there is a need for funding eligible activities in the area to be served. To receive the highest ratings in this factor, you must demonstrate that substantial housing and related service needs of low-income persons living with HIV/AIDS and their families are not being met in the area and that reliable statistics and data sources show this unmet need. To receive the highest number of points, you also must show that your jurisdiction's Consolidated Plan and Analysis of Impediments to Fair Housing Choice, Continuum of Care Homeless Assistance plans (if homeless persons are to be served), and comprehensive HIV/AIDS housing plans are applicable and identify the level of the problem and the urgency of the need. Urgent and unmet needs may be demonstrated, as follows:

(a) If you apply for a proposed Special Project of National Significance, you must describe a need that is not currently addressed by other projects or programs in the area; also describe any unresolved or emerging issues, and the need to provide new or alternative forms of assistance that, if provided, would enhance your area's programs for housing and related care for persons living with HIV/AIDS and their families; or

(b) If you apply for a project that is part of a Long-Term Comprehensive Strategy in an area that does not receive a HOPWA formula allocation, you must describe the need that is not currently addressed by other projects or programs in the area; you must also describe any unresolved or emerging issues, and/or the need to provide forms of assistance that enhance the community's strategy for providing housing and related services to eligible persons.

HUD will consider your presentation of statistics and data sources based on soundness and reliability and the specificity of information to the target population and the area to be served. If you propose to serve a subpopulation of eligible persons on the basis that these persons have been traditionally and are currently underserved (e.g., persons with multiple disabilities including AIDS), your application must document the need for this targeted effort.

(3) (5 Points) Need in Non-Formula Areas and Need for Renewals. Within the points available under this criterion, HUD will award points under the following two circumstances:

(a) Five points will be awarded, if your SPNS application proposes to serve clients in an area that does not qualify for HOPWA formula allocation; or

(b) Up to five points will be awarded, if you propose to continue the operations of HOPWA funded activities that have been supported by HOPWA competitive funds in prior years and that have operated with reasonable success. To receive the highest ratings in this factor, you must describe what unmet need would result if funding for the project was not renewed and describe your efforts to secure other sources of funding to continue this project. You must also show that you operated with reasonable success and your previous HOPWA-funded activities have been carried out and are nearing completion of the planned activities in a timely manner. You must also show that timely performance reports were provided and that benchmarks, if any, in program development and operation have been met, and that the number of persons assisted is comparable to the

number that was planned at the time of application.

(4) (5 Points) Highest Rated in a State or the Nation (for nationwide activities). After the other rating factors have been determined, HUD will award five of the points to help achieve greater geographic diversity in funding activities within a variety of States. Under this criterion, five points will be awarded to the highest rated SPNS and Long-term applications in each State and to the highest rated SPNS application among the applications that propose nationwide activities.

#### Rating Factor 3: Soundness of Approach: Responsiveness and Model Qualities (40 Points)

This factor addresses the quality of your plan in addressing the needs that you identified in your community. HUD will award up to 40 points based on the extent to which your plan evidences a sound approach in its responsiveness to the persons that you will be assisting and how it offers model qualities in providing supportive housing opportunities for low-income persons living with HIV/AIDS and their families, when compared to other applications and projects funded under previous HOPWA competitions. The points will be awarded as follows:

A. Responsiveness (20 Points). HUD will award up to 20 points based on how well your plan responds to the unmet needs that you described under the Need Criterion. To receive the highest ratings in this factor, you must demonstrate how the housing needs of clients will be addressed and how on-going support for clients will be provided. For example, if you propose to use more than 10% of your HOPWA funds for supportive services, emergency or transitional housing activities, to receive the highest number of rating points, you must address permanent housing needs with HOPWA funds or other sources of funds. You can fulfill this commitment by allocating housing vouchers for HOPWA clients or building permanent housing. In addition, HUD will give higher rating points to proposals that maximize client participation in decision-making and allow clients and their families to access health care and other supportive services.

B. Model Qualities (20 Points). HUD will award up to 20 points based on how well your service delivery model offers or expands housing opportunities and related supportive services for low-income persons living with HIV/AIDS and their families. To receive the highest rating, your service delivery model must describe in sufficient detail

your planned actions, how it expands housing opportunities and how activities could be replicated in other similar jurisdictions. To receive the highest ratings in this element, you must offer a plan that evidences the following:

(i) *Your project's goals and objectives.* You must describe your individual goals and objectives and how you will measure how well the project is performing under the required HOPWA performance goal—increasing the amount of housing assistance and related supportive services to low-income persons living with HIV/AIDS and their families to enable them to achieve housing stability and access to health-care and supportive services.

(ii) *Your plans for accomplishing these goals and objectives.* You must describe the service delivery model that you intend to implement and explain how you will integrate the following items:

(a) *Housing.* You must demonstrate how the housing needs of clients will be addressed by including: the type and number of units of housing to be provided and/or made more appropriate if currently available in the community; the connection of any emergency or transitional housing in obtaining permanent housing; the roles and responsibilities of project sponsors, staff, volunteers and other organizations in undertaking these activities; any appropriate site features, including accessibility and visitability; and how clients can have access to other community amenities.

(b) *Supportive Services.* You must describe how the supportive service needs of clients will be addressed by including: the type of supportive services that will be offered and/or how services will be coordinated and available; the connection of these services to in helping clients obtain and/or maintain housing; the roles and responsibilities of project sponsors, staff, volunteers and other organizations in undertaking these activities.

(c) *Operations.* You must describe your outreach, intake, and assessment procedures to identify clients and their needs; your client-level service plan to help connect clients to available and identified community resources; your assistance to clients who need to be monitored and how you will adjust your program to meet their changing needs; your methods for coordinating project sponsor's services, your staff and volunteers, and any other organizations in order to benefit clients; and the ability of your operations to remain viable and sustaining.

(d) *Management Oversight.* You must describe your oversight of project sponsors, staff, volunteers and management of your activities to ensure sound fiscal and program operations and effective program delivery.

(iii) *Achieving Your Goals and Objectives.* You should describe your method for collecting data on the project outcomes; your method for reviewing this data and other information on the program's operations; and the basis for making relative adjustments based on outcomes and lessons learned. HUD also will consider the extent to which you provide for the dissemination of information on the success or lessons learned from your proposed activities.

(iv) *Innovative Qualities.* If you propose a new program, or an alternative method of meeting the needs of your clients, you should describe the innovative qualities of your activities. HUD will consider the extent to which these qualities will benefit persons or expand our knowledge in offering assistance to persons living with HIV/AIDS and their families, when compared to other applications and HOPWA projects funded in the past.

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure community resources which can be combined with HUD's program resources to achieve program purposes. HUD will award up to 10 points based on the extent to which resources from other public or private sources have been committed at the time of application, to support your project. To achieve the highest ratings in this criteria, you must evidence commitments of leveraged resources that match or exceed the amount of HOPWA funds that are requested. Exhibit 4 of the application kit provides guidance on the appropriate language that you must use to document these leveraged resources.

In establishing leveraging, HUD will not consider other HOPWA-funded activities, entitlement benefits inuring to eligible persons, or conditioned commitments that depend on future fund-raising or actions. In assessing the use of acceptable leveraged resources, HUD will consider the likelihood that State and local resources will be available and continue during the operating period of the grant. In evaluating this factor HUD will also consider:

(1) The extent to which the applicant documents leveraged resources, such as funding and/or in-kind services from governmental entities, private organizations, resident management

organizations, educational institutions, or other entities in order to achieve the purposes of the project for which the applicant is requesting HOPWA funds.

(2) The extent to which the documented resources evidence that you have partnered with other entities to make more effective use of available public or private resources. Partnership arrangements may include funding or in-kind services from local governments or government agencies, nonprofit or for-profit entities, private organizations, educational institutions, or other entities that are willing to partner with you on proposed activities, or partnering with other program funding recipients to make more effective use of resources within the geographic area covered by your award.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinated the specific proposal with other known organizations, consulted prospective clients or persons with HIV/AIDS in designing the proposal, participates or promotes participation in the jurisdiction's Consolidated Planning process, and in a community's Continuum of Care Homeless Assistance planning process (if homeless persons are to be served by proposed activities), and is working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community. HUD will award up to 10 points based on your proposal's comprehensiveness and coordination. In order to ensure that resources are used to their maximum effect within the community, it is important that you be involved in HUD's planning processes for community development and homeless assistance resources. If you, your sponsors, or others partnering with you have been involved in these processes, you should describe that involvement under this factor.

HUD will consider the extent to which your activities were planned and are proposed to be carried out with HOPWA funds and other resources in order to provide a comprehensive and responsive range of housing and related supportive services to meet the changing needs of persons with HIV/AIDS. Your proposal should demonstrate that housing is provided in conjunction with the client's access to health-care and other supportive services in the area to be served, including assistance provided under the Ryan White CARE Act programs.

In evaluating this factor, HUD will consider the extent to which you demonstrate you have:

(1) Coordinated your proposed activities with those of other groups or organizations prior to submission, to best complement, support, and coordinate all known activities; and if funded, the specific steps you will take to share information on solutions and outcomes with others. You should describe any written agreements, memoranda of understanding in place, or that will be in place after award.

(2) Been actively involved in your community's Continuum of Care Homeless Assistance planning process (if homeless persons are to be served by proposed activities), and/or the jurisdiction's Consolidated Planning process established to identify and address a need/problem that is related to the activities you propose to undertake.

In the case of technical assistance providers, you will be evaluated on the specific steps you will take to work with recipients of technical assistance services to inform them of, and get them involved in, the community's Continuum of Care Homeless Assistance planning process and/or the jurisdiction's Consolidated Planning process, as applicable. HUD will review more favorably your application if you can demonstrate you are active or are working with recipients of technical assistance to get them involved in local and State planning processes.

(3) Developed linkages, or specific steps you will take to develop linkages with other activities, programs or projects through meetings, information networks, planning processes, or other mechanisms, to coordinate your activities so solutions are holistic and comprehensive, including linkages with:

(a) Other HUD-funded projects/activities outside the scope of those covered by the Consolidated Plan; and

(b) Other activities funded by the Federal, State, or local government, including those proposed or on-going in the community.

(E) *Selection of HOPWA Awards.* Whether your HOPWA application is conditionally selected will depend on your overall ranking compared to other applications within each of the two categories of assistance. HUD will select applications in rank order in each category of assistance to the extent that funds are available, except as noted below. In allocating amounts to the categories of assistance, HUD reserves the right to ensure that sufficient funds are available for the selection of at least

one application with the highest ranking under each category of assistance.

HUD reserves the right to achieve greater diversity in the selection of applications by selecting a lower rated application where no applicant in a State has been the recipient of any prior HOPWA competitive grant or formula allocation. In selecting a lower rated application, HUD will not select an application that is rated below 50 points.

In the event of a tie between applications in a category of assistance, HUD reserves the right to break the tie: by selecting the proposal that increases geographic diversity as defined in the prior paragraph; and, if greater geographic diversity is not achievable, by selecting the proposal that was scored higher on a rating criterion in the following order: Soundness of Approach: Responsiveness and Model Qualities (Rating Factor 3); Comprehensiveness and Coordination (Rating Factor 5); the Capacity of the Applicant and Relevant Organizational Experience (Rating Factor 1); the Need/Extent of the Problem (Rating Factor 2); and Leveraging Resources (Rating Factor 4).

HUD will notify you in writing if you are conditionally selected. You may be notified subsequently of any modification made by HUD, the additional project information necessary for grant award, and the date of deadline for submission of the required information. In the event that a conditionally-selected applicant is unable to meet any conditions for fund award within the specified timeframe or funds are deobligated under a grant awarded under this competition, HUD reserves the right not to award funds to the applicant, but use those funds to make awards to the next highest rated applications in this competition; to restore amounts to a funding request that had been reduced in this competition; or to add amounts to funds available for the next competition.

#### **VI. Application Submission Requirements**

The HOPWA application kit provides an application that must be used in applying for program funds under this program section of the SuperNOFA. The HOPWA application provides certifications and an SF-424 that are applicable to this program. HOPWA applicants are not required to provide the forms, certifications, and assurances listed in Section II(G) of the General Section of the SuperNOFA. Section II(D) of the General Section of this SuperNOFA regarding Affirmatively

Furthering Fair Housing does not apply to the HOPWA program.

The required HOPWA certifications cover the following items: (1) fair housing and non-discrimination; (2) drug-free workplace; (3) uniform relocation assistance; (4) environmental laws and authorities; (5) anti-lobbying requirements; (6) continued use periods for structures assisted; and (7) debarred, suspended and ineligible principals requirements.

Your HOPWA application must contain the following items:

(A) *Project Sponsors.* You must identify any organization that will receive HOPWA funds as a project sponsor and the amount of funds to be received.

(B) *Narrative Statements.* Your application must include narrative statements that address each of the Factors for Award found at Section III(D) of this program section of the SuperNOFA.

(C) *Service Areas.* Your application must identify the area(s) in which you are proposing to offer housing and other assistance.

(D) *Budget.* You must propose a budget and use the form found in the HOPWA Application Kit which lists the amount of HOPWA funds designated for each type of HOPWA-eligible activity.

#### **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

#### **VIII. Other Requirements**

##### *(A) Environmental Requirements*

Sec. 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, 112 Stat. 2461, approved October 22, 1998), authorizes responsible entities (including units of general local government, States, Indian tribes, and Alaska native villages) to perform the environmental review for proposed HOPWA projects in accordance with 24 CFR part 58. Under 24 CFR part 58, the recipient must request the responsible entity, as defined in 24 CFR 58.2(a)(7), to assume the environmental responsibilities for projects being funded by a HOPWA grant.

HOPWA recipients may not commit or expend any grant or nonfederal funds on project activities (other than activities exempted under § 58.34 or excluded under § 58.35(b)) until HUD has approved the Recipient's request for the release of funds (RROF) under part

58. Where HUD determines, under 24 CFR 58.11, that it will perform an environmental review for a particular project in accordance with 24 CFR part 50, the HOPWA recipient may not acquire, rehabilitate, convert, lease, repair or construct property or commit or expend any grant or nonfederal funds for these program activities until HUD provides written notice to the recipient that HUD has completed the environmental review. The expenditure or commitment of HOPWA or nonfederal funds prior to the HUD approval of the RROF (or prior to completion of a HUD environmental review) may result in denial of

assistance for the project under consideration.

*(B) Local Resident Employment*

For grants in excess of \$200,000, to the extent that any housing assistance funded through this program section of the SuperNOFA is used for housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement) or housing construction, then it is subject to section 3 of the Housing and Urban Rehabilitation Act of 1968, and the implementing regulations at 24 CFR part 135. Section 3 requires that economic

opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

**IX. Authority**

This program is authorized under the AIDS Housing Opportunity Act (42 U.S.C. 12901). The regulations for HOPWA are found at 24 CFR part 574.

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**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**SECTION 202 SUPPORTIVE  
HOUSING FOR THE ELDERLY  
PROGRAM**



## Funding Availability for Section 202 Supportive Housing for the Elderly Program

### Program Overview

*Purpose of the Program.* This program provides supportive housing for very low-income persons 62 years of age or older.

*Available Funds.* Approximately \$434,870,779.

*Eligible Applicants.* Private nonprofit organizations and nonprofit consumer cooperatives.

*Application Deadline.* May 27, 1999.

*Match Requirements.* No.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

*Application Due Date.* Submit your completed applications on or before 6:00 pm, local time on May 27, 1999 at the address shown below.

See the General Section of this SuperNOFA for specific procedures governing the form of application submission (e.g., mailed applications, express mail, overnight delivery, or hand carried).

*Address for Submitting Applications.* Submit your completed application (an original and four copies) to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix A to the Section 811 program section of this SuperNOFA.

The application kit also includes a listing of the Multifamily Hubs and Program Centers, their addresses, and telephone numbers, including TTY numbers. This information is also available from HUD's SuperNOFA Information Center at 1-800-HUD-8929 and from the Internet through the HUD web site at <http://www.hud.gov>.

*For Application Kits.* For an application kit and any supplemental information, please call HUD's SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, please refer to the Section 202 Program and provide your name, address (including zip code), and telephone number (including area code). The application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov>

and from the appropriate Multifamily Hub or Multifamily Program Center.

*For Further Information and Technical Assistance.* For further information and technical assistance, please contact the appropriate Multifamily Hub Office or Multifamily Program Center, or Aretha Williams at HUD Headquarters at (202) 708-2866, or access the Internet at <http://www.hud.gov>. HUD encourages minority organizations to participate in this program and strongly recommends that prospective applicants attend the local HUD Office workshop. At the workshops, HUD will explain application procedures and requirements as well as address concerns such as local market conditions, building codes and accessibility requirements, historic preservation, floodplain management, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name is on the appropriate HUD Office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate HUD Office to ensure that any necessary arrangements can be made to enable your attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate HUD Office if you have any questions concerning the submission of applications to that particular office and to request any materials distributed at the workshop.

### II. Amount Allocated

Approximately, \$434,870,779 is available for the supportive housing for the elderly program. The FY 1999 HUD Appropriations Act (Appropriations Act) provides \$660,000,000 for capital advances, including amendments to capital advance contracts, for supportive housing for the elderly as authorized by section 202 of the Housing Act of 1959 (as amended by the National Affordable Housing Act and the Housing and Community Development Act of 1992), and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended.

In accordance with the waiver authority provided in the Appropriations Act, the Secretary is waiving the following statutory and regulatory provision: the term of the project rental assistance contract is reduced from 20 years to 5 years. HUD anticipates that at the end of the contract terms, renewals will be approved subject to the availability of

funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

The allocation formula used for Section 202 reflects the "relevant characteristics of prospective program participants," as specified in 24 CFR 791.402(a). The FY 1999 formula consists of one data element: a measure of the number of one and two person renter households with incomes at or below HUD's Very-low Income Limit (50 percent of area median family income, as determined by HUD, with an adjustment for household size), which have housing deficiencies. The counts of elderly renter households with housing deficiencies were taken from a special tabulation of the 1990 Decennial Census. The formula focuses the allocation on targeting the funds based on the unmet needs of elderly renter households with housing problems.

Under Section 202, 85 percent of the total capital advance amount is allocated to metropolitan areas and 15 percent to nonmetropolitan areas. In addition, each HUD Office jurisdiction receives sufficient capital advance funds for a minimum of 20 units in metropolitan areas and 5 units in nonmetropolitan areas. The total amount of capital advance funds to support these minimum set-asides are subtracted from the respective (metropolitan or nonmetropolitan) total capital advance amounts available. The remainder is fair shared to each HUD Office jurisdiction whose fair share exceeds the minimum set-aside based on the allocation formula fair share factors described below. NOTE: The allocations for metropolitan and nonmetropolitan portions of the Multifamily Hub or Program Center jurisdictions reflect the most current definitions of metropolitan and nonmetropolitan areas, as defined by the Office of Management and Budget.

A fair share factor is developed for each metropolitan and nonmetropolitan portion of each local HUD Office jurisdiction by dividing the number of renter households for the jurisdiction by the total number of rental households in the United States. The resulting percentage for each local HUD Office jurisdiction is then adjusted to reflect the relative cost of providing housing among the HUD Office jurisdictions. The adjusted needs percentage for the applicable metropolitan or nonmetropolitan portion of each jurisdiction is then multiplied by the

respective total remaining capital  
advance funds available nationwide.

Based on the allocation formula, HUD  
has allocated the available capital  
advance funds as shown on the  
following chart:

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FY 1999 SECTION 202 ALLOCATIONS BY FIELD OFFICE						
OFFICES	METROPOLITAN CAPITAL			NONMETROPOLITAN CAPITAL		
	UNITS	ADVANCE	TOTALS	UNITS	ADVANCE	TOTALS
			CAPITAL			CAPITAL
			ADVANCE	UNITS	ADVANCE	ADVANCE
<b>BOSTON HUB</b>						
BOSTON	178	\$ 15,567,491	793,538	9	187	16,361,029
HARTFORD	88	7,432,669	419,993	5	93	7,852,662
MANCHESTER	46	3,065,336	2,329,761	35	81	5,395,097
PROVIDENCE	52	4,490,356	430,137	5	57	4,920,493
TOTAL	364	30,555,852	3,973,429	54	418	34,529,281
<b>NEW YORK HUB</b>						
NEW YORK	478	\$ 46,520,921	486,948	5	483	47,007,869
<b>BUFFALO HUB</b>						
BUFFALO	137	\$ 10,392,707	2,047,498	27	164	12,440,205
<b>PHILADELPHIA HUB</b>						
CHARLESTON	20	\$ 1,371,570	1,181,488	17	37	2,553,058
NEWARK	205	18,778,834	1,711,141	21	205	18,778,834
PHILADELPHIA	172	13,767,018	1,287,519	18	193	15,478,159
PITTSBURGH	87	6,162,106	4,180,148	56	105	7,449,625
TOTAL	484	40,079,528	2,192,076	34	540	44,259,676
<b>BALTIMORE HUB</b>						
BALTIMORE	74	\$ 5,271,628	724,854	10	84	5,996,482
RICHMOND	71	4,342,887	1,467,222	24	95	5,810,109
WASHINGTON	76	5,616,281	2,192,076	34	76	5,616,281
TOTAL	221	15,230,796	2,192,076	34	255	17,422,872

FY 1999 SECTION 202 ALLOCATIONS BY FIELD OFFICE									
OFFICES	METROPOLITAN CAPITAL			NONMETROPOLITAN CAPITAL			TOTALS		
	UNITS	ADVANCE	CAPITAL	UNITS	ADVANCE	CAPITAL	UNITS	ADVANCE	CAPITAL
<b>GREENSBORO HUB</b>									
COLUMBIA	49	\$ 3,179,630	18	1,194,267	67	4,373,897			
GREENSBORO	82	6,227,838	39	2,952,689	121	9,180,527			
TOTAL	131	9,407,468	57	4,146,956	188	13,554,424			
<b>ATLANTA HUB</b>									
ATLANTA	82	\$ 4,962,443	37	2,227,050	119	7,189,493			
KNOXVILLE	39	2,254,704	12	675,174	51	2,929,878			
LOUISVILLE	52	3,334,815	28	1,835,878	80	5,170,693			
NASHVILLE	56	3,248,259	20	1,142,391	76	4,390,650			
SAN JUAN	42	3,563,055	15	1,254,003	57	4,817,058			
TOTAL	271	17,363,276	112	7,134,496	383	24,497,772			
<b>JACKSONVILLE HUB</b>									
BIRMINGHAM	61	\$ 3,695,609	26	1,553,744	87	5,249,353			
JACKSON	20	1,209,254	31	1,861,402	51	3,070,656			
JACKSONVILLE	241	15,639,530	15	995,852	256	16,635,382			
TOTAL	322	20,544,393	72	4,410,998	394	24,955,391			
<b>CHICAGO HUB</b>									
CHICAGO	225	\$ 19,061,485	34	2,872,612	259	21,934,097			
INDIANAPOLIS	84	5,630,374	24	1,618,433	108	7,248,807			
TOTAL	309	24,691,859	58	4,491,045	387	29,182,904			
<b>COLUMBUS HUB</b>									
CINCINNATI	67	\$ 4,338,963	5	324,632	72	4,663,595			
CLEVELAND	111	8,091,832	15	1,087,913	126	9,179,745			
COLUMBUS	50	3,258,589	18	1,163,992	68	4,422,581			
TOTAL	228	15,689,384	38	2,576,537	266	18,265,921			

FY 1999 SECTION 202 ALLOCATIONS BY FIELD OFFICE						
OFFICES	METROPOLITAN CAPITAL			NONMETROPOLITAN CAPITAL		
	UNITS	ADVANCE	TOTALS	UNITS	ADVANCE	TOTALS
			CAPITAL			CAPITAL
						ADVANCE
<b>DETROIT HUB</b>						
DETROIT	117	\$ 8,934,763	9	674,202	126	9,608,965
GRAND RAPIDS	46	2,955,833	19	1,202,858	65	4,158,691
TOTAL	163	11,890,596	28	1,877,060	191	13,767,656
<b>MINNEAPOLIS HUB</b>						
MINNEAPOLIS	78	\$ 6,155,643	29	2,300,449	107	8,456,092
MILWAUKEE	88	6,579,170	32	2,374,756	120	8,953,926
TOTAL	166	12,734,813	61	4,675,205	227	17,410,018
<b>FT. WORTH HUB</b>						
FT. WORTH	107	\$ 6,474,509	32	1,949,810	139	8,424,319
HOUSTON	68	4,133,766	12	740,430	80	4,874,196
LITTLE ROCK	38	2,045,213	28	1,503,078	66	3,548,291
NEW ORLEANS	71	4,038,162	17	954,875	88	4,993,037
SAN ANTONIO	59	3,377,772	13	738,563	72	4,116,335
TOTAL	343	20,069,422	102	5,886,756	445	25,956,178
<b>KANSAS CITY HUB</b>						
DES MOINES	39	\$ 2,391,195	29	1,785,058	68	4,176,253
KANSAS CITY	65	4,198,604	28	1,781,389	93	5,979,993
OKLAHOMA CITY	47	2,648,486	22	1,263,116	69	3,911,602
OMAHA	20	1,274,181	16	997,474	36	2,271,655
ST LOUIS	62	4,566,004	21	1,544,120	83	6,110,124
TOTAL	233	15,078,470	116	7,371,157	349	22,449,627
<b>DENVER HUB</b>						
DENVER	84	\$ 5,674,279	41	2,523,648	125	8,197,927

FY 1999 SECTION 202 ALLOCATIONS BY FIELD OFFICE									
OFFICES	METROPOLITAN			NONMETROPOLITAN			TOTALS		
	UNITS	ADVANCE	CAPITAL	UNITS	ADVANCE	CAPITAL	UNITS	ADVANCE	CAPITAL
<b>SAN FRANCISCO HUB</b>									
SAN FRANCISCO	198	\$ 18,642,038		12	1,066,392		210		19,708,430
HONOLULU	20	2,556,477		5	639,119		25		3,195,596
PHOENIX	62	3,878,126		10	621,072		72		4,499,198
SACRAMENTO	62	5,081,195		11	900,613		73		5,981,808
TOTAL	342	30,157,836		38	3,227,196		380		33,385,032
<b>LOS ANGELES HUB</b>									
LOS ANGELES	365	\$ 30,054,318		5	411,877		370		30,466,195
<b>SEATTLE HUB</b>									
SEATTLE	82	\$ 6,416,077		17	1,327,060		99		7,743,137
ANCHORAGE	20	2,556,477		5	639,119		25		3,195,596
PORTLAND	63	4,531,694		24	1,651,404		87		6,183,098
TOTAL	165	13,504,248		46	3,617,583		217		17,121,831
NATIONAL TOTAL	4,806	\$ 369,640,166		950	65,230,613		5756		434,870,779

### III. Program Description; Eligible Applicants; Eligible Activities

#### (A) Program Description

HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital Advances may be used for the construction or rehabilitation of a structure, or acquisition of a structure from the Federal Deposit Insurance Corporation (formerly held by the Resolution Trust Corporation) (FDIC/RTC). Capital Advance funds bear no interest and are based on development cost limits published in this SuperNOFA. Repayment of the capital advance is not required as long as the housing remains available for occupancy by very low-income elderly persons for at least 40 years.

Project rental assistance contract (PRAC) funds are used to cover the difference between what the residents pay for rent and the HUD-approved expense to operate the project. Project Rental Assistance Contract funds may also be used to provide supportive services and to hire a service coordinator in those projects serving the frail elderly residents. The supportive services must be appropriate to the category or categories of frail elderly residents to be served.

#### (B) Eligible Applicants

Private nonprofit organizations and nonprofit consumer cooperatives are the only eligible applicants under this Section 202 Program. Neither a public body nor an instrumentality of a public body is eligible to participate in the program.

A Sponsor or Co-sponsor may not apply for more than 200 units of housing for the elderly in a single Hub or more than 10 percent of the total units allocated to all HUD Offices. Also, no single application may propose more than the number of units allocated to a HUD office or 125 units, whichever is less. Reservations for projects will not be approved for fewer than 5 units. Affiliated entities that submit separate applications are considered to be a single entity for the purpose of these limits.

#### (C) Eligible Activities

Section 202 capital advance funds must be used to finance the development of housing through new construction, rehabilitation, or acquisition of housing from the FDIC/Resolution Trust Corporation. Project Rental Assistance funds are provided to cover the difference between the HUD-approved operating costs and the amount the residents pay (each resident

pays 30 percent of adjusted income) as well as to provide supportive services to frail elderly residents. In projects principally serving the frail elderly, eligible costs include the salary of a service coordinator.

#### (D) Ineligible Activities

Section 202 funds may not be used for nursing homes, infirmaries, medical facilities, mobile home projects, community centers, headquarters for organizations for the elderly, nonhousekeeping accommodations, or refinancing of sponsor-owned facilities without rehabilitation.

### IV. Program Requirements

In addition to the program requirements listed in the General Section of this SuperNOFA, as an applicant, you must comply with the following requirements:

(A) *Statutory and Regulatory Requirements.* You must comply with all Section 202 Program statutory and regulatory requirements, as listed in Sections III(A) and IX of this program section of the SuperNOFA.

(B) *HUD/RHS Agreement.* HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies' respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concerns about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS' comments in its review and application selection process.

(C) *Development Cost Limits.* (1) The following development cost limits, adjusted by locality as described in Section IV(C)(2) of this program section of the SuperNOFA, below, will be used to determine the capital advance amount to be reserved for projects for the elderly:

(a) The total development cost of the property or project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features you must pay for) may not exceed:

Nonelevator Structures

\$33,638 per family unit without a bedroom;

\$38,785 per family unit with one bedroom;

\$46,775 per family unit with two bedrooms;

For Elevator Structures

\$35,400 per family unit without a bedroom;

\$40,579 per family unit with one bedroom;

\$49,344 per family unit with two bedrooms.

(b) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the accessibility requirements of § 891.120(b); and the project design and cost standards of § 891.120 and § 891.210.

(2) Increased development cost limits.

(a) HUD may increase the development cost limits set forth in Section IV(C)(1) of this program section of the SuperNOFA, above, by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.

(b) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands, or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in Section IV(C)(1) of this program section of the SuperNOFA, above, the amount of the capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.

(D) *Minimum Capital Investment.* Selected nonprofit organizations must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount, not to exceed \$10,000. If you, as Sponsor or Co-Sponsor, have one or more Section 202 or one or more Section 811 project(s) under reservation, construction, or management in two or more different HUD geographical regions, the minimum capital investment shall be one half of one percent of the HUD-approved capital advance amount, not to exceed \$25,000.

(E) *Economic Opportunities for Low and Very Low-Income Persons (Section 3).* You must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low Income Persons), and its implementing regulations at 24 CFR part 135. You must ensure that training, employment

and other economic opportunities shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low and very low income persons.

## V. Application Selection Process

### (A) Review for Curable Deficiencies

HUD will screen all applications received by the deadline for curable deficiencies. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of the application. The following is a list of the deficiencies that will be considered curable in a Section 202 application:

#### Exhibits

- (1) \*Form 92015-CA (Application Form)
- (2)
  - \* (a) Articles of Incorporation
  - \* (b) By-laws
  - \* (c) IRS tax exemption ruling
- (4)
  - (c)(ii) Energy efficiency
  - \* (d)(i) Evidence of site control
  - (d)(vi) SHPO letter
- (5) Applications submitted to other Offices
- (6) Relocation
- (7)
  - \* (a) Standard Form 424
  - (b) Drug-free Workplace
  - (c) Form-HUD 50071 and Standard Form-LLL
  - (d) Form-HUD 2880
  - (e) Form-HUD 2992
  - (f) Executive Order 12372
  - (g) Form-HUD 2991, Certification of Consistency with Consolidated Plan
  - (h) Conflict of Interest Resolution
  - \* (i) Resolution for Commitment to Project
  - (k) Combined Certifications

The HUD Office will notify you in writing if your application is missing any of the exhibits or portions of exhibits and you will be given 14 days from the date of the HUD notification to submit the information required to cure the noted deficiencies. The items identified by an asterisk (\*) must be dated on or before the application deadline date.

### (B) Rating

HUD will review and rate your application in accordance with the Application Selection Process in the General Section of this SuperNOFA with the following exception. HUD will not reject your application based on

technical review without notifying you of that rejection with all the reasons for rejection, and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the HUD office. The HUD office will make a determination on an appeal before making its selection recommendations. All applications will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the rating factors in Section V(D) of this Section 202 Program section of the SuperNOFA.

### (C) Ranking and Selection Procedures

Applications submitted in response to the advertised metropolitan allocations or nonmetropolitan allocations that have a total base score (without the addition of EC/EZ bonus points) of 60 points or more and meet all of the applicable threshold requirements of Section II(B) of the General Section of the SuperNOFA will be eligible for selection, and HUD will place them in rank order per metropolitan or nonmetropolitan allocation. These applications, after adding any bonus points for EC/EZ, will be selected based on rank order, up to and including the last application that can be funded out of each HUD office's metropolitan or nonmetropolitan allocation. HUD offices must not skip over any applications in order to select one based on the funds remaining. After making the initial selections in each allocation area, however, HUD may use any residual funds to select the next rank-ordered application by reducing the number of units by no more than 10 percent, rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

Once this process has been completed, HUD offices may combine their unused metropolitan and nonmetropolitan funds in order to select the next ranked application in either category, using the unit reduction policy described above, if necessary.

After the offices have funded all possible projects based on the process above, combined metropolitan and nonmetropolitan residual funds from all HUD Offices in each Multifamily Hub will be combined. These funds will be used first to restore units to projects reduced by HUD offices based on the above instructions. Second, additional applications within each Multifamily

Hub will be selected in rank order with only one application selected per HUD Office. More than one application may be selected per HUD Office if there are no approvable applications in other HUD Offices within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds without skipping over any application. HUD may use any remaining residual funds, however, to select the next rank-ordered application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project being less than five units.

Funds remaining after these processes are completed will be returned to Headquarters. HUD will use these residual funds first to fund American Indian Council, in the jurisdiction of the Milwaukee Multifamily Program Center, a FY 1994 application which was not funded due to litigation. Second, HUD will use these funds to restore units to projects reduced by HUD offices as a result of the instructions for using their residual funds. Third, HUD will use these funds for selecting applications based on field offices' rankings beginning with the highest rated application nationwide. Only one application will be selected per HUD office from the national residual amount (excluding the Milwaukee Multifamily Program Center, already funded). If there are no approvable applications in other HUD offices, the process will begin with the selection of the next highest rated application nationwide. This process will continue until all approvable applications are selected using the available remaining funds.

### (D) Factors For Award Used To Evaluate and Rate Applications

HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements identified in Section VI(B) below. The maximum number of points an application may receive under this program is 102. This includes two EZ/EC bonus points, as described in the General Section of the SuperNOFA.

#### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner.

Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(2), (B)(3)(a), (B)(3)(b), and (B)(3)(e) of Section VI of this program section of the SuperNOFA.

In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

(1) (15 points) The scope, extent, and quality of your experience in providing housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability; and

(2) (10 points) The scope, extent, and quality of your experience in providing housing or related services to minority persons or families. For purposes of this program section of the SuperNOFA, "minority" means the basic racial and ethnic categories for Federal statistics and administrative reporting, as defined in OMB's Statistical and Policy Directive No. 15. (See 62 FR 58782, October 30, 1997.);

#### Rating Factor 2: Need/Extent of the Problem (15 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(4)(a) and (B)(4)(b) of Section VI of this program section of the SuperNOFA. In evaluating this factor, HUD will consider:

The extent of the need for the project in the area based on a determination by the HUD Office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the HUD office. The data could include information on the number of existing Federally assisted housing units (HUD and RHS) for the elderly in the area and current occupancy in such facilities; Federally assisted housing for the elderly under construction or for which fund reservations have been issued; and in accordance with an agreement between HUD and the RHS, comments from the RHS on the demand for additional assisted housing and the possible harm to existing projects in the same housing market area. The

Department will also review more favorably those applications which establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. You must show how the proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

#### Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and effectiveness of your proposal. There must be a clear relationship between the proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(4)(c), (B)(4)(d) and (B)(4)(e) of Section VI of this program section of the SuperNOFA. In evaluating this factor, HUD will consider the following:

(1) (15 points) The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended occupants; adequacy of utilities and streets; freedom of the site from adverse environmental conditions; compliance with site and neighborhood standards (24 CFR 891.125);

(2) (10 points) The suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minority elderly persons/families, and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the HUD Office. Where appropriate, HUD may visit the site. The site will be deemed acceptable if it increases housing choice and opportunity by (a) expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood); or (b) contributing to the revitalization of and reinvestment in minority neighborhoods, including improvement of the level, quality and affordability of services furnished to minority elderly;

(3) (3 points) The extent to which the proposed design will meet the special physical needs of elderly persons;

(4) (3 points) The extent to which the proposed size and unit mix of the housing will enable you to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

(5) (3 points) The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, initially and over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve;

(6) (3 points) The extent to which the proposed supportive services meet the identified needs of the anticipated residents; and

(7) (3 points) The extent to which you demonstrate that the identified supportive services will be provided on a consistent, long-term basis.

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure other community resources which can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(3)(c) and (B)(3)(d) of Section VI of this program section of the SuperNOFA.

(1) (5 points) The extent of local government support (including financial assistance, donation of land, provision of services, etc.) for the project; and

(2) (5 points) The extent of your activities in the community, including previous experience in serving the area where the project is to be located, and your demonstrated ability to enlist volunteers and raise local funds.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinated your activities with other known organizations, participate or promote participation in a community's Consolidated Planning process, and are working toward addressing a need in a holistic and comprehensive manner through linkages with other activities in the community. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(3)(f), (B)(3)(g), (B)(3)(h) and (B)(3)(i) of Section VI of this program section of the SuperNOFA.

(1) (4 points) Your involvement of elderly persons, particularly minority elderly persons, in the development of the application, and your intent to

involve elderly persons, particularly minority elderly persons, in the development and operation of the project;

(2) (2 points) The extent to which you coordinated your application with other organizations to complement and/or support the proposed project;

(3) (2 points) The extent to which you demonstrated that you have been actively involved, or if not currently active, the steps you will take to become actively involved in your community's Consolidated Planning process to identify and address a need/problem that is related in whole or part, directly or indirectly to the proposed project;

(4) (2 points) The extent to which you developed or plan to develop linkages with other activities, programs or projects related to the proposed project to coordinate your activities so solutions are holistic and comprehensive; and

#### Bonus Points

(2 bonus points) Location of proposed site in an EZ/EC area, as described in the General Section of this SuperNOFA. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in paragraph (B)(7)(j) of Section VI of this program section of the SuperNOFA.

### VI. Application Submission Requirements

#### (A) Application

Your application must include all of the information, materials, forms, and exhibits listed in Section VI(B) (unless you were selected for a Section 202 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Sections VI(B)(2) (a), (b), and (c) of this program section of the SuperNOFA (Exhibits 2.a., b., and c. of the application kit), which are the articles of incorporation, (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of the eligibility documents since your previous HUD approval, you must submit the updated information in your application. HUD offices will verify your indication of previous HUD approval by checking the project number and approval status with the appropriate HUD Office.

In addition to this relief of paperwork burden in preparing applications, you will be able to submit information and exhibits you have previously prepared for prior applications under Section 202, Section 811, or other funding programs. Examples of exhibits that may be readily adapted or amended to

decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 Programs, your experience in provision of housing and services, supportive services plan, community ties, and experience serving minorities.

#### (B) General Application Requirements

(1) Form HUD-92015-CA, Application for Section 202 Supportive Housing Capital Advance.

(2) Evidence of your and each Co-Sponsor's legal status as a private nonprofit organization or nonprofit consumer cooperative, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS tax exemption ruling (this must be submitted by you and each Co-Sponsor, including churches). A consumer cooperative that is tax exempt under State law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if it is not eligible for tax exemption.

**Note:** If you received a Section 202 Fund Reservation within the last Three Funding Cycles, you are not required to submit the documents described in paragraphs (a), (b), and (c), above. Instead, you must submit the project number of the latest application selected and the HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.

(3) A description of your purpose, community ties, and experience, including the following:

(a) A description of your purpose, current activities and how long you have been in existence;

(b) A description of your ties to the community at large and to the minority and elderly communities in particular;

(c) A description of local government support for the project (including financial assistance, donation of land, provision of services, etc.);

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the elderly that you expect to serve in the proposed project;

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects and/or supportive services facilities that you have sponsored, owned, and/or operated; your past or current involvement in any

programs other than housing that demonstrates your management capabilities (including financial management) and experience; your experience in serving the elderly, including elderly persons with disabilities, and/or families and minorities; and the reasons for receiving any increases in fund reservations for developing and/or operating previously funded Section 202 or Section 811 projects. The description should include data on the facilities and services provided, the racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of activities that could be described include housing counseling, nutrition and food services, special housing referral, screening and information projects.

(f) A description, if applicable, of your efforts to involve elderly persons, including minority elderly persons, in the development of the application, as well as your intent to involve elderly persons in the development and operation of the project.

(g) A description of the steps you took to identify and coordinate your application with other organizations to complement and/or support the proposed project as well as the steps you will take, if funded, to share information on solutions and outcomes relative to the development of the proposed project.

(h) A description of your involvement in your community's Consolidated Planning process including:

(i) An identification of the lead/facilitating agency that organizes/administers the process;

(ii) An identification of the Consolidated Plan issue areas in which you participate;

(iii) Your level of participation in the process, including active involvement with any neighborhood-based organizations, associations, or any committees that support programs and activities that enhance projects or the lives of residents of the projects, such as the one proposed in your application.

If you are not currently active, describe the specific steps you will take to become active in the Consolidated Planning process. (Consult the local HUD Office for the identification of the Consolidated Plan community process for the appropriate area.)

(i) A description of the linkages that you have developed or plan to develop with other related activities, programs or projects in order that the development of the project provides a

comprehensive and holistic solution to the needs of the target population.

(4) Project information, including the following:

(a) Evidence of need for supportive housing. Such evidence would include a description of the category or categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for the elderly (HUD and RHS; e.g., public housing); State or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure, and housing condition; the types of supportive services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging. Also, a description of how information in the community's Analysis of Impediments to Fair Housing Choice was used in documenting the need for the project.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(c) A description of the project, including the following:

(i) A narrative description of the building design, including a description of the number of units with bedroom distributions, any special design features, amenities, and/or community space, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years. NOTE: If these community spaces, amenities, or features would not comply with the project design and cost standards of 24 CFR 891.120 and the special project standards of 24 CFR 891.210, you must state your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features;

(ii) A description of whether and how the project will promote energy efficiency, and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(d) Evidence of site control and permissive zoning, including the following:

(i) Acceptable evidence of site control is limited to any one of the following:

(1) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years;

(2) Contract of sale for the site which is free of any limitations affecting ability to deliver ownership to you after you receive and accept a notice of Section 202 capital advance. The only condition for closing on the sale can be your receipt and acceptance of the capital advance;

(3) Option to purchase or for a long-term leasehold which must remain in effect for one year from the date on which the applications are due. The option agreement may consist of a single one year term or may include one or more rights to renew up to one year solely at your discretion. The only condition on which the option may be terminated is if you are not awarded a fund reservation.

(4) If the site is covered by a mortgage under a HUD program, you must submit evidence that consent to release of the site from the mortgage has been obtained or is being requested.

(5) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 202 capital advance. Where HUD determines that time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, a letter in the application from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable and only contingent on the necessary approval action. In its review of such cases, HUD will consider whether it has had satisfactory experience with timely conveyance of sites from that public body.

Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring the site from a public body, you must provide evidence (a title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverts which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (e.g., reversion to seller if title is transferred).

Mortgages are not considered to be limitations or restrictions that would adversely affect the use of the site. If the site is subject to any such limitations, restrictions, or reverts the application will be rejected.

**Note:** A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the Section 202 Project or from any other development team member.

(ii) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for your belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning and/or the procedures for obtaining special or conditional use permits on land in similar zoning classifications and the time required for such rezoning, or preliminary indications of acceptability from zoning bodies, etc.);

(iii) A narrative topographical and demographic description of the suitability of the site and area, and how the site will promote greater housing opportunities for minority elderly and elderly persons with disabilities, thereby affirmatively furthering fair housing; (NOTE: You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdictions's Analysis of Impediments to Fair Housing Choice (AI), which is a component of the jurisdiction's Consolidated Plan, or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the Community's, the County's, or the State's, to which input should have been provided by local community organizations, agencies in the community, and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include the need for improved housing quality and services for elderly minority families, lack of affirmative marketing and outreach to minority elderly persons, and the need for quality eldercare services within areas of minority concentration when

compared with the type and quality of similar services and housing in nonminority areas.

(iv) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated;

(v) A Phase I Environmental Site Assessment, in accordance with the American Society for Testing and Material (ASTM) Standards E 1527-93, as amended. The Phase I study must be completed and submitted with the application. Therefore, it is important that you start the site assessment process as soon after publication of this SuperNOFA as possible.

If the Phase I study indicates the possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same environmental site assessment procedure identified above must be followed for that site. NOTE: For properties to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the FDIC/RTC Environmental Guidelines.

If you choose to continue with the original site on which the Phase I study indicated contamination or hazards, you must undertake a detailed Phase II Environmental Site Assessment by an appropriate professional. If the Phase II Assessment reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site. In order for the application to be considered for review under this FY 1999 funding competition, you must submit this information to the local HUD office on or before June 28, 1999.

**Note:** This could be an expensive undertaking. You must pay for the cost of any clean-up and/or remediation.

(vi) A letter from the State Historic Preservation Officer (SHPO) indicating whether the proposed site has any historical significance. If you cannot obtain a letter from the SHPO due to the SHPO not responding to your request or the SHPO responding that it cannot or will not comply with the requirement, you must submit the following: (1) a letter indicating that you attempted to get the required letter from the SHPO but that the SHPO either had not responded to your request or would not

honor or recognize your request; (2) a copy of your letter to the SHPO requesting the required letter; and, (3) a copy of the SHPO's response, if available.

(e) Provision of supportive services and proposed facility:

(i) A detailed description of the supportive services proposed to be provided to the anticipated occupancy;

(ii) A description of public or private sources of assistance that reasonably could be expected to fund the proposed services;

(iii) The manner in which such services will be provided to such persons (i.e., on or off-site), including whether a service coordinator will facilitate the adequate provision of such services, and how the services will meet the identified needs of the residents. NOTE: You may not require residents, as a condition of occupancy, to accept any supportive service.

(5) A list of the applications, if any, that you have submitted or are planning to submit to any other HUD office in response to this announcement of Section 202 Program funding availability or the announcement of Section 811 Program (Supportive Housing for Persons with Disabilities) funding availability, published elsewhere in today's **Federal Register**. Indicate by HUD office, the proposed location by city and State, and the number of units requested for each application. Include a list of all FY 1998 and prior year projects to which you are the Sponsor that have not been finally closed. Such projects must be identified by project number and HUD office.

(6) A statement that:

(a) Identifies all persons (families, individuals, businesses, and nonprofit organizations), by race/minority group, and status as owners or tenants, occupying the property on the date of submission of the application for a capital advance;

(b) Indicates the estimated cost of relocation payments and other services;

(c) Identifies the staff organization that will carry out the relocation activities; and

(d) Identifies all persons that have moved from the site within the past 12 months.

**Note:** If any of the relocation costs will be funded from sources other than the section 202 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction, and other project costs).

(7) *Certifications and Resolutions.* In addition to the certifications and assurances listed in the General Section

of this SuperNOFA with the exception of SF-424A, SF-424B, SF-424C, SF-424D and the OMB Circulars which are not required, you are required to submit signed copies of the following:

(a) *Standard Form 424.* Application for Federal Assistance and indication of whether you are delinquent on any Federal debt. (See instructions for submitting this form in the Consolidated Application Submission section of the General Section of the SuperNOFA.)

(b) *Drug-Free Workplace (HUD-50070).* Certification to provide a drug-free workplace.

(c) *Payments to Influence Federal Transactions (HUD-50071) and Standard Form LLL, Disclosure of Lobbying Activities.* Certification of whether any of the funds received will be used to influence any Federal transactions and disclosure of those activities, if applicable.

(d) *Applicant/Recipient Disclosure/Update Report, including Social Security Numbers and Employee Identification Numbers, (HUD-2880).* A disclosure of assistance from other government sources received in connection with the project.

(e) *Employment, Engagement of Services, Awarding or Funding of Contracts, Subgrants, etc. (24 CFR 24.510).*

(f) *Executive Order 12372 Certification.* A certification that you have submitted a copy of your application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

(g) *Certification of Consistency with the Consolidated Plan (Plan), Form HUD-2991, for the jurisdiction in which the proposed project will be located.* The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the State, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in this program section of the SuperNOFA. The Plan regulations are published in 24 CFR part 91.

(h) *A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner*

or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title, and the beginning and ending dates of each person's term.

(i) *A certified Board Resolution, acknowledging the responsibilities of sponsorship, long-term support of the project(s), willingness to assist the Owner to develop, own, manage, and provide appropriate services in connection with the proposed project, and that it reflects the will of its membership. Also, evidence, in the form of a certified Board Resolution, of your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of 1 percent of the HUD-approved capital advance, not to exceed \$10,000, if nonaffiliated with a National Sponsor; one-half of 1 percent of the HUD-approved capital advance, not to exceed \$25,000, for all other Sponsors;), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.*

(j) *Certification of Consistency with the EZ/EC Strategic Plan.* A certification that the project is consistent with the EZ/EC strategic plan, is located within the EZ/EC, and serves EZ/EC residents.

(k) *Sponsor's Combined Certifications.* (i) *Certification in Connection with the Development and Operation of a Section 202 Project.* A certification of compliance with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the

implementing regulations at 24 CFR Part 135, the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108, and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity including affirmatively furthering fair housing.

(ii) *Design and Cost Standards.* Certification of Compliance with HUD's Section 202 project design and cost standards (24 CFR 891.120 and 891.210), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and the Americans with Disabilities Act of 1990;

(iii) *Acquisition and Relocation.* Certification of Compliance with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24 and 24 CFR part 891.155(e));

(iv) *Formation of Owner Corporation.* Certification that you will form an "Owner" (24 CFR 891.205) after issuance of the capital advance; cause the Owner to file a request for determination of eligibility and a request for capital advance, and provide sufficient resources to the Owner to insure the development and long-term operation of the project, including capitalizing the Owner at firm commitment processing in an amount

sufficient to meet its obligations in connection with the project;

(v) *Supportive Services.* Certification that you will not require residents to accept any supportive services as a condition of occupancy; and,

(vi) *Davis-Bacon.* Certification of compliance with the Davis-Bacon requirements and the Contract Work Hours and Safety Standards Act.

## **VII. Corrections to Deficient Applications**

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

## **VIII. Environmental Requirements**

In accordance with 24 CFR part 50, all Section 202 assistance is subject to the National Environmental Policy Act of 1969 and applicable related Federal environmental authorities. The environmental review provisions of the Section 202 Program regulations are in 24 CFR 891.155(b).

## **IX. Authority**

The Section 202 Supportive Housing for the Elderly Program is authorized by section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended. See section 801 of the Cranston-Gonzalez National Affordable Housing Act (NAHA)(Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (HCD Act of 1992)(Pub.L. 102-550; approved October 28, 1992), and the Rescissions Act (Pub.L. 104-19; enacted on July 27, 1995).

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**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**SECTION 811 SUPPORTIVE  
HOUSING FOR PERSONS WITH  
DISABILITIES PROGRAM**



## Funding Availability for the Section 811 Program of Supportive Housing for Persons With Disabilities

### Program Overview

**Purpose of the Program.** This program provides funding for supportive housing for very low-income persons with disabilities who are at least 18 years old.

**Available Funds.** Approximately \$87,236,604.

**Eligible Applicants.** Nonprofit organizations that have a section 501(c)(3) tax exemption from the Internal Revenue Service.

**Application Deadline.** May 27, 1999.

**Match Requirements.** No.

### Additional Information

If you are interested in applying for funding under this program, please review carefully the General Section of this SuperNOFA and the following additional information.

### I. Application Due Date, Application Kits, Further Information, and Technical Assistance

**Application Due Date.** Submit your completed application on or before 6:00 pm, local time on May 27, 1999 at the address shown below. See the Application Submission Procedures of the General Section of this SuperNOFA for further information.

**Address for Submitting Applications.** Submit your completed application(s) (an original and four copies) to the Director of the appropriate Multifamily Hub Office or Multifamily Program Center as listed in Appendix A to this program section of the SuperNOFA.

The application kit also includes a listing of the Multifamily Hubs and Program Centers, their addresses and telephone numbers, including TTY numbers. This information is also available from HUD's SuperNOFA Information Center at 1-800-HUD-8929 and from the Internet through the HUD web site at <http://www.hud.gov>.

**For Application Kits.** For an application kit and any supplemental information, please call HUD's SuperNOFA Information Center at 1-800-HUD-8929. Persons with hearing or speech impairments may call the Center's TTY number at 1-800-483-2209. When requesting an application kit, please refer to the Section 811 Program and provide your name, address (including zip code), and telephone number (including area code). The application kit also will be available on the Internet through the HUD web site at <http://www.hud.gov> and from the appropriate Multifamily Hub Office or Multifamily Program Center.

**For Further Information and Technical Assistance.** For further information and technical assistance, please contact the appropriate Multifamily Hub Office or Multifamily Program Center, or Gail Williamson at HUD Headquarters at (202) 708-2866, or access the Internet at <http://www.hud.gov>. HUD encourages minority organizations to participate in this program and strongly recommends prospective applicants attend the local HUD Office workshop. At the workshops, HUD will explain application procedures and requirements, as well as address concerns such as local market conditions, building codes and accessibility requirements, historic preservation, floodplain management, displacement and relocation, zoning, and housing costs. If you are interested in attending the workshop, make sure that your name, address and telephone number are on the appropriate HUD Office's mailing list so that you will be informed of the date, time and place of the workshop. Persons with disabilities should call the appropriate HUD Office to assure that any necessary arrangements can be made to enable their attendance and participation in the workshop.

If you cannot attend the workshop, call the appropriate HUD Office if you have any questions regarding the submission of applications to that particular office and to request any materials distributed at the workshop.

### II. Amount Allocated

Approximately \$87,236,604 is available for the Section 811 Program of Supportive Housing for Persons with Disabilities. The FY 1999 HUD Appropriations Act (Appropriations Act) provides \$194,000,000 for capital advances, including amendments to capital advance contracts; for supportive housing for persons with disabilities, as authorized by section 811 of the NAHA; and for project rental assistance, including amendments to contracts for project rental assistance. Twenty-five percent of this amount is being set aside for tenant-based rental assistance for persons with disabilities administered through public housing agencies (PHAs) and nonprofit organizations and will be announced in the **Federal Register** at a later date.

In accordance with the waiver authority provided in the Appropriations Act, the Secretary is waiving the following statutory and regulatory provision: The term of the project rental assistance contract is reduced from 20 years to 5 years. HUD anticipates that at the end of the

contract terms, renewals will be approved subject to the availability of funds. In addition to this provision, HUD will reserve project rental assistance contract funds based on 75 percent rather than on 100 percent of the current operating cost standards for approved units in order to take into account the average tenant contribution toward rent.

The allocation formula used for Section 811 reflects the "relevant characteristics of prospective program participants," as specified in 24 CFR 791.402(a). The FY 1999 formula consists of two data elements from the 1990 Decennial Census: (1) the number of non-institutionalized persons age 16 or older with a work disability and a mobility or self-care limitation and (2) the number of non-institutionalized persons age 16 or older having a mobility or self-care limitation but having no work disability.

A work disability is defined as a health condition that had lasted for 6 or more months which limited the kind (restricted the choice of jobs) or amount (not able to work full time) of work a person could do at a job or business. A mobility limitation is defined as a health condition that lasted for 6 or more months, making it difficult for the person to go outside the home alone. This includes outside activities, such as shopping or visiting a doctor's office. A self-care limitation is defined as a health care limitation that had lasted for 6 or more months which made it difficult for the person to take care of his/her own personal needs such as dressing, bathing, or getting around inside the home. Temporary (short term) problems such as broken bones that are expected to heal normally are not considered problems.

Under the Section 811 Program, each HUD Office jurisdiction receives sufficient capital advance funds for a minimum of 10 units. The total amount of capital advance funds to support this minimum set-aside is then subtracted from the total capital advance available. The remainder is fair shared to each HUD Office jurisdiction whose fair share would exceed the set-aside based on the allocation formula fair share factors described below.

The fair share factors were developed by taking the sum of the number of persons in each of the two elements for each state, or state portion, of each local HUD Office jurisdiction as a percent of the sum of the two data elements from the Decennial Census, described above, for the total United States. The resulting percentage for each local HUD Office is then adjusted to reflect the relative cost of providing housing among the local

HUD Office jurisdictions. The adjusted needs percentage for each local HUD Office is then multiplied by the total amount of capital advance funds available nationwide.

The Section 811 capital advance funds have been allocated, based on the formula above, to 51 local HUD Offices as shown on the following chart:

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**Fiscal Year 1999 Allocations for Supportive Housing for Persons with  
Disabilities  
[Fiscal Year 1999 Section 811 Allocations]**

Office	Capital Advance Authority	Units
<b>Boston HUB:</b>		
Boston	\$ 2,223,038	31
Hartford	1,471,253	21
Manchester	999,185	18
Providence	713,126	10
Total	5,406,602	80
<b>New York HUB:</b>		
New York	5,437,644	67
Total	5,437,644	67
<b>Buffalo HUB:</b>		
Buffalo	1,700,371	27
Total	1,700,371	27
<b>Philadelphia HUB:</b>		
Newark	3,016,382	40
Pittsburgh	1,511,020	26
Philadelphia	2,914,496	44
Charleston	1,094,139	19
Total	8,536,037	129
<b>Baltimore HUB:</b>		
Baltimore	1,333,347	23
Richmond	1,295,840	26
D.C.	1,416,091	23
Total	4,045,278	72

**Fiscal Year 1999 Allocations for Supportive Housing for Persons with  
Disabilities  
[Fiscal Year 1999 Section 811 Allocations]**

Office	Capital Advance Authority	Units
<b>Greensboro HUB:</b>		
Columbia	1,383,836	26
Greensboro	2,364,426	38
Total	3,748,262	64
<b>Atlanta HUB:</b>		
Atlanta	1,833,629	36
San Juan	1,864,156	26
Louisville	1,428,274	27
Knoxville	935,813	20
Nashville	1,042,627	22
Total	7,104,499	131
<b>Jacksonville HUB:</b>		
Jacksonville	3,598,726	67
Birmingham	1,520,665	30
Jackson	1,187,065	24
Total	6,306,456	121
<b>Chicago HUB:</b>		
Chicago	3,687,108	52
Indianapolis	1,638,662	29
Total	5,325,770	81
<b>Columbus HUB:</b>		
Cincinnati	1,054,105	20
Cleveland	1,899,192	31
Columbus	1,051,076	19
Total	4,004,373	70
<b>Detroit HUB:</b>		
Detroit	2,306,444	36
Grand Rapids	928,884	18
Total	3,235,328	54

**Fiscal Year 1999 Allocations for Supportive Housing for Persons with  
Disabilities  
[Fiscal Year 1999 Section 811 Allocations]**

Office	Capital Advance Authority	Units
<b>Minneapolis HUB:</b>		
Milwaukee	1,471,995	24
Minneapolis	1,393,572	21
Total	2,865,567	45
<b>Ft. Worth HUB:</b>		
Ft. Worth	2,024,025	40
Houston	1,376,658	27
Little Rock	991,654	22
New Orleans	1,409,919	30
San Antonio	1,248,618	26
Total	7,050,874	145
<b>Kansas City HUB:</b>		
Des Moines	955,504	19
Kansas City	1,299,611	25
Omaha	528,117	10
Oklahoma City	1,063,982	23
St. Louis	1,355,414	22
Total	5,202,628	99
<b>Denver HUB:</b>		
Denver	1,540,292	28
Total	1,540,292	28
<b>San Francisco HUB:</b>		
Honolulu (Guam)	1,059,597	10
Phoenix	1,128,688	22
Sacramento	1,248,454	18
San Francisco	3,229,197	41
Total	6,665,936	91
<b>* Los Angeles HUB:</b>		
Los Angeles	5,267,631	77
Total	5,267,631	77

**Fiscal Year 1999 Allocations for Supportive Housing for Persons with  
Disabilities  
[Fiscal Year 1999 Section 811 Allocations]**

Office	Capital Advance Authority	Units
<b>Seattle HUB:</b>		
Anchorage	1,059,597	10
Portland	1,271,923	22
Seattle	1,461,536	23
Total	3,793,056	55
<b>National Total</b>	87,236,604	1,436

\* This amount includes Capital Advance Authority of \$612,800 to fund Whiteside Manor, Inc., Riverside, California. Since this seven-unit project was not selected in FY 1998 due to HUD error, the application will be funded from the Fiscal Year 1999 allocation to the Los Angeles Office.

**III. Program Description; Eligible Applicants; Eligible Activities**

*(A) Program Description*

HUD provides capital advances and contracts for project rental assistance in accordance with 24 CFR part 891. Capital advances may be used to construct, rehabilitate, or acquire structures (including structures from the Federal Deposit Insurance Corporation (formerly held by the Resolution Trust Corporation) (FDIC/RTC), to be developed into a variety of housing options described in C. below. Capital advance funds bear no interest and are based on development cost limits published in this SuperNOFA. Repayment of the capital advance is not required as long as the housing remains available for at least 40 years for occupancy by very low-income persons with disabilities.

Project rental assistance contract (PRAC) funds are used to cover the difference between the tenants' contributions toward rent (30 percent of adjusted income) and the HUD-approved cost to operate the project.

*(B) Eligible Applicants*

Nonprofit organizations with a section 501(c)(3) tax exemption from the Internal Revenue Service are the only eligible applicants for this program. A Sponsor or Co-sponsor may not apply for more than 100 units of housing for persons with disabilities in a single Hub. In addition, a Sponsor or Co-sponsor may not apply for more units in a given HUD Office than allocated for the Section 811 program in that HUD Office, or for more than 10 percent of the total units allocated in all HUD offices. A single application must propose at least five units, not necessarily in one structure. Affiliated entities that submit separate applications are considered a single entity for the purposes of these limits.

*(C) Eligible Activities*

The types of housing that can be developed with Section 811 capital advance funds include small group homes, independent living projects and dwelling units in multifamily housing developments, condominium and cooperative housing.

*(D) Ineligible Activities*

Section 811 funds may not be used for any of the following:

- (1) Nursing homes, infirmaries and medical facilities;
- (2) Transitional housing facilities;
- (3) Manufactured housing facilities;
- (4) Intermediate care facilities;

- (5) Community centers, with or without special components for use by persons with disabilities;
- (6) Sheltered workshops and centers for persons with disabilities;
- (7) Headquarters for organizations for persons with disabilities; and
- (8) Refinancing of Sponsor-owned facilities without rehabilitation.

**IV. Program Requirements**

In addition to the program requirements listed in the General Section of this SuperNOFA, you must comply with the following requirements:

*(A) Statutory Requirements and Regulatory Requirements*

You must comply with all statutory and regulatory requirements listed in Sections III(A) and IX of this program section of the SuperNOFA.

*(B) HUD/RHS Agreement*

HUD and the Rural Housing Service (RHS) have an agreement to coordinate the administration of the agencies' respective rental assistance programs. As a result, HUD is required to notify RHS of applications for housing assistance it receives. This notification gives RHS the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider RHS comments in its review and application selection process.

*(C) Development Cost Limits*

(1) The following development cost limits, adjusted by locality as described in paragraph (C)(3) below, must be used to determine the capital advance amount reserved for projects for persons with disabilities:

*(a) For independent living projects and dwelling units in multifamily housing developments, condominium and cooperative housing:* The total development cost of the project attributable to dwelling use (less the incremental development cost and the capitalized operating costs associated with any excess amenities and design features you will pay for) may not exceed:

- Non-elevator Structures
  - \$33,638 per family unit without a bedroom;
  - \$38,785 per family unit with one bedroom;
  - \$46,775 per family unit with two bedrooms;
  - \$59,872 per family unit with three bedrooms;
  - \$66,700 per family unit with four bedrooms.

For Elevator Structures

- \$35,400 per family unit without a bedroom;
- \$40,579 per family unit with one bedroom;
- \$49,344 per family unit with two bedrooms;
- \$63,834 per family unit with three bedrooms;
- \$70,070 per family unit with four bedrooms.

*(b) For group homes only:*

No. residents	Type of disability	
	physical/developmental	chronic mental illness
3 .....	\$154,452	\$149,094
4 .....	165,276	158,376
5 .....	176,100	167,658
6 .....	186,912	176,940

*(c) These cost limits reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; the minimum group home requirements of 24 CFR 891.310(a) (if applicable); the accessibility requirements of 24 CFR 891.120(b) and 891.310(b); and the project design and cost standards of 24 CFR 891.120.*

*(2) Increased development cost limits.*

*(a) HUD may increase the development cost limits set forth in Section IV(C)(1) of this program section of the SuperNOFA by up to 140 percent in any geographic area where the cost levels require, and may increase the development cost limits by up to 160 percent on a project-by-project basis. This increase may include covering additional costs to make dwelling units accessible through rehabilitation.*

*(b) If HUD finds that high construction costs in Alaska, Guam, the Virgin Islands or Hawaii make it infeasible to construct dwellings, without the sacrifice of sound standards of construction, design, and livability, within the development cost limits provided in Section IV(C)(1) of this program section of the SuperNOFA, the amount of capital advances may be increased to compensate for such costs. The increase may not exceed the limits established under this section (including any high cost area adjustment) by more than 50 percent.*

*(c) For group homes only, HUD Offices may approve increases in the development cost limits in paragraph (C)(1)(b), above, in areas where you can provide sufficient documentation that high land costs limit or prohibit project feasibility. An example of acceptable documentation is evidence of at least three land sales which have actually*

taken place (listed prices for land are not acceptable) within the last two years in the area where your project is to be built. The average cost of the documented sales must exceed seven percent of the development cost limit for your project in order for an increase to be considered.

*(D) Sites*

The National Affordable Housing Act requires you to provide in your application either (1) evidence of site control, or (2) a reasonable assurance that you will have control of a site within six months of notification of fund reservation. Accordingly, if you have control of a site at the time you submit your application, you must include evidence of such as described in Section VI(B)(4)(d)(i) of this program section of the SuperNOFA relative to site control and in the application kit. If you do not have site control, you must provide the information required in Section VI(B)(4)(d)(ii) of this program section of the SuperNOFA relative to identification of a site and in the application kit for identified sites as a reasonable assurance that site control will be obtained within six months of fund reservation notification.

Under Criterion 1 of Rating Factor 3 in Section V(D), below, related to your proposed site, your application has the potential of earning 15 points. Criterion 1(a) is related to site approvability and is worth a maximum of 10 points. Regardless of whether you submit evidence of site control or have identified a site without obtaining control of it, the site will be evaluated based on its proximity or accessibility to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment and other necessary services to the intended tenants. It will also be evaluated to determine whether it complies with the site and neighborhood standards in 24 CFR 891.125. Criterion 1(b) relates to the existence of legally acceptable site control. If you (1) submit evidence of site control for all proposed sites in your application, (2) the evidence is determined to be legally acceptable for all of the sites and (3) all of the sites are approvable (i.e., receive a score of 1 or higher for Criterion 1(a), your application will receive 5 points for Criterion 1(b)).

If your application contains evidence of site control where either the evidence or the site is not approvable, it will *not* be rejected provided you indicate in your application that you are willing to seek an alternate site and provide an assurance that site control will be

obtained within six months of fund reservation notification.

*(E) Supportive Services*

You are required to include a supportive services plan and a certification from the appropriate State or local agency that the provision of services identified in your Supportive Services Plan is well designed to serve the special needs of persons with disabilities who will live in your proposed project. Section VI(B)(4)(e) of this program section of the SuperNOFA, below, outlines the information that must be in the Supportive Services Plan. You must submit one copy of your Supportive Services Plan to the appropriate State or local agency well in advance of the application submission deadline date for the State or local agency to review your Supportive Services Plan (Exhibit 4(d) of the application kit) and complete the Supportive Services Certification (Exhibit 7(l) of the application kit) and return it to you so that you can include it in the application you submit to HUD.

(1) HUD will reject your application if the supportive services certification:

(i) Is not submitted with your application and is not submitted to HUD within the 14-day cure period; or

(ii) Indicates that the provision of supportive services is not well designed to meet the special needs of persons with disabilities.

(2) In addition, if the agency completing the certification will be a major funding or referral source for your proposed project or be responsible for licensing the project, HUD will reject your application if either the agency's supportive services certification indicates—or, where the agency fails to complete item 2 or 3 of the certification, HUD determines that:

(i) You failed to demonstrate that supportive services will be provided on a consistent long-term basis; and/or

(ii) The proposed housing is not consistent with State or local agency plans/policies governing development and operation of housing for persons with disabilities.

Any prospective resident of a Section 811 project who believes he/she needs supportive services must be given the choice to be responsible for acquiring his/her own services or to take part in your Supportive Services Plan which must be designed to meet the individual needs of each resident. Residents or applicants may not be required to accept any supportive service as a condition of occupancy or admission.

*(F) Project Size Limits*

(1) *Group home*—The minimum number of persons with disabilities that can reside in a group home is three, and the maximum number is six. Only one person per bedroom is allowed, unless two residents choose to share one bedroom or a resident determines he/she needs another person to share his/her bedroom.

(2) *Independent living project*—The minimum number of units that can be applied for in one application is five; not necessarily in one structure. The maximum number of persons with disabilities that can be housed in an independent living project is 18.

(3) *Exceptions*—If you are submitting an application with site control, you may request an exception to the above project size limits by providing the information required in Section VI(B) in this program section of the SuperNOFA, below.

*(G) Minimum Capital Investment*

Selected nonprofit organizations must provide a minimum capital investment of one-half of one percent of the HUD-approved capital advance amount not to exceed a maximum of \$10,000.

*(H) Economic Opportunities for Low and Very Low Income Persons*

You must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low Income Persons) and its implementing regulations at 24 CFR part 135. To comply, you must ensure that training, employment and other economic opportunities are directed, to the greatest extent feasible, toward low and very low income persons, particularly those who are recipients of government assistance for housing; and to business concerns which provide economic opportunities to low and very low income persons.

*(I) Accessibility*

If you intend to construct, substantially rehabilitate, or acquire, with or without rehabilitation, structures to be used as housing for persons with disabilities, you should note 24 CFR 891.310, which requires that your project meets accessibility requirements. In addition, you should note that 24 CFR 8.4(b)(5) prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from the Federally assisted program or activity. Thus, if you choose an existing structure, make sure that it can be made accessible without resulting in an infeasible project.

## V. Application Selection Process

### (A) Review for Curable Deficiencies

You should ensure that your application is complete before submitting it to the appropriate HUD office. HUD will screen all applications received by the deadline to determine if there are any curable deficiencies. A curable deficiency is a missing Exhibit or portion of an Exhibit that will not affect the rating of your application. The following is a list of the only deficiencies that will be considered curable in a Section 811 application:

#### Exhibits

- (1) \*Form 92016-CA (Application Form)
- (2)
  - \* (a) Articles of Incorporation
  - \* (b) By-laws
  - \* (c) IRS tax exemption ruling
- (4)
  - (c)(ii) Energy efficiency
  - \* (d)(i) Evidence of site control (if submitted with application)
  - (d)(vi) SHPO letter
  - (d)(vii) Seek alternate site
  - (d)(viii) Exception to project size limits
- (5) Applications submitted to other offices
- (6) Relocation
- (7)
  - \* (a) Standard Form 424
  - (b) Drug-free Workplace
  - (c) Form-HUD 50071 and Standard Form-LLL
  - (d) Form-HUD 2880
  - (e) Form-HUD 2992
  - (f) Executive Order 12372
  - (g) Form-HUD 2991 Certification of Consistency with Consolidated Plan
  - (h) Conflict of Interest Resolution
  - \* (i) Resolution for Commitment to Project
  - (k) Combined Certifications
  - (l) Supportive Services Certification
  - (m) Lead-Based Paint Certification

The HUD Office will notify you in writing if your application is missing any of the above exhibits or portions of exhibits and will give you 14 days from the date of the notification to submit the information required to cure the noted deficiencies. The items identified by an asterisk (\*) must be dated on or before the application deadline date.

### (B) Rating

HUD will review and rate your application(s) in accordance with the Application Selection Process in the General Section of this SuperNOFA with the following exception. HUD will not reject your application based on

technical review without notifying you of the rejection with all the reasons for rejection and providing you an opportunity to appeal. You will have 14 calendar days from the date of HUD's written notice to appeal a technical rejection to the HUD Office. The HUD Office will make a determination on an appeal before making its selection recommendations. Your application(s) will be either rated or technically rejected at the end of technical review. If your application meets all program eligibility requirements after completion of technical review, it will be rated according to the Rating Factors in V(D) below.

### (C) Ranking and Selection Procedures

Applications that have a total base score of 60 points or more (without the addition of EC/EZ bonus points) and meet all of the applicable threshold requirements of Section II(B) of the General Section of the SuperNOFA will be eligible for selection and will be placed in rank order. HUD will select applications, after adding any bonus points for EC/EZ, based on rank order, up to and including the last application that can be funded out of each HUD office's allocation. HUD Offices must not skip over any applications in order to select one based on the funds remaining. After making the initial selections, however, HUD may use any residual funds to select the next rank-ordered application by reducing the number of units by no more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible. For this purpose, however, HUD will not reduce the number of units in projects of five units or less.

After this process is completed, residual funds from all HUD Offices within each Multifamily Hub will be combined. These funds will be used first to restore units to projects reduced by HUD Offices based on the above instructions. Second, additional applications within each Multifamily Hub will be selected in rank order with only one application selected per HUD Office. More than one application may be selected per HUD office if there are no approvable applications in other HUD Offices within the Multifamily Hub. This process will continue until there are no more approvable applications within the Multifamily Hub that can be selected with the remaining funds. Applications may not be skipped over to select one based on funds remaining. However, HUD may use any remaining residual funds, to select the next rank-ordered application by reducing the number of units by no

more than 10 percent rounded to the nearest whole number, provided the reduction will not render the project infeasible or result in the project being less than 5 units.

Funds remaining after these processes are completed will be returned to Headquarters. HUD will use these residual funds first to fund Ryder Memorial Hospital, Inc., in the jurisdiction of the HUD Caribbean Multifamily Program Center, a FY 1998 application which was not funded due to HUD error. Second, HUD will use these funds to restore units to projects reduced by HUD Offices as a result of the instructions for using their residual funds. Third, HUD will use these funds for selecting applications based on field offices' rankings, beginning with the highest rated application nationwide. Only one application will be selected per HUD Office from the national residual amount, excluding the Caribbean Multifamily Program Center, already funded. If there are no approvable applications in other HUD Offices, the process will begin again with the selection of the next highest rated application nationwide. This process will continue until all approvable applications are selected using the available remaining funds.

### (D) Factors for Award Used To Evaluate and Rate Applications

HUD will rate applications that successfully complete technical processing using the Rating Factors set forth below and in accordance with the application submission requirements in Section VI(B), below. The maximum number of points an application may receive under this program is 102. This includes two (2) EZ/EC bonus points, as described in the General Section of this SuperNOFA.

#### Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (25 Points)

This factor addresses the extent to which you have the organizational resources to successfully implement the proposed activities in a timely manner. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(2), (B)(3)(a), (B)(3)(b), and (B)(3)(e) of Section VI of this program section of the SuperNOFA.

In rating this factor, HUD will consider the extent to which your application demonstrates your ability to develop and operate the proposed housing on a long-term basis, considering the following:

- (1) (15 points) The scope, extent, and quality of your experience in providing

housing or related services to those proposed to be served by the project and the scope of the proposed project (i.e., number of units, services, relocation costs, development, and operation) in relationship to your demonstrated development and management capacity as well as your financial management capability; and

(2) (10 points) The scope, extent, and quality of your experience in providing housing or related services to minority persons or families. For purposes of this program section of the SuperNOFA, "minority" means the basic racial and ethnic categories for Federal statistics and administrative reporting, as defined in OMB's Statistical and Policy Directive No. 15. (See 62 FR 58782 October 30, 1997.)

#### Rating Factor 2: Need/Extent of the Problem (15 Points)

This factor addresses the extent to which there is a need for funding the proposed activities to address a documented problem in the target area. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(4)(a) and (B)(4)(b) of Section VI of this program section of the SuperNOFA. In evaluating this factor, HUD will consider:

The extent of the need for the project in the area based on a determination by the HUD Office. In making this determination, HUD will consider your evidence of need in the area, as well as other economic, demographic, and housing market data available to the HUD Office. The data could include the availability of existing comparable subsidized housing for persons with disabilities and current occupancy in such housing, comparable subsidized housing for persons with disabilities under construction or for which fund reservations have been issued, and, in accordance with an agreement between HUD and RHS, comments from RHS on the demand for additional comparable subsidized housing and the possible harm to existing projects in the same housing market area. The Department also will review more favorably those applications which establish a connection between the proposed project and the community's Analysis of Impediments to Fair Housing Choice (AI) or other planning document that analyzes fair housing issues and is prepared by a local planning or similar organization. You must show how the proposed project will address an impediment to fair housing choice described in the AI or meet a need identified in the other type of planning document.

#### Rating Factor 3: Soundness of Approach (40 Points)

This factor addresses the quality and effectiveness of your proposal. There must be a clear relationship between the proposed activities, the community's needs and purposes of the program funding for your application to receive points for this factor. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(4)(c), (B)(4)(d), and (B)(4)(e) of Section VI of this program section of the SuperNOFA. In evaluating this factor, HUD will consider the following:

(1)(a) (10 points) Site approvability—The proximity or accessibility of the site to shopping, medical facilities, transportation, places of worship, recreational facilities, places of employment, and other necessary services to the intended tenants; adequacy of utilities and streets, and freedom of the site from adverse environmental conditions (based on site visit for site control projects only); and compliance with site and neighborhood standards in 24 CFR 891.125;

(b) (5 points) Site control—If your application contains legally acceptable site control for all proposed sites and all of the proposed sites are approvable (i.e., receive a score of 1 or higher on Criterion 1(a)), your application will receive 5 points for site control;

(2) (10 points) The suitability of the site from the standpoints of promoting a greater choice of housing opportunities for minorities and persons with disabilities and affirmatively furthering fair housing. In reviewing this criterion, HUD will assess whether the site meets the site and neighborhood standards at 24 CFR 891.125(b) and (c) by examining relevant data in your application or in the HUD Office. If appropriate, HUD may visit the site. The site will be deemed acceptable if it increases housing choice and opportunity by (a) expanding housing opportunities in non-minority neighborhoods (if located in such a neighborhood); or (b) contributing to the revitalization of and reinvestment in minority neighborhoods, including improvement of the level, quality and affordability of services furnished to minority persons with disabilities.

(3) (5 points) The extent to which the proposed design of the project, including both the exterior and interior design, will meet any special needs of persons with disabilities the housing is expected to serve;

(4) (5 points) The extent to which the proposed design of the project and its placement in the neighborhood will

facilitate the integration of the residents into the surrounding community; and

(5) (5 points) Your board includes persons with disabilities (including persons who have disabilities similar to those of the prospective residents).

#### Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure other community resources which can be combined with HUD's program resources to achieve program purposes. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(3)(c) and (B)(3)(d) of Section VI of this program section of the SuperNOFA.

(1) (5 points) The extent of local government support (including financial assistance, donation of land, provision of services, etc.) for the project; and

(2) (5 points) The extent of your activities in the community, including previous experience in serving the area where the project is to be located, and your demonstrated ability to enlist volunteers and raise local funds.

#### Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinated your activities with other known organizations, participate or promote participation in the community's Consolidated Planning process, and are working towards addressing a need in a holistic and comprehensive manner through linkages with other activities in the community. Submit information responding to this factor in accordance with Application Submission Requirements in paragraphs (B)(3)(f), (B)(3)(g), (B)(3)(h), and (B)(3)(i) of Section VI of this program section of the SuperNOFA.

(1) (4 points) You involved persons with disabilities (including minority persons with disabilities) in the development of the application, and will involve persons with disabilities (including minority persons with disabilities) in the development and operation of the project;

(2) (2 points) The extent to which you coordinated your application with other organizations to complement and/or support the proposed project;

(3) (2 points) The extent to which you demonstrated that you have been actively involved, or if not currently active, the steps you will take to become actively involved in the community's Consolidated Planning process to identify and address a need/problem that is related in whole or part, directly

or indirectly to the proposed project; and

(4) (2 points) The extent to which you developed or plan to develop linkages with other activities, programs or projects related to the proposed project to coordinate your activities so solutions are holistic and comprehensive.

#### Bonus Points

(2 bonus points) Location of proposed site in an EZ/EC area, as described in the General Section of this SuperNOFA. Submit the information responding to the bonus points in accordance with the Application Submission Requirements in paragraph (B)(7)(j) of Section VI of this program section of the SuperNOFA.

#### VI. Application Submission Requirements

(A) *Application.* Your application must include all of the information, materials, forms, and exhibits listed in Section VI(B) of this program section of the SuperNOFA (unless you were selected for a Section 811 fund reservation within the last three funding cycles). If you qualify for this exception, you are not required to submit the information described in Section VI(B)(2)(a), (b), and (c), below, of this program section of the SuperNOFA (Exhibits 2.a., b., and c. of the application kit), which are the articles of incorporation (or other organizational documents), by-laws, and the IRS tax exemption, respectively. If there has been a change in any of the eligibility documents since your previous HUD approval, you must submit the updated information in your application. The HUD Office will verify your indication of previous HUD approval by checking the project number and approval status with the appropriate HUD Office.

In addition to this relief of paperwork burden in preparing applications, you are able to use information and exhibits previously prepared for prior applications under Section 811, Section 202, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the Section 202 or Section 811 programs, your experience in the provision of housing and services, supportive services plans, community ties, and experience serving minorities.

**Note: You may apply for a scattered site project in one application.**

(B) General Application Requirements.

(1) Form HUD-92016-CA, Application for Section 811 Supportive Housing Capital Advance.

(2) Evidence of your and each Co-Sponsor's legal status as a nonprofit organization, including the following:

(a) Articles of Incorporation, constitution, or other organizational documents;

(b) By-laws;

(c) IRS section 501(c)(3) tax exemption ruling (this must be submitted by you and all Co-Sponsors, including churches).

**Note:** If you received a section 811 fund reservation within the last three funding cycles, you are not required to submit the documents described in (a), (b), and (c), above. Instead, you must submit the project number of the latest application selected and the HUD office to which it was submitted. If there have been any modifications or additions to the subject documents, indicate such, and submit the new material.

(d) The number of people on your board and the number of those people who have disabilities (including disabilities similar to those of the prospective residents).

(3) A description of your purpose, community ties, and experience, including the following:

(a) A description of your purpose, current activities and how long you have been in existence;

(b) A description of your ties to the community at large and to the minority and disabled communities in particular;

(c) A description of local government support for the project (including financial assistance, donation of land, provision of services, etc.);

(d) Letters of support for your organization and for the proposed project from organizations familiar with the housing and supportive services needs of the persons with disabilities that you expect to serve in the proposed project;

(e) A description of your housing and/or supportive services experience. The description should include any rental housing projects (including integrated housing developments) and/or supportive services facilities that you have sponsored, owned, and/or operated; your past or current involvement in any programs other than housing that demonstrates your management capabilities (including financial management) and experience, and your experience in serving persons with disabilities and minorities; and the reasons for receiving any increases in fund reservations for developing and/or operating any previously funded Section 811 or Section 202 projects. The description should include data on the facilities and services provided, the

racial/ethnic composition of the populations served, if available, and information and testimonials from residents or community leaders on the quality of the activities. Examples of activities that could be described include housing counseling, nutrition and food services, special housing referral, screening and information projects.

(f) A description, if applicable, of your efforts to involve persons with disabilities (including minority persons with disabilities and persons with disabilities similar to those of the prospective residents) in the development of your application and in the development and operation of the project.

(g) A description of the steps you took to identify and coordinate your application with other organizations to complement and/or support your proposed project as well as the steps you will take, if funded, to share information on solutions and outcomes relative to the development of your proposed project.

(h) A description of your involvement in the community's Consolidated Planning process, including:

(i) An identification of the lead/facilitating agency that organizes/administers the process;

(ii) An identification of the Consolidated Plan issue areas in which you participate;

(iii) Your level of participation in the process, including active involvement with any neighborhood-based organizations, associations or any committees that support programs and activities that enhance projects, or the lives of residents of projects, such as the one proposed in your application.

If you are not currently active, describe the specific steps you will take to become active in the Consolidated Planning process. (Consult the local HUD Office for the identification of the Consolidated Plan community process for the appropriate area.)

(i) A description of the linkages that you have developed or plan to develop with other related activities, programs or projects in order that the development of the project provides a comprehensive and holistic solution to the needs of the target population.

(4) Project information including the following:

(a) Evidence of need for supportive housing. Such evidence would include a description of the proposed population and evidence demonstrating sustained effective demand for supportive housing for the proposed population in the market area to be served, taking into consideration the

occupancy and vacancy conditions in existing comparable subsidized housing for persons with disabilities, State or local needs assessments of persons with disabilities in the area, the types of supportive services arrangements currently available in the area, and the use of such services as evidenced by data from local social service agencies. Also, a description of how information in the community's Analysis of Impediments to Fair Housing Choice was used in documenting the need for the project.

(b) A description of how the proposed project will benefit the target population and the community in which it will be located;

(c) A description of the project, including the following:

(i) A narrative description of the building(s) including the number and type of structure(s), number of bedrooms if group home, number of units with bedroom distribution if independent living units (including dwelling units in multifamily housing developments, condominiums and cooperatives), number of residents with disabilities, and any resident staff per structure; an identification of all community spaces, amenities, or features planned for the housing and a description of how the spaces, amenities, or features will be used, and the extent to which they are necessary to accommodate the needs of the proposed residents. If these community spaces, amenities, or features would not comply with the project design and cost standards of § 891.120 and the special project standards of § 891.310, you must demonstrate your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features; and a description of how the design of the proposed project will promote the integration of the residents into the surrounding community; and (ii) A description of whether and how the project will promote energy efficiency, and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(d) Evidence of control of an approvable site, OR identification of a site for which you provide a reasonable assurance that you will obtain control within 6 months from the date of fund reservation (if you are approved for funding).

(i) If you are submitting an application with site control, you must submit the following:

(1) Acceptable evidence of site control, as evidenced by one of the following:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 50 years;

(B) Contract of sale for the site which is free of any limitations affecting ability to deliver ownership to you after you receive and accept a notice of Section 811 capital advance. The only condition for closing on the sale can be your receipt and acceptance of the capital advance;

(C) Option to purchase or for a long-term leasehold which must remain in effect for one year from the date on which the applications are due. The option agreement may consist of a single one year term or may include one or more rights to renew up to one year solely at your discretion. The only condition on which the option may be terminated is if you are not awarded a fund reservation.

(D) If the site is covered by a mortgage under a HUD program, you must submit evidence that consent to release of the site from the mortgage has been obtained or is being requested.

(E) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 811 capital advance. If HUD determines that time constraints of the funding round will not permit you to obtain all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, you may include in your application a letter from the mayor or director of the appropriate local agency indicating that conveyance or leasing of your site is acceptable and only contingent on the necessary approval action. In its review of such cases, HUD will consider whether it has had satisfactory experience with timely conveyance of sites from that public body.

Whether you have title to the site, a contract of sale, an option to purchase or are acquiring a site from a public body, you must provide evidence (a title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverters which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (e.g., reversion to seller if title is transferred). Mortgage are not considered to be

limitations or restrictions that would adversely affect the use of the site. If the site is subject to any such limitations, restrictions, or reverters, the site will be rejected.

**Note:** A Proposed project site may not be acquired or optioned from a general contractor (or its affiliate) that will construct the section 811 project or from any other development team member.

(2) Evidence that your project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make your proposed project permissible. You must provide the basis for your belief that the proposed action will be completed successfully before the submission of the firm commitment application (e.g., a summary of the results of any requests for rezoning on land in similar zoning classifications and the time required for such rezoning, the procedures for obtaining special or conditional use permits or preliminary indications of acceptability from zoning bodies, etc.).

**Note:** You should be aware that under certain circumstances the Fair Housing Act requires localities to make reasonable accommodations to their zoning ordinances or regulations to offer persons with disabilities an opportunity to live in an area of their choice. If you are relying upon a theory of reasonable accommodation to satisfy the zoning requirement, then you must clearly articulate the basis for your reasonable accommodation theory.

(3) A narrative topographical and demographic description of the suitability of the site and area as well as a description of the area surrounding the site, the characteristics of the neighborhood, how the site will promote greater housing opportunities for minorities and persons with disabilities thereby affirmatively furthering fair housing.

**Note:** You can best demonstrate your commitment to affirmatively furthering fair housing by describing how proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the applicable jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice, which is a component of the jurisdiction's Consolidated Plan, or any other planning document that addresses fair housing issues. The applicable Consolidated Plan and AI may be the Community's, the County's, or the State's, to which input should have been provided by local community organizations, agencies in the community, and residents of the community. Alternatively, a document that addresses fair housing issues and remedies to barriers to fair housing in the community that was previously prepared by a local planning, or similar organization, may be used. Applicable impediments could include a lack

of units that are accessible to persons with disabilities, a lack of transportation services or other assistance that would serve persons with disabilities, or the need for improved housing quality and services for all persons with disabilities.

(4) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated;

(5) A Phase I Environmental Site Assessment, in accordance with the American Society for Testing and Material (ASTM) Standards E 1527-93, as amended. The Phase I study must be completed and submitted with the application. Therefore, it is important that you start the site assessment process as soon after publication of this SuperNOFA as possible.

If the Phase I study indicates the possible presence of contamination and/or hazards, you must decide whether to continue with this site or choose another site. Should you choose another site, the same environmental site assessment procedure identified above must be followed for that site.

**Note:** For properties to be acquired from the FDIC/RTC, include a copy of the FDIC/RTC prepared Transaction Screen Checklist or Phase I Environmental Site Assessment, and applicable documentation, per the FDIC/RTC Environmental Guidelines.

If you choose to continue with the original site on which the Phase I study indicated contamination or hazards, you must undertake a detailed Phase II Environmental Site Assessment by an appropriate professional. If the Phase II Assessment reveals site contamination, the extent of the contamination and a plan for clean-up of the site must be submitted to the local HUD Office. The plan for clean-up must include a contract for remediation of the problem(s) and an approval letter from the applicable Federal, State, and/or local agency with jurisdiction over the site. In order for your application to be considered as an application with site control you must submit this information to the local HUD Office on or before June 28, 1999.

**Note:** This could be an expensive undertaking, you must pay for the cost of any clean-up and/or Remediation.

(6) A letter from the State Historic Preservation Officer (SHPO) indicating whether the proposed site(s) has any historical significance. If you cannot obtain a letter from the SHPO due to the SHPO not responding to your request or the SHPO responding that it cannot or will not comply with the requirement, you must submit the following:

(A) a letter indicating that you attempted to get the required letter from

the SHPO but that the SHPO either had not responded to your request or would not honor or recognize your request;

(B) a copy of your letter to the SHPO requesting the required letter; and

(C) a copy of the SHPO's response, if available.

(7) A statement that you are willing to seek a different site if the preferred site is unapprovable and that site control will be obtained within six months of notification of fund reservation.

(8) If you are requesting an exception to the project size limits found in Section IV(F) of this program section of the SuperNOFA, describe why the site was selected and demonstrate the following:

(A) People with disabilities similar to those of the prospective tenants have indicated their acceptance or preference to live in housing with as many units/people as proposed for your project;

(B) The increased number of people is necessary for the economic feasibility of your project;

(C) Your project is compatible with other residential development and the population density of the area in which your project is to be located;

(D) The increased number of people will not prohibit their successful integration into the community;

(E) Your project is marketable in the community;

(F) The size of your project is consistent with State and/or local policies governing similar housing for the proposed population; and

(G) A statement that you are willing to have your application processed at the project size limit should HUD not approve the exception.

(ii) If you have identified a site, but do not have it under control, you must submit the following information:

(1) A description of the location of the site, including its street address, its unit number (if condominium), neighborhood/community characteristics (to include racial and ethnic data), amenities, adjacent housing and/or facilities, and how the site will promote greater housing opportunities for minorities and persons with disabilities thereby affirmatively furthering fair housing. You can best demonstrate your commitment to affirmatively furthering fair housing by describing how your proposed activities will assist the jurisdiction in overcoming impediments to fair housing choice identified in the community's AI or any other planning document that addresses fair housing issues. Examples of the applicable impediments include the need for improved housing quality and services for minority persons with disabilities and the need for quality

services for persons with disabilities within the type and quality of similar services and housing in minority areas;

(2) A description of the activities undertaken to identify the site, as well as what actions must be taken to obtain control of the site, if approved for funding;

(3) An indication as to whether the site is properly zoned. If it is not, an indication of the actions necessary for proper zoning and whether these can be accomplished within six months of fund reservation award, if approved for funding;

(4) A status of the sale of the site; and

(5) An indication as to whether the site would involve relocation.

(e) A supportive services plan (a copy of which must be sent to the appropriate State or local agency as instructed in Section IV(E) of this program section of the SuperNOFA) that includes:

(i) A detailed description of whether the housing is expected to serve persons with physical disabilities, developmental disabilities, chronic mental illness or any combination of the three. Include how and from whom/where persons will be referred to and accepted for occupancy in the project. You may, with the approval of the Secretary, limit occupancy within housing developed under this program section of the SuperNOFA to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment. However, the Owner must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided, regardless of the person's disability.

(ii) If you are requesting approval to limit occupancy in your proposed project(s), you must submit the following:

(1) A description of the population of persons with disabilities to which occupancy will be limited;

(2) An explanation of why it is necessary to limit occupancy of the proposed project(s) to the population described in (1) above. This should include but is not limited to:

(A) An explanation of how limiting occupancy to a subcategory of persons with disabilities promotes the goals of the Section 811 Program; and,

(B) An explanation of why the housing and/or service needs of this population cannot be met in a more integrated setting.

(3) A description of your experience in providing housing and/or supportive services to the proposed occupants; and

(4) A description of how you will ensure that the occupants of the

proposed project(s) will be integrated into the neighborhood and surrounding community.

(iii) A detailed description of the supportive service needs of the persons with disabilities that the housing is expected to serve.

(iv) You must develop, and submit with your application, a list of community service providers, including those that are consumer-controlled, and include letters of intent to provide services to residents of the proposed project(s) from as many potential service providers as possible. You must make this list available to any residents who wish to be responsible for acquiring their own supportive services. However, a provider may not require residents to accept any particular service.

(v) A detailed description of a comprehensive supportive services plan that you have organized for those residents who do not wish to take responsibility for acquiring their own services. Such a plan must include the following:

(1) The name(s) of the agency(s) that will be responsible for providing the supportive services;

(2) The evidence of each service provider's capability and experience in providing such supportive services (applicable even if you will be the service provider);

(3) A description of how, when, how often, and where (on/off-site) the services will be provided;

(4) Identification of the extent of State and/or local agency involvement in the project (i.e., funding for the provision of supportive services, referral of residents, or licensing the project). If there will be any State or local agency involvement, a description of the State or local agency's philosophy/policy concerning housing for the population to be served and a demonstration that your application is consistent with State or local plans and policies governing the development and operation of housing for the same disabled population; and

(5) Letters of intent from service providers (including those that are consumer-controlled) or funding sources, indicating commitments to fund or to provide the supportive services, or that a particular service will be available to proposed residents. If you will be providing any supportive services or will be coordinating the provision of any of the supportive services, a letter indicating your commitment to either provide the supportive services or ensure their provision for the life of the project.

(vi) A description of residential staff, if needed.

(vii) Assurances that any supportive services you provide to residents who wish to receive them will be based on the resident's individual needs; and

(viii) A statement that you will not condition occupancy on the resident's acceptance of any supportive services.

(5) A list of the applications, if any, that you have submitted or are planning to submit to any other HUD Office in response to this Section 811 funding announcement under this SuperNOFA or announcement for funding under this SuperNOFA of the Section 202 Program of Supportive Housing for the Elderly. Indicate, by HUD Office, the number of units requested and the proposed location by city and State for each application. Include a list of all FY 1998 and prior year projects to which you are a party, identified by project number and HUD Office, which have not been finally closed.

(6) A statement that:

(a) Identifies all persons (families, individuals, businesses, and nonprofit organizations) by race/minority group and status as owners or tenants occupying the property on the date of submission of the application for a capital advance;

(b) Indicates the estimated cost of relocation payments and other services;

(c) Identifies the staff organization that will carry out the relocation activities; and

(d) Identifies all persons that have moved from the site within the last 12 months. (This requirement applies to applications with site control only. Sponsors of applications with identified sites that are selected will be required to submit this information at a later date once they have obtained site control.)

**Note:** If any of the relocation costs will be funded from sources other than the section 811 capital advance, you must provide evidence of a firm commitment of these funds. When evaluating applications, HUD will consider the total cost of proposals (i.e., cost of site acquisition, relocation, construction and other project costs).

(7) *Certifications and Resolutions.* In addition to the certifications listed in the General Section of this SuperNOFA with the exception of SF-424A, SF-424B, SF-424C, SF-424D and the OMB Circulars which are not required, you are required to submit signed copies of the following:

(a) *Standard Form 424.* Application for Federal Assistance and indication of whether you are delinquent on any Federal debt. (See instructions for submitting this form in the Consolidated Application Submissions section of the General Section of the SuperNOFA.)

(b) *Drug-Free Workplace (HUD-50070).* Certification to provide a drug-free workplace.

(c) *Payments to Influence Federal Transactions (HUD-50071) and Standard Form LLL, Disclosure of Lobbying Activities.* Certification of whether any of the funds received will be used to influence any Federal transactions and disclosure of those activities, if applicable.

(d) *Applicant/Recipient Disclosure/Update Report, including Social Security Numbers and Employee Identification Numbers, (HUD-2880).* A disclosure of assistance from other government sources received in connection with the project.

(e) *Employment, Engagement of Services, Awarding or Funding of Contracts, Subgrants, etc. (24 CFR 24.510).*

(f) *Executive Order 12372 Certification.* A certification that you have submitted a copy of your application, if required, to the State agency (single point of contact) for State review in accordance with Executive Order 12372.

(g) *Certification of Consistency with the Consolidated Plan (Plan)* (Form HUD-2991) for the jurisdiction in which the proposed project will be located. The certification must be made by the unit of general local government if it is required to have, or has, a complete Plan. Otherwise, the certification may be made by the State, or by the unit of general local government if the project will be located within the jurisdiction of the unit of general local government authorized to use an abbreviated strategy, and if it is willing to prepare such a Plan.

All certifications must be made by the public official responsible for submitting the Plan to HUD. The certifications must be submitted as part of the application by the application submission deadline date set forth in this SuperNOFA. The Plan regulations are published in 24 CFR part 91.

(h) *A certified Board Resolution that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation that has or will have a contract with the Owner, including a current listing of all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term.*

(i) *A Certified Board Resolution Acknowledging Responsibilities of Sponsorship,* long-term support of the project(s), your willingness to assist the Owner to develop, own, manage and provide appropriate services in connection with the proposed project,

and that it reflects the will of your membership, and your willingness to fund the estimated start-up expenses, the Minimum Capital Investment (one-half of one-percent of the HUD-approved capital advance, not to exceed \$10,000), and the estimated cost of any amenities or features (and operating costs related thereto) that would not be covered by the approved capital advance.

(j) *Certification of Consistency with the EZ/EC Strategic Plan.* A certification that the project is consistent with the EZ/EC strategic plan, is located within the EZ/EC, and serves EZ/EC residents.

(k) *Sponsor's Combined Certifications.* (i) *Certification in Connection with the Development and Operation of a Section 811 Project.* A certification of compliance with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135, the affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108, and other applicable Federal, State and local laws prohibiting discrimination and promoting equal opportunity including affirmatively furthering fair housing.

(ii) *Design and Cost Standards.* Certification of Compliance with HUD's Section 811 project design and cost standards (24 CFR 891.120 and 891.310), the Uniform Federal Accessibility Standards (24 CFR 40.7), Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100, and the Americans with Disabilities Act of 1990.

(iii) *Acquisition and Relocation.* Certification of Compliance with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR part 24 and 24 CFR part 891.155(e)).

(iv) *Formation of Owner Corporation.* Certification that you will form an "Owner" (24 CFR 891.305) after issuance of the capital advance; cause the Owner to file a request for determination of eligibility and a request for capital advance, and provide sufficient resources to the Owner to insure the development and long-term operation of the project, including capitalizing the Owner at firm

commitment processing in an amount sufficient to meet its obligations in connection with the project.

(v) *Supportive Services.* Certification that you will not require residents to accept any supportive services as a condition of occupancy; and,

(vi) *Davis-Bacon.* Certification of compliance with the Davis-Bacon requirements and the Contract Work Hours and Safety Standards Act.

(l) *Supportive Services Certification.* A certification from the appropriate State or local agency identified in the application kit indicating whether the:

(i) Provision of supportive services is well designed to serve the needs of persons with disabilities the housing is expected to serve;

(ii) Supportive services will be provided on a consistent, long-term basis; and

(iii) Proposed housing is consistent with State or local plans and policies governing the development and operation of housing to serve individuals of the proposed occupancy category if the State or local agency will provide funding for the provision of supportive services, refer residents to the project or license the project. (The name, address, and telephone number of the appropriate agency will be identified in the application kit and can also be obtained from the appropriate HUD Office.)

(m) *Certification that you will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act* (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35 (except as superseded in 24 CFR 891.325).

## VII. Corrections to Deficient Applications

The General Section of the SuperNOFA provides the procedures for corrections to deficient applications.

## VIII. Environmental Requirements

In accordance with 24 CFR part 50, all Section 811 assistance is subject to the National Environmental Policy Act of 1969 and applicable related Federal environmental authorities. The environmental review provisions of the Section 811 Program regulations are in 24 CFR 891.155(b).

## IX. Authority

Section 811 of the Cranston-Gonzalez National Affordable Housing Act (the NAHA) (Pub. L. 101-625, approved November 28, 1990), as amended by the Housing and Community Development Act of 1992 (HCD Act of 1992) (Pub. L. 102-550, approved October 28, 1992), and by the Rescissions Act (Pub. L. 104-19, approved July 27, 1995) authorized

a new supportive housing program for persons with disabilities, and replaced assistance for persons with disabilities previously covered by section 202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAHA, and the HCD Act of 1992, to authorize supportive housing for the elderly).

## Appendix A—Local HUD Offices

**Note:** The first line of the mailing address for all offices is Department of Housing and Urban Development. Telephone numbers listed are toll-free.

### HUD—Boston Hub

#### Hartford Office

One Corporate Center, 19th Floor, Hartford, CT 06106-1860, (860) 240-4800, TTY Number: (860) 240-4665

#### Boston Office

Room 375, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, MA 02222-1092, (617) 565-5234, TTY Number: (617) 565-5453

#### Manchester Office

Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03101-2487, (603) 666-7681, TTY Number: (603) 666-7518

#### Providence Office

Sixth Floor, 10 Weybosset Street, Providence, RI 02903-3234, (401) 528-5351, TTY Number: (401) 528-5403

### HUD—New York Hub

#### New York Office

26 Federal Plaza, New York, NY 10278-0068, (212) 264-6500, TTY Number: (212) 264-0927

### HUD—Buffalo Hub

#### Buffalo Office

Fifth Floor, Lafayette Court, 465 Main Street, Buffalo, NY 14203-1780, (716) 551-5755, TTY Number: (716) 551-5787

### HUD—Philadelphia Hub

#### Philadelphia Office

The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3390, (215) 656-0600, TTY Number: (215) 656-3452

#### Charleston Office

Suite 708, 405 Capitol Street, Charleston, WV 25301-1795, (304) 347-7000, TTY Number: (304) 347-5332

#### Newark Office

Thirteenth Floor, One Newark Center, Newark, NJ 07102-5260, (201) 622-7900, TTY Number: (201) 645-3298

#### Pittsburgh Office

339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222-2515, (412) 644-6428, TTY Number: (412) 644-5747

**HUD—Baltimore Hub***Baltimore Office*

Fifth Floor, City Crescent Building, 10 South Howard Street, Baltimore, MD 21201-2505, (410) 962-2520, TTY Number: (410) 962-0106

*Washington Office*

820 First Street, NE, Washington, D.C. 20002-4502, (202) 275-9200, TTY Number: (202) 275-0772

*Richmond Office*

The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, VA 23230-0331, (804) 278-4507, TTY Number: (804) 278-4501

**HUD—Greensboro Hub***Greensboro Office*

Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407-3707, (919) 547-4001, TTY Number: (919) 547-4055

*Columbia Office*

Strom Thurmond Federal Building, 1835-45 Assembly Street, Columbia, SC 29201-2480, (803) 765-5592, TTY Number: (803) 253-3071

**HUD—Atlanta Hub***Atlanta Office*

Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA 30303-3388, (404) 331-5136, TTY Number: (404) 730-2654

*San Juan Office*

New San Juan Office Building, 159 Carlos Chardon Avenue, San Juan, PR 00918-1804, (809) 766-6121, TTY Number: (809) 766-5909

*Louisville Office*

601 West Broadway, P.O. Box 1044, Louisville, KY 40201-1044, (502) 582-5251, TTY Number: 1-800-648-6056

*Knoxville Office*

Third Floor, John J. Duncan Federal Building, 710 Locust Street, Knoxville, TN 37902-2526, (423) 545-4384, TTY Number: (423) 545-4559

*Nashville Office*

Suite 200, 251 Cumberland Bend Drive, Nashville, TN 37228-1803, (615) 736-5213, TTY Number: (615) 736-2886

**HUD—Jacksonville Hub***Jacksonville Office,*

Suite 2200, Southern Bell Tower, 301 West Bay Street, Jacksonville, FL 32202-5121, (904) 232-2626, TTY Number: (904) 232-1241

*Birmingham Office*

Suite 300, Beacon Ridge Tower, 600 Beacon Parkway, West, Birmingham, AL 35209-3144, (205) 290-7617, TTY Number: (205) 290-7630

*Jackson Office*

Suite 910, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, MS 39269-1096, (601) 965-5308, TTY Number: (601) 965-4171

**HUD—Chicago Hub***Chicago Office*

Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604-3507, (312) 353-5680, TTY Number: (312) 353-5944

*Indianapolis Office*

151 North Delaware Street, Indianapolis, IN 46204-2526, (317) 226-6303, TTY Number: (317) 226-7081

**HUD—Detroit***Detroit Office*

Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226-2592, (313) 226-7900, TTY Number: (313) 226-6899

**HUD—Columbus Hub***Columbus Office*

200 North High Street, Columbus, OH 43215-2499, (614) 469-5737, TTY Number: (614) 469-6694

*Cleveland Office*

Fifth Floor, Renaissance Building, 1350 Euclid Avenue, Cleveland, OH 44115-1815, (216) 522-4065, TTY Number: (216) 522-2261

**HUD—Minneapolis Hub***Minneapolis Office*

220 Second Street, South, Minneapolis, MN 55401-2195, (612) 370-3000, TTY Number: (612) 370-3186

*Milwaukee Office*

Suite 1380, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, WI 53203-2289, (414) 297-3214, TTY Number: (414) 297-3123

**HUD—Ft. Worth Hub***Little Rock Office*

Suite 900, TCBY Tower, 425 West Capitol Avenue, Little Rock, AR 72201-3488, (501) 324-5931, TTY Number: (501) 324-5931

*New Orleans Office*

Ninth Floor, Hale Boggs Federal Building 501 Magazine Street, New Orleans, LA 70130-3099, (504) 589-7200, TTY Number: (504) 589-7279

*Ft. Worth Office*

1600 Throckmorton Street, P.O. Box 2905, Fort Worth, TX 76113-2905, (817) 978-9000, TTY Number: (817) 978-9273

*Houston Office*

Suite 200, Norfolk Tower 2211 Norfolk, Houston, TX 77098-4096, (713) 313-2274, TTY Number: (713) 834-3274

*San Antonio Office*

Washington Square, 800 Dolorosa Street, San Antonio, TX 78207-4563, (210) 472-6800, TTY Number: (210) 472-6885

**HUD—Great Plains***Des Moines Office*

Room 239, Federal Building, 210 Walnut Street, Des Moines, IA 50309-2155, (515) 284-4512, TTY Number: (515) 284-4728

*Kansas City Office*

Room 200, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101-2406, (913) 551-5462, TTY Number: (913) 551-6972

**Omaha Office**

Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154-3955, (402) 492-3100, TTY Number: (402) 492-3183

*Saint Louis Office*

Third Floor, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103-2836, (314) 539-6583, TTY Number: (314) 539-6331

*Oklahoma City Office*

500 Main Plaza, 500 West Main Street, Suite 400, Oklahoma City, OK 73102-2233, (405) 553-7400, TTY Number: (405) 553-7480

**HUD—Denver Hub***Denver Office*

633 17th Street, Denver, CO 80202-3607, (303) 672-5440, TTY Number: (303) 672-5248

**HUD—San Francisco Hub***Phoenix Office*

Suite 1600, Two Arizona Center, 400 North 5th Street, Phoenix, AZ 85004-2361, (602) 379-4434, TTY Number: (602) 379-4464

*San Francisco Office*

Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102-3448, (415) 436-6532, TTY Number: (415) 436-6594

*Honolulu Office*

Suite 500, 7 Waterfront Plaza, 500 Ala Moana Boulevard, Honolulu, HI 96813-4918, (808) 522-8175, TTY Number: (808) 522-8193

**HUD—Los Angeles Hub***Los Angeles Office*

611 West 6th Street, Suite 800, Los Angeles, CA 90015-3801, (213) 894-8000, TTY Number: (213) 894-8133

**HUD—Seattle Hub***Portland Office*

400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204-1632, (503) 326-2561, TTY Number: (503) 326-3656

BILLING CODE 4210-32-P

**DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

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**APPENDIX A TO SUPERNOFA  
LIST OF HUD FIELD OFFICE  
CONTACT INFORMATION**

**Appendix A To SuperNOFA—HUD Field Office Contact Information**

While all Field Offices have staff who can answer your general questions about the SuperNOFA, not all offices have specialists who can provide detailed technical guidance. Applicants should look to the SuperNOFAs for contact numbers for information on specific programs. Office Hour listings are local time. Persons with hearing or speech impediments may access any of these numbers via TTY by calling the Federal Relay Service at 1-800-877-8339.

**New England**

Connecticut State Office, One Corporate Center, 19th Floor, Hartford, CT 06103-3220, 860-240-4800, Office Hours: 8:00-4:30 PM

Maine State Office, 202 Harlow Street, Chase Bldg, Suite 101, P.O. Box 1384, Bangor, ME 04402-1384, 207-945-0467, Office Hours: 8:00 AM-4:30 PM

Massachusetts State Office, Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Room 375, Boston, MA 02222-1092, 617-565-5234, Office Hours: 8:30 AM-5:00 PM

New Hampshire State Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03101-2487, 603-666-7681, Office Hours: 8:00 AM-4:30 PM

Rhode Island State Office, Sixth Floor, 10 Weybosset Street, 6th floor, Providence, RI 02903-2808, 401-528-5230, Office Hours: 8:00 AM-4:30 PM

Vermont State Office, U.S. Federal Building, Room 237, 11 Elmwood Avenue, P.O. Box 879, Burlington, VT 05402-0879, 802-951-6290, Office Hours: 8:00 AM-4:30 PM

**New York/New England**

Albany Area Office, 52 Corporate Circle, Albany, NY 12203-5121, 518-464-4200, Office Hours: 8:00 AM-4:30 PM

Buffalo Area Office, Lafayette Court, 465 Main Street, Fifth Floor, Buffalo, NY 14203-1780, 716-551-5755, Office Hours: 8:00 AM-4:30 PM

Camden Area Office, Hudson Building, 800 Hudson Square, Second Floor, Camden, NJ 08102-1156, 609-757-5081, Office Hours: 8:00 AM-4:30 PM

New Jersey State Office, One Newark Center, 13th Floor, Newark, NJ 07102-5260, 973-622-7900, Office Hours: 8:00 AM-4:30 PM

New York State Office, 26 Federal Plaza, New York, NY 10278-0068, 212-264-6500, Office Hours: 8:30 AM-5:00 PM

**Mid Atlantic**

Delaware State Office, 824 Market Street, Suite 850, Wilmington, DE 19801-3016, 302-573-6300, Office Hours: 8:00 AM-4:30 PM

District of Columbia Office, 820 First Street, N.E., 3rd Floor, Washington, DC 20002-4205, 202-275-9200, Office Hours: 8:00 AM-4:30 PM

Maryland State Office, City Crescent Building, 10 South Howard Street, Fifth Floor, Baltimore, MD 21201-2505, 410-962-2520, Office Hours: 8:00 AM-4:30 PM

Pennsylvania State Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3380, 215-656-0600, Office Hours: 8:00 AM-4:30 PM

Pittsburgh Area Office, 339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222-2515, 412-644-6428, Office Hours: 8:00 AM-4:30 PM

Virginia State Office, The 3600 Centre, 3600 West Broad Street, Richmond, VA 23230-4920, 804-278-4539, Office Hours: 8:00 AM-4:30 PM

West Virginia State Office, 405 Capitol Street, Suite 708, Charleston, WV 25301-1795, 304-347-7000, Office Hours: 8:00 AM-4:30 PM

**Southeast/Caribbean**

Alabama State Office, Beacon Ridge Tower, 600 Beacon Parkway West, Suite 300, Birmingham, AL 35209-3144, 205-290-7617, Office Hours: 8:00 AM-4:30 PM

Caribbean Office, New San Juan Office Building, 159 Carlos E. Chardon Avenue, San Juan, PR 00918-1804, 787-766-5201, Office Hours: 8:00 AM-4:30 PM

Florida State Office, 909 Southeast First Avenue, Rm. 500, Miami, FL 33131, 305-536-4421, Office Hours: 8:30 AM-5 PM

Georgia State Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA 30303-3388, 404-331-5136, Office Hours: 8:00 AM-4:30 PM

Jacksonville Area Office, Southern Bell Tower, 301 West Bay Street, Suite 2200, Jacksonville, FL 32202-5121, 904-232-2627, Office Hours: 8:00 AM-4:30 PM

Kentucky State Office, 601 West Broadway, P.O. Box 1044, Louisville, KY 40201-1044, 502-582-5251, Office Hours: 8:00 AM-4:45 PM

Knoxville Area Office, John J. Duncan Federal Building, 710 Locust Street, 3rd Floor, Knoxville, TN 37902-2526, 423-545-4384, Office Hours: 7:30 AM-4:15 PM

Memphis Area Office, One Memphis Place, 200 Jefferson Avenue, Suite 1200, Memphis, TN 38103-2335, 901-544-3367, Office Hours: 8:00 AM-4:30 PM

Mississippi State Office, Doctor A. H. McCoy Federal Building, 100 West Capital Street, Room 910, Jackson, MS 39269-1096, 601-965-4738, Office Hours: 8:00 AM-4:45 PM

North Carolina State Office, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27401-3707, 910-547-4000, Office Hours: 8:00 AM-4:45 PM

Orlando Area Office, Langley Building, 3751 Maguire Blvd, Suite 270, Orlando, FL 32803-3032, 407-648-6441, Office Hours: 8:00 AM-4:30 PM

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, SC 29201-2480, 803-765-5592, Office Hours: 8:00 AM-4:45 PM

Tampa Area Office, Timberlake Federal Building Annex, 501 East Polk Street, Suite 700, Tampa, FL 33602-3945, 813-228-2501, Office Hours: 8:00 AM-4:30 PM

Tennessee State Office, 251 Cumberland Bend Drive, Suite 200, Nashville, TN 37228-1803, 615-736-5213, Office Hours: 8:00 AM-4:30 PM

**Midwest**

Cincinnati Area Office, 525 Vine Street, 7th Floor, Cincinnati, OH 45202-3188, 513-684-3451, Office Hours: 8:00 AM-4:45 PM

Cleveland Area Office, Renaissance Building, 1350 Euclid Avenue, Suite 500, Cleveland,

OH 44115-1815, 216-522-4065, Office Hours: 8:00 AM-4:40 PM

Flint Area Office, The Federal Building, 605 North Saginaw, Suite 200, Flint, MI 48502-2043, 810-766-5108, Office Hours: 8:00 AM-4:30 PM

Grand Rapids Area Office, Trade Center Building, 50 Louis Street, NW, 3rd Floor, Grand Rapids, MI 49503-2648, 616-456-2100, Office Hours: 8:00 AM-4:30 PM

Illinois State Office, Ralph H. Metcalfe Federal Building, 77 West Jackson Blvd, Chicago, IL 60604-3507, 312-353-5680, Office Hours: 8:15 AM-4:45 PM

Springfield Area Office, 320 W. Washington Street, Springfield, IL 62701, 217-492-4120, Office Hours: 8:15 AM-4:45 PM

Indiana State Office, 151 North Delaware Street, Indianapolis, IN 46204-2526, 317-226-6303, Office Hours: 8:00 AM-4:45 PM

Michigan State Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226-2592, 313-226-7900, Office Hours: 8:00 AM-4:30 PM

Minnesota State Office, 220 Second St., South, Minneapolis, MN 55401-2195, 612-370-3000, Office Hours: 8:00 AM-4:30 PM

Ohio State Office, 200 North High Street, Columbus, OH 43215-2499, 614-469-5737, Office Hours: 8:00 AM-4:45 PM

Wisconsin State Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, WI 53203-2289, 414-297-3214, Office Hours: 8:00 AM-4:30 PM

**Southwest**

Arkansas State Office, TCBY Tower, 425 West Capitol Avenue, Suite 900, Little Rock, AR 72201-3488, 501-324-5931, Office Hours: 8:00 AM-4:30 PM

Dallas Area Office, Maceo Smith Federal Building, 525 Griffin Street, Room 860, Dallas, TX 75202-5007, 214-767-8359, Office Hours: 8:00 AM-4:30 PM

Houston Area Office, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, TX 77098-4096, 713-313-2274, Office Hours: 7:45 AM-4:30 PM

Louisiana State Office, Hale Boggs Federal Building, 501 Magazine Street, 9th Floor, New Orleans, LA 70130-3099, 504-589-7201, Office Hours: 8:00 AM-4:30 PM

Lubbock Area Office, George H. Mahon Federal Building and United States Courthouse, 1205 Texas Avenue, Lubbock, TX 79401-4093, 806-472-7265, Office Hours: 8:00 AM-4:45 PM

New Mexico State Office, 625 Silver Avenue S.W., Suite 100, Albuquerque, NM 87102, 505-346-6463, Office Hours: 8:00 A.M.-5:00 PM

Oklahoma State Office, 500 West Main Street, Suite 400, Oklahoma City, OK 73102, 405-553-7401, Office Hours: 8:00 AM-4:30 PM

San Antonio Area Office, Washington Square, 800 Dolorosa Street, San Antonio, TX 78207-4563, 210-472-6800, Office Hours: 8:00 AM-4:30 PM

Shreveport Area Office, 401 Edwards Street, Suite 1510, Shreveport, LA 71101-3289, 318-676-3385, Office Hours: 7:45 AM-4:30 PM

Texas State Office, 1600 Throckmorton Street, P.O. Box 2905, Fort Worth, TX 76113-2905, 817-978-9000, Office Hours: 8:00 AM-4:30 PM

Tulsa Area Office, 50 East 15th Street, Tulsa, OK 74119-4030, 918-581-7434, Office Hours: 8:00 AM-4:30 PM

#### Great Plains

Iowa State Office, Federal Building, 210 Walnut Street, Room 239, Des Moines, IA 50309-2155, 515-284-4512, Office Hours: 8:00 AM-4:30 PM

Kansas/Missouri State Office, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101-2406, 913-551-5462, Office Hours: 8:00 AM-4:30 PM

Nebraska State Office, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154-3955, 402-492-3100, Office Hours: 8:00 AM-4:30 PM

St. Louis Area Office, Robert A. Young Federal Building, 1222 Spruce Street, 3rd Floor, St. Louis, MO 63103-2836, 314-539-6583, Office Hours: 8:00 AM-4:30 PM

#### Rocky Mountains

Colorado State Office, 633-17th Street, 14th Floor, Denver, CO 80202-3607, 303-672-5440, Office Hours: 8:00 AM-4:30 PM

Montana State Office, Federal Office Building, 301 South Park, Room 340, Drawer 10095, Helena, MT 59626-0095, 406-441-1298, Office Hours: 8:00 AM-4:30 PM

North Dakota State Office, Federal Building, P.O. Box 2483, 657 Second Avenue North, Rm 366, Fargo, ND 58108-2483, 701-239-5136, Office Hours: 8:00 AM-4:30 PM

South Dakota State Office, 2400 West 49th Street, Suite I-201, Sioux Falls, SD 57105-6558, 605-330-4223, Office Hours: 8:00 AM-4:30 PM

Utah State Office, 257 Tower Building, 257 East-200 South, Suite 550, Salt Lake City, UT 84111-2048, 801-524-3323, Office Hours: 8:00 AM-4:30 PM

Wyoming State Office, Federal Office Building, 100 East B Street, Room 4229, Casper, WY 82601-1918, 307-261-6250, Office Hours: 8:00 AM-4:30 PM

#### Pacific/Hawaii

Arizona State Office, Two Arizona Center, 400 North 5th Street, Suite 1600, Phoenix, AZ 85004, 602-379-4434, Office Hours: 8:00 AM-4:30 PM

California State Office, Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102-3448, 415-436-6550, Office Hours: 8:15 AM-4:45 PM

Fresno Area Office, 2135 Fresno Street, Suite 100, Fresno, CA 93721-1718, 209-487-5033, Office Hours: 8:00 AM-4:30 PM

Hawaii State Office, Seven Waterfront Plaza, 500 Ala Moana Boulevard, Suite 500, Honolulu, HI 96813-4918, 808-522-8175, Office Hours: 8:00 AM-4:00 PM

Los Angeles Area Office, 611 West 6th Street, Suite 800, Los Angeles, CA 90017-3127, 213-894-8000, Office Hours: 8:00 AM-4:30 PM

Nevada State Office, 333 North Rancho Drive, Suite 700, Las Vegas, NV 89106-3714, 702-388-6525, Office Hours: 8:00 AM-4:30 PM

Reno Area Office, 3702 South Virginia Ave, Suite G-2, Reno, NV 89502, 702-784-5356, Office Hours: 8:00 AM-4:30 PM

Sacramento Area Office, 925 L Street, Sacramento, CA 95814-1997, 916-498-5220, Office Hours: 8:00 AM-4:30 PM

San Diego Area Office, Mission City Corporate Center, 2365 Northside Drive, Suite 300, San Diego, CA 92108-2712, 619-557-5310, Office Hours: 8:00 AM-4:30 PM

Santa Ana Area Office, 1600 Broadway, Suite 100, Santa Ana, CA 92706-3927, 1-888-827-5605, 714-796-1200, Office Hours: 8:00 AM-4:30 PM

Tucson Area Office, Security Pacific Bank Plaza, 33 North Stone Avenue, Suite 700, Tucson, AZ 85701-1467, 520-670-6237, Office Hours: 8:00 AM-4:30 PM

#### Northwest/Alaska

Alaska State Office, University Plaza Building, 949 East 36th Avenue, Suite 401, Anchorage, AK 99508-4399, 907-271-4170, Office Hours: 8:00 AM-4:30 PM

Idaho State Office, Plaza IV, 800 Park Boulevard, Suite 220, Boise, ID 83712-7743, 208-334-1990, Office Hours: 8:00 AM-4:30 PM

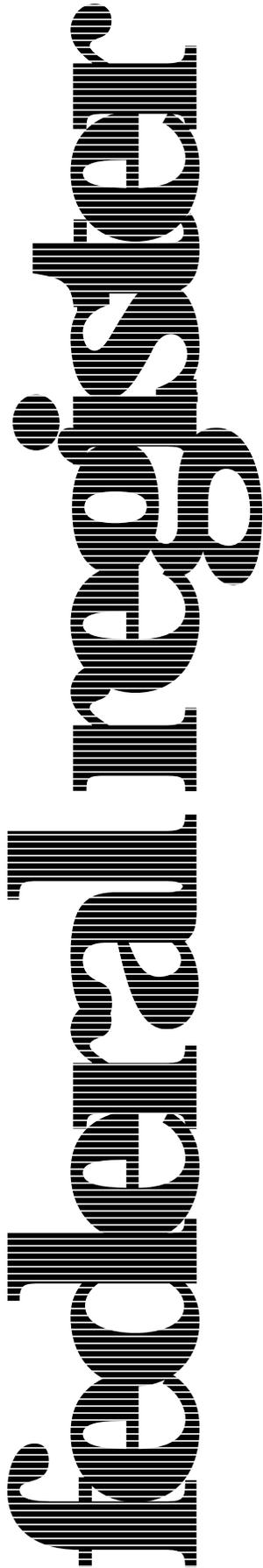
Oregon State Office, 400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204-1632, 503-326-2561, Office Hours: 8:00 AM-4:30 PM

Spokane Area Office, US Courthouse Bldg., 920 W. Riverside, Suite 588, Spokane, WA 99201-1010, 509-353-0674, Office Hours: 8:00 AM-4:30 PM

Washington State Office, Seattle Federal Office Building, 909 1st Avenue, Suite 200, Seattle, WA 98104-1000, 206-220-5101, Office Hours: 8:00 AM-4:30 PM

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Friday  
February 26, 1999

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**Part V**

**Nuclear Regulatory  
Commission**

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10 CFR Part 51

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**Changes to Requirements for  
Environmental Review for Renewal of  
Nuclear Power Plant Operating Licenses;  
Availability of Supplemental  
Environmental Impact Statement;  
Proposed Rule and Notice**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 51

RIN 3150-AG05

### Changes to Requirements for Environmental Review for Renewal of Nuclear Power Plant Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations on the environmental information required in applications to renew the operating licenses of nuclear power plants. This amendment would expand the generic findings that are currently codified in the regulations to include the cumulative environmental impacts of transporting spent fuel to the proposed repository at Yucca Mountain, Nevada and account for the environmental impacts of transportation attributable to use of higher enriched fuel and higher burnup during the renewal term. This action would reduce the regulatory burden on applicants for license renewal by replacing with a generic review the requirements that these topics be addressed in individual plant renewal reviews. Also, this amendment would add the requirement to address local traffic impacts attributable to continued operation of the plant during the license renewal term. This requirement was inadvertently omitted from the current rule.

**DATES:** Submit comments by April 27, 1999. Comments received after this date will be considered if it is practical to consider them, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O16-C1.

Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm on Federal workdays.

Copies of comments received may be examined at: NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

You may also submit comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). From the home page, select "Rulemaking" from the tool

bar. The interactive rulemaking website can then be accessed by selecting "New Rulemaking Website." This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, telephone: 301-415-5905; e-mail: CAG@nrc.gov.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Cleary, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3903; e-mail: DPC@nrc.gov.

#### SUPPLEMENTARY INFORMATION:

#### Background

On June 5, 1996 (61 FR 28467), the Commission published in the **Federal Register** a final rule amending its environmental protection regulations in 10 CFR Part 51 to improve the efficiency of the process of environmental review for applicants seeking to renew a nuclear power plant operating license for up to an additional 20 years. The rulemaking was based on the analyses reported in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996). The rulemaking was initiated with the objective of improving the efficiency of the license renewal process drawing on the considerable experience of operating nuclear power reactors to generically assess many of the environmental impacts, to report the analyses and findings in NUREG-1437, and to codify the findings in the Commission's environmental protection regulations so that repetitive reviews of those impacts that are well understood could be avoided. In the statement accompanying the final rule, the Commission stated that before the final rule became effective the Commission was seeking comments on the treatment of low-level waste storage and disposal impacts, the cumulative radiological effects from the uranium fuel cycle, and the effects from the disposal of high-level waste and spent fuel. A number of commenters argued that the requirements for the review of transportation of high-level waste in the rule were unclear with respect to (1) the use and legal status of 10 CFR 51.52, "Environmental effects of transportation of fuel and waste—Table S-4," in plant-specific license renewal reviews; (2) the conditions that must be met before an applicant may adopt Table S-4; and (3) the extent to which the generic effects of transporting spent fuel to a high-level waste repository should be considered

in a plant-specific license renewal review.

After considering the comments received on the rule, the Commission republished the rule in the **Federal Register** on December 18, 1996 (61 FR 66537). The rule at 10 CFR 51.53(c)(ii)(M) continued to require, "The environmental effects of transportation of fuel and waste shall be reviewed in accordance with 10 CFR 51.52." However, in accordance with comments received, added to that paragraph was the requirement that:

The review of impacts shall also discuss the generic and cumulative impacts associated with transportation operation in the vicinity of a high-level waste repository site. The candidate site at Yucca Mountain should be used for the purpose of impact analysis as long as that site is under consideration for licensing.

Also in response to the comments, the Commission stated that:

As part of its effort to develop regulatory guidance for this rule, the Commission will consider whether further changes to the rule are desirable to generically address: (1) The issue of cumulative transportation impacts and (2) the implications that the use of higher burn-up fuel have for the conclusions in Table S-4. After consideration of these issues, the Commission will determine whether the issue of transportation impacts should be changed to Category 1.<sup>1</sup>

In SECY-97-279, dated December 3, 1997, the NRC staff informed the Commission that it was the NRC staff's preliminary view that the NRC staff's supplemental analyses of the generic and cumulative impacts of the transportation of HLW and of the implications of higher fuel burnup for transportation impacts support a reasonable technical and legal determination that transportation of HLW is a Category 1 issue and may be generically adopted in a license renewal application. The supplemental analyses are reported in NUREG-1437, Vol. 1, Addendum 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Draft for Comment" (February 1999). In a Staff Requirements

<sup>1</sup> In NUREG-1437 and in the rule, Category 1 issues are those environmental issues for which the analysis and findings have been determined to be applicable to all nuclear power plants or to plants with specific types of cooling systems or other common plant or site characteristics. Absent new information that significantly changes the finding, these generic findings may be adopted in plant license renewal reviews. Category 2 issues are those environmental issues for which the analysis did not result in a finding common to all plants or to plants with common characteristics. Plant-specific reviews are required for Category 2 issues.

Memorandum (SRM) dated January 13, 1998, the Commission directed the NRC staff to proceed with rulemaking to amend 10 CFR 51.53(c)(3)(ii)(M) to categorize the impacts of transportation of high-level waste (HLW) as a Category 1 issue. In a memorandum dated July 1, 1998, the NRC staff informed the Commission of its plans for amending 10 CFR Part 51.

In that memorandum the NRC staff also proposed, as an administrative amendment, to add to the rule the requirement to include in license renewal reviews the environmental impacts of transportation on local services in the vicinity of the plant during the renewal term. This issue was identified as a Category 2 issue in NUREG-1437, Section 4.7.3.2 and the overall issue of transportation was designated as Category 2 in the rule (see 10 CFR Part 51, Appendix B, Table B-1, "Public Services, Transportation"). However, the specific issue of impacts on local services during the renewal term was inadvertently omitted from 10 CFR 51.53(c)(3)(ii)(J) and its inclusion in Table B-1 is not explicitly stated. This rule would correct that omission.

#### Proposed Action

Addendum 1 alters Section 6.3 and Table 9.1 of NUREG-1437 by supplementing the analysis, amending the findings, and changing the designation from Category 2 to Category 1 for the issue of transportation. These changes to NUREG-1437 would be codified in 10 CFR Part 51 by this rulemaking. Specifically, the requirement for an applicant to "discuss the generic and cumulative impacts associated with transportation operation in the vicinity of a high-level waste repository site" would be removed and the following language would be added:

The environmental impacts presented in Summary Table S-4 of § 51.52 may be adopted in individual nuclear power plant license renewal reviews. In addition, the cumulative impacts of shipments to a single repository must be addressed. To do so, the conclusions regarding the cumulative impacts of transporting high-level waste to a single repository in Appendix B to subpart A of this part may be adopted as long as the candidate site at Yucca Mountain is under consideration for licensing. The contribution to impacts of transportation of higher enrichment and higher burnup fuel need be assessed only when the fuel to be used during the license renewal term is enriched to greater than 5 percent uranium-235 or average burnup for the peak rod will be greater than currently approved by the NRC up to 62,000 MWd/MTU. If the applicant anticipates exceeding these values for enrichment or burnup during the renewal term and has received or applied for a license amendment for the values anticipated and an

environmental assessment has been prepared by the NRC, which considers transportation of that fuel to and from the reactor, then that environmental assessment may be cited in the renewal application and no further information is required.

An amendment to the rule is also proposed to correct the inadvertent omission of a requirement to consider possible increases in traffic in the vicinity of the plant during the license renewal term. This is a Category 2 issue as found in NUREG-1437.

#### Discussion

##### Introduction

The current regulations require applicants for license renewal to review the environmental effects of transportation of fuel and waste in accordance with 10 CFR 51.52, and to discuss the generic and cumulative impacts associated with transportation operation in the vicinity of the candidate high-level waste (HLW) repository site at Yucca Mountain (see 10 CFR 51.53(c)(3)(ii)(M)). However, the NRC staff has now assessed these generic and cumulative impacts. Because only Yucca Mountain has been identified as a potential HLW repository site, this analysis would be applicable to all license renewal applicants. The Commission proposes to codify this analysis. In addition, the NRC staff has generically considered the potential impacts of transporting higher enriched and higher burnup fuel than is currently covered in 10 CFR 51.52 and would codify these findings. Therefore, the Commission proposes to amend the rule to change the issue of transportation of fuel and waste from Category 2 to Category 1 thereby allowing the adoption of the environmental impacts shown in Summary Table S-4 of § 51.52 without further analysis. If a candidate repository site other than Yucca Mountain is considered for licensing than the generic and cumulative impacts associated with transportation operation in the vicinity of that site would have to be assessed.

##### Cumulative Impacts in the Vicinity of Yucca Mountain

The analysis of potential cumulative health risks from radiation exposure and highway accidents associated with spent nuclear fuel transport within Clark County, Nevada is presented in NUREG-1437, Vol. 1, Addendum 1.<sup>2</sup> For the purposes of this rulemaking to assess the potential impacts of the transportation of spent fuel to a single repository at Yucca Mountain, it is

<sup>2</sup> Las Vegas and vicinity, Clark County, Nevada is taken to be "the vicinity of Yucca Mountain."

assumed that all spent fuel generated by all commercial power reactors during both their initial 40-year operating license and a renewed operating term of 20 years will be disposed of at Yucca Mountain, a total of up to 126,000 metric ton heavy metal (MTHM).<sup>3</sup> Although a portion of the shipments of spent fuel are expected to be by rail, it is assumed that all shipments will be by truck. Truck transport will result in higher population doses than rail transport because of the greater number of shipments required and the proximity of highways to larger populations.

The analysis was designed to be conservative, that is, intentionally structured to overestimate the likely impacts. This approach is used in situations where the impacts are expected to be of little significance to avoid unproductive analytical effort and because it shows that the conclusions are robust.

In Addendum 1, analyses of potential radiation doses were performed using the HIGHWAY routing computer code and the RADTRAN 4 risk assessment computer code. The HIGHWAY code was used to generate population density estimates within 0.8 km [0.5 mile] of the highway routes that would be used for spent fuel transport within Clark County, Nevada. The code uses current and projected demographic data and data on existing and planned highways. Two highway scenarios were analyzed: the current freeway system and the proposed beltway around the city of Las Vegas. Because the beltway is expected to be complete before the year 2005 and because regulations require that spent fuel shipments avoid high population concentrations where possible, analysis of transportation on the route through downtown on the current interstate system yields higher exposure estimates than would actually occur. The RADTRAN 4 code was used to estimate potential radiation doses related to the SNF transport crew and the public from incident-free transport, and to the public from a potential transport accident with radiological releases. The calculations account for the estimated radiation levels per shipment, number of shipments, package dimensions, route distance within Clark County, vehicle speed, population densities along the routes and, for various accident scenarios, the radiological inventory, dispersibility, accident severity, probability of occurrence, and

<sup>3</sup> Currently, the U.S. Department of Energy is authorized by the Nuclear Waste Policy Act to dispose of up to 70,000 MTHM. Ninety percent (63,000 MTHM) of this material is expected to be spent nuclear fuel from commercial power reactors.

estimated radiological risk assessment for each scenario.

In Addendum 1, it is shown that estimated cumulative person-Sievert (Sv) [person-rem], of exposure and resulting estimated cumulative lifetime risk of fatal cancer (LRF) that may result from the transportation of all commercially generated spent fuel through the Las Vegas area are extremely small. Assuming that the spent fuel generated during the current operating license term and a 20-year renewed term from all currently operating reactors is shipped on highways through Las Vegas, the cumulative radiation exposure is estimated to be 3.309 person-Sv [331 person-rem] for the truck crews, 1.27 person-Sv [127 person-rem] for the public, and 2.46 person-Sv [246 person-rem] for the public from transport accidents. These cumulative doses would be expected to result in cumulative LRF of 0.13 for crews, 0.06 for the public, and 0.12 for the public from transport accidents. Far less than 1 fatal cancer within the population of Clark County, Nevada is estimated to be caused from transporting the spent fuel that could be generated over 60 years by all currently operating nuclear power plants.

For perspective, the natural incidence of lifetime fatal cancer in the U.S. is 0.20 [20 percent]. Assuming a Las Vegas population of about 300,000 and an average life expectancy of 70 years, this lifetime incidence of fatal cancer would correspond to about 900 LRF/year. In the Las Vegas area, the average radiation exposures resulting from cosmic and naturally occurring terrestrial gamma radiation are 0.75 to 0.77 mSv/year [75 to 77 mrem/year].<sup>5</sup> Assuming a Las Vegas population of about 300,000, this natural radiation leads to a risk estimate of about 11 LRF/year. The average annual excess risk to the Las Vegas area population from SNF transport is about 0.0031 LRF/year which is a risk estimate of 3,000 times less than the estimate for background radiation and 300,000 times less than the normal incidence of fatal cancer.

The dose estimates currently displayed in the Table S-4 account for

the total population exposed by the transport of both high-level and low-level waste for one reactor-year of operation. These estimates represent total population exposure from both high-level and low-level waste over the transportation routes from individual nuclear power plants to multiple destinations. The NRC staff has reviewed the documents reporting on the data and methods used to develop Table S-4 and finds that the environmental values contained therein continue to be valid. These documents are WASH-1238, "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants" (December 1972 and NUREG-75/038, Supplement 1 to WASH-1238, "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants Supplement 1" (April 1975).

An estimate of total cumulative dose can be developed from Table S-4 for comparison with the cumulative dose estimate in Addendum 1. It should be noted that the cumulative doses are comprised of annual doses to individuals that are well below the regulatory limits set by the NRC and the Department of Transportation. Multiplying the "per reactor-year" values in Table S-4 X 100 reactors X 60 years of operation gives a total cumulative dose of 240 person-Sv [24,000 person-rem] to transportation workers and 180 person-Sv [18,000 person-rem] to the general public. The total cumulative dose during incident-free transport that transport crews would receive while within Clark County is then about 1 percent of the total cumulative dose received by all exposed transportation workers estimated from Table S-4. In addition, the total cumulative dose during incident-free transport that the general public within Clark County would receive is also less than 1 percent of the total cumulative dose received by the exposed population nationwide estimated from Table S-4. The NRC estimates that the cumulative dose of 2.46 person-Sv [246 person-rem] to the public from accidents for the Las Vegas area translates into 0.12 LRF, which is a small fraction (1/100,000) of the annual risk from natural background radiation to the general population.

Addendum 1 also addresses nonradiological risk of vehicle accidents. On the bases of national truck accident statistics, about 0.035 traffic fatality can be expected on Las Vegas area highways from transport of all spent fuel generated from current operation and operation during renewed license. This adds little to the total of 60

traffic fatalities that can be derived from the data in Table S-4: 1 fatal injury in 100 reactor years X 60 years of operation per reactor.

#### *Implications of Higher Burnup Fuel*

The environmental consequences of incremental increases in the burnup of fuel and the associated use of higher enrichment fuel are discussed in Section 6.2.3 of NUREG-1437. Section 6.2.3 addresses the sensitivity of the data presented in Table S-3 and Table S-4 to the growing use of higher enriched fuel and higher fuel burnup. Table S-3 summarizes natural resource use and effluents to the environment for the uranium fuel cycle, from mining to ultimate disposal of spent fuel. The discussion of the implications for the environmental impact data reported in Table S-4 was not repeated or referenced, as it should have been, in Section 6.3, which addresses the incremental impacts of license renewal on the transportation of fuel and radioactive materials to and from nuclear power plants. Addendum 1 and this proposed rule clarify the public record regarding the NRC findings on the sensitivity of values in Table S-4 to the use of higher enrichment fuel and extended fuel burnup.

NUREG-1437 and Addendum 1 draw heavily on existing studies of the environmental impacts of the use of higher enriched fuel and higher fuel burnup. The analysis in Section 6.2.3 of NUREG-1437 relies heavily on NUREG/CR-5009, "Assessment of the Use of Extended Burnup Fuel in Light Water Power Reactors" (February 1988). Addendum 1 considers other available studies that may supplement the information in NUREG-1437. These other studies include NUREG/CR-2325, "The Transportation of Radioactive Material (RAM) to and from U.S. Nuclear Power Plants, Draft Environmental Assessment" (December 1983); an Atomic Industrial Forum study, AIF/NE SP-032, "The Environmental Consequences of Higher Fuel Burnup" (June 1985); "Extended Burnup Fuel Used in Commercial LWRs; Environmental Assessment and Finding of No Significant Impact" (53 FR 6040), February 29, 1988; and "NRC Assessment of the Environmental Effects of Transportation Resulting From Extended Fuel Enrichment and Irradiation" (53 FR 30355), August 11, 1988.

These studies have assessed the environmental impacts associated with fuel enrichment up to 5 percent uranium-235 and fuel burnup to 60,000 MWd/MTU. The findings have been robust. During the 1990s, the NRC has

<sup>5</sup> This outdoor dose rate estimate was provided by Harold L. Beck (Harold L. Beck, Director, Environmental Sciences Division, Environmental Measurements Laboratory, U.S. Department of Energy, New York, personal communication via electronic mail to Alan K. Roedlein, NRC, Rockville, Md., Nov. 4, 1998) and based on extensive background radiation measurements summarized, in part, in NCPP Report No. 94, Exposure of the Population in the United States and Canada from Natural Background Radiation, National Council on Radiation Protection and Measurements, Bethesda, Md. Dec. 30, 1987.

reviewed and approved vendor topical reports requesting approval for higher burnup rates. (Letter from M. J. Virgilio, NRC, to N. J. Liparulo, Westinghouse Electric Corporation, "Acceptance for Referencing of Topical Report WCAP-12488, 'Westinghouse Fuel Criteria Evaluation Process'," dated July 27, 1994; FCF-BAW 10186P-A, "Extended Burnup Evaluation," June 12, 1997; and Memorandum from T. E. Collins to B. W. Sheron, "Waiver of CRGR Review of EMF-85-74(P), Revision O. Supplements 1 and 2 Safety Evaluation," dated February 9, 1998). Approved average burnup for the peak rod now range from 50,000 MWd/MTHM to 62,000 MWd/MTHM. The higher burnup rates are associated with uranium-235 enrichment levels of up to 5 percent by weight. An increase in burnup from 60,000 Mwd/MTHM to 62,000 Mwd/MTHM will not significantly change dose levels associated with spent fuel transportation and may slightly reduce the number of shipments. These studies support the finding that the impacts attributable to higher burnup and enrichment of fuel are no greater than and likely less than the impacts currently in 10 CFR 51.52(c), "Summary Table S-4—Environmental Impact of Transportation of Fuel and Waste to and From One Light-Water-Cooled Nuclear Power Reactor." The analysis in Section 6.2.3 of NUREG-1437 as supplemented by Addendum 1 is consistent with the staff assessment of the environmental effects of transportation resulting from extended fuel enrichment and irradiation presented in 53 FR 30355. This conclusion is applicable to any nuclear power plant license renewal application.

#### **Finding of No Significant Environmental Impact: Availability**

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation. This action is procedural in nature and pertains only to the type of environmental information to be reviewed.

#### **Paperwork Reduction Act Statement**

This proposed rule decreases the overall burden on licensees by eliminating the requirement that the license renewal applicants address the generic and cumulative environmental impacts associated with transportation operation in the vicinity of a high-level waste (HLW) repository site (-400 hours, -2 responses), and adds a new

requirement to address local traffic impacts attributable to continued operation of the plant during the license renewal term (+20 hours, +2 responses). The public burden for these information collections is estimated to average a reduction of 200 hours for each of 2 responses for the elimination of the above mentioned requirement, and an increase of 10 hours for each of 2 responses for the new requirement, for a net burden reduction of 380 hours. Because the burden for this information collection is insignificant, Office of Management and Budget clearance is not required. Existing requirements were approved by the Office of Management and Budget, approval number 3150-0021.

#### **Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### **Regulatory Analysis**

The regulatory analysis prepared for the final rule published on June 5, 1996 (61 FR 28467) and amended on December 18, 1996 (61 FR 66537) to make minor clarifying and conforming changes and add language unintentionally omitted from the June 5, 1996 rule, is unchanged except for an increase in benefits derived from a reduction in the applicant burden of 190 hours of effort in preparing an application for renewal of a nuclear power plant operating license.

This change increases the substantial cost saving of the final rule estimated in NUREG-1440. NUREG-1440 is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. In addition, copies of NRC final documents cited here may be purchased from the Superintendent of Documents, U.S. Government Printing Office, PO Box 37082, Washington, DC 20013-7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal, Springfield, VA 22161.

#### **Regulatory Flexibility Act Certification**

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule would reduce the amount of information to be submitted by nuclear power plant licensees to facilitate NRC's obligations under the National Environmental Policy Act. Nuclear power plant

licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632) or the Commission's Size Standards, April 11, 1995 (60 FR 18344).

#### **Backfit Analysis**

The NRC has determined that these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

#### **List of Subjects in 10 CFR Part 51**

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble to this notice and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the National Environmental Policy Act of 1969, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 51.

#### **PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS**

1. The authority citation for Part 51 continues to read as follows:

**Authority:** Sec. 161, 68 Stat. 948, as amended, Sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853-854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95-604, Title II, 92 Stat. 3033-3041; and sec. 193, Pub. L. 101-575, 104 Stat. 2835, (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100-203, 101 Stat. 1330-223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036-3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

2. Section 51.53, paragraphs (c)(3)(ii)(J) and (M) are revised to read as follows:

**§ 51.53 Post-construction environmental reports.**

\* \* \* \* \*  
 (c) \* \* \*  
 (3) \* \* \*  
 (ii) \* \* \*  
 \* \* \* \* \*

(J) All applicants shall assess the impact of the proposed project on local transportation during periods of license renewal refurbishment activities and during the term of the renewed license.

(M) The environmental impacts presented in Summary Table S-4 of § 51.52 may be adopted in individual nuclear power plant license renewal reviews. In addition, the cumulative impacts of shipments to a single

repository must be addressed. To do so, the conclusions regarding the cumulative impacts of transporting high-level waste to a single repository in Appendix B in subpart A of this part may be adopted as long as the candidate site at Yucca Mountain is under consideration for licensing. The contribution to impacts of transportation of higher enrichment and higher burnup fuel need be assessed only when the fuel to be used during the license renewal term is enriched to greater than 5 percent uranium-235 or average burnup for the peak rod will be greater than currently approved by the NRC up to 62,000 MWd/MTU. If the applicant anticipates exceeding these values for enrichment or burnup during

the renewal term and has received or applied for a license amendment for the values anticipated and an environmental assessment has been prepared by the NRC, which considers transportation of that fuel to and from the reactor, then that environmental assessment may be cited in the renewal application and no further information is required.

\* \* \* \* \*

3. The Transportation issue under the Uranium Fuel Cycle and Waste Management Section of Table B-1, Appendix B to Subpart A to 10 CFR Part 51 and Footnote 1 to the heading of Table B-1 are revised to read as follows:

**Table B-1.—Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants<sup>1</sup>**

\* \* \* \* \*

URANIUM FUEL CYCLE AND WASTE MANAGEMENT

Issue	Category	Findings
Transportation .....	1	SMALL. Cumulative impacts of transporting high-level waste to a single repository site at Yucca Mountain, Nevada and the impacts of transporting spent fuel enriched up to 5 percent uranium-235 with average burnup for the peak rod to current levels approved by NRC up to 62,000 MWd/MTU are found to not appreciably change the impact values contained in 10 CFR 51.52(c), Summary Table S-4—Environmental Impact of Transportation of Fuel and Waste to and from One Light-Water-Cooled Nuclear Power Reactor. See § 51.53(c)(3)(ii)(M).

<sup>1</sup> Data supporting this table are contained in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996) and NUREG-1437, Vol. 1, Addendum 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—Transportation," Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Draft for Comment" (February 1999).

Dated at Rockville, Maryland, this 22nd day of February 1999.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 99-4809 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Changes to Requirements for Environmental Review for Renewal of Nuclear

#### Power Plant Operating Licenses, Availability of Supplemental Environmental Impact Statement

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is announcing the completion and availability of NUREG-1437, Vol. 1, Addendum 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3 'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Draft for Comment" (February 1999).

**DATES:** Submit comments by April 27, 1997. Comments received after this date will be considered if it is practical to consider them, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Copies of NUREG-1437, Vol. 1, Addendum 1 are available for the Reproduction and Distribution Services Section, OCIO, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O16C1.

Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be examined at: NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

You may also submit comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). From the home page, select "Rulemaking" from the tool bar. The interactive rulemaking website can then be accessed by selecting "New Rulemaking Website." This site provides the ability to upload comments

as files (any format), if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, telephone: 301-415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Donald P. Cleary, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3903; e-mail: [dpc@nrc.gov](mailto:dpc@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 5, 1996 (61 FR 28467), the Commission published in the **Federal Register** a final rule amending its environmental protection regulations, 10 CFR Part 51, to improve the efficiency of the process of environmental review for applicants seeking to renew a nuclear power plant operating license for up to an additional 20 years. The amendment is based on the analyses reported in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996). The rulemaking was initiated with the objective of improving the efficiency of the license renewal process drawing on the considerable experience of operating nuclear power reactors to generically assess many of the environmental impacts, to report the analyses and findings in NUREG-1437, and to codify the findings in the Commission's environmental protection regulations so that repetitive reviews of those impacts that are well understood could be avoided. In 61 FR 28467, the Commission stated that before the final rule became effective, the Commission was seeking comments on (1) the treatment of low-level waste storage and disposal impacts, (2) the cumulative radiological effects from the uranium fuel cycle, and (3) the effects from the disposal of high-level waste and spent fuel.

After considering the comments received on the rule, the Commission published the rule with minor nonsubstantive changes in the **Federal Register** on December 18, 1996 (61 FR 66537). In response to comments, the Commission stated that:

As part of its effort to develop regulatory guidance for this rule, the Commission will consider whether further changes to the rule are desirable to generically address: (1) The issue of cumulative transportation impacts and (2) the implications that the use of higher burn-up fuel have for the conclusions in Table S-4. After consideration of these issues, the Commission will determine whether the issue of transportation impacts should be changed to Category 1.

In NUREG-1437 and in the rule, Category 1 issues are those environmental issues for which the analysis and findings have been determined to be applicable to all nuclear power plants or to plants with specific types of cooling systems or other common plant or site characteristics. Absent new information that significantly changes the finding, these generic findings may be adopted in plant license renewal reviews. Category 2 issues are those environmental issues for which the analysis did not result in a finding common to all plants or to plants with common characteristics. Plant-specific reviews are required for Category 2 issues.

The NRC staff has completed analyses of these topics as reported in NUREG-1437, Vol. 1, Addendum 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Main Report Section 6.3—'Transportation,' Table 9.1 'Summary of findings on NEPA issues for license renewal of nuclear power plants,' Draft for Comment" (February 1999). Addendum 1 provides the bases for designating transportation of high-level waste a Category 1 issue. Addendum 1 would supplement the analysis and amend the findings and the Category 2 category designation for the issue of Transportation in Section 6.3 and Table 9.1 of NUREG-1437. These amendments to NUREG-1437 contain data supporting Table B-1 of Appendix B to Subpart A in 10 CFR Part 51.

Dated at Rockville, Maryland, this 22nd day of February 1999.

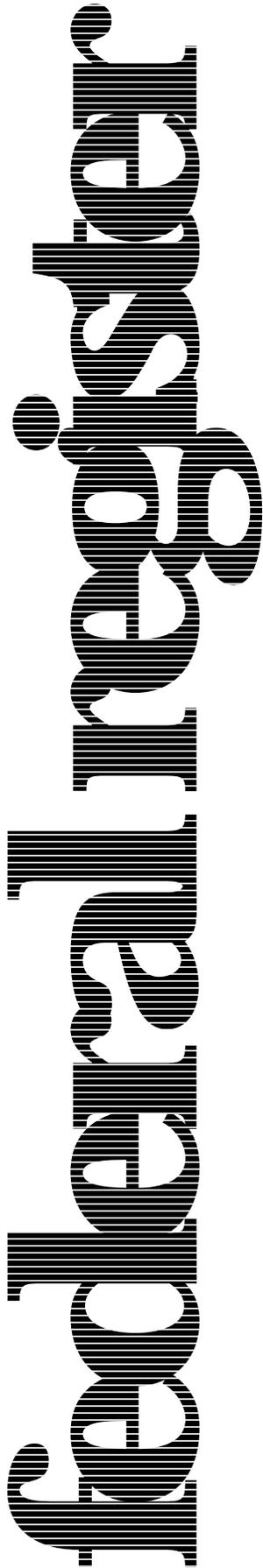
For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 99-4810 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P



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Friday  
February 26, 1999

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**Part VI**

**Department of  
Commerce**

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**International Trade Administration**

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**Proposed Agreement Concerning Trade in  
Certain Steel Products From the Russian  
Federation; Notice**

**DEPARTMENT OF COMMERCE****International Trade Administration****Proposed Agreement Concerning Trade in Certain Steel Products From the Russian Federation**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of proposed agreement.

**SUMMARY:** The United States has initialed a proposed Agreement regarding imports of certain steel products from the Russian Federation to the United States. A Notice of Public Hearing regarding the possible imposition of import restrictions consistent with this proposed Agreement was published on February 23, 1999 (64 FR 9049).

**FOR FURTHER INFORMATION CONTACT:** Edward Yang, Director Office IX, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, Department of Commerce, at (202) 482-0406.

**SUPPLEMENTARY INFORMATION:** On June 1, 1990, pursuant to Title IV of the Trade Act of 1974 (the Trade Act), the Governments of the United States of America and the Union of Soviet Socialist Republics entered into the Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics. On June 17, 1992, that agreement (the 1992 Agreement) became effective between the United States and the Russian Federation. Article XI of the 1992 Agreement provides that the Parties will consult with a view toward finding means of remedying or preventing actual or threatened market disruption, and it authorizes the Parties to take action, including the imposition of import restrictions, to achieve this goal.

In February 1999, the United States Department of Commerce and the Ministry of Trade of the Russian Federation entered into negotiations and consultations pursuant to Article XI of the Agreement on Trade Between the United States of America and the Russian Federation. The Parties mutually agree that the conditions of Article XI have been met with respect to U.S. imports of certain steel products from Russia.

In the initialed Agreement, Russia would establish export limits and the United States would establish import restrictions on Russian exports to the United States of the following 16 steel products:

1. Certain Cold-Rolled Carbon Steel Quality Products

2. Semifinished Steel Products
3. Galvanized Sheet Products
4. Other Metallic Coated Flat Rolled Products
5. Certain Tin Mill Products
6. Electrical Sheet Products
7. Heavy Structural Shapes
8. Rails
9. Hot-Rolled Bars
10. Cold Finished Bars
11. Pipe and Tube Products
12. Wire Rod Products
13. Tool Steel
14. Drawn Wire Products
15. Hot-Rolled Stainless and Alloy Sheet, Strip, and Plate
16. Pig Iron

Each category of steel would have a separate export limit. In addition to the issuance of export licenses by the Ministry of Trade of the Russian Federation, and consistent with the requests of the Russian officials, the United States would establish a border enforcement mechanism to ensure compliance with the export limits. The border mechanism will be in the form of denial of entry for any shipment of steel, covered by the categories listed above, which exceeds the limits or lacks the required documents.

On February 23, 1999, the Department published in the **Federal Register** (64 FR 9049) a Notice of Public Hearing pursuant to section 125(f) of the Trade Act of 1974 (19 U.S.C. 2135 (f)). The purpose of that hearing will be to provide interested parties with an opportunity to present their views on the United States' proposed imposition of import restrictions, consistent with its rights under the 1992 Agreement and with the mechanisms contemplated in the initialed Agreement.

The Department is hereby publishing as Annex I to this notice the Proposed Agreement Concerning Trade in Certain Steel Products From the Russian Federation. For convenience, the Department has also posted this initialed Agreement on its Import Administration website ([http://www.ita.doc.gov/import\\_\\_\\_admin/records](http://www.ita.doc.gov/import___admin/records)).

Dated: February 24, 1999.

**Holly A. Kuga,**

*Acting Assistant Secretary for Import Administration.*

**Agreement Concerning Trade in Certain Steel Products From the Russian Federation**

Initialed: February 22, 1999.

For the purpose of encouraging free and fair trade in Certain Steel Products (as defined in this Agreement) to establish more normal market relations, and to allow continued market access;

Considering the principles and provisions of the Agreement on Trade Relations

Between the United States of America and the Russian Federation ("Russia"), which was signed on June 1, 1990, (the "1990 Agreement");

Desiring to provide for the application of Article XI of the 1990 Agreement to exports from Russia to the United States of Certain Steel Products in a mutually agreed manner;

In pursuance of the Parties' rights and obligations contained in the 1992 Agreement;

The United States, by the U.S. Department of Commerce ("DOC"), and the Russian Federation, by the Ministry of Trade of the Russian Federation ("MOT") agree as follows:

**I. Definitions**

For purposes of this Agreement, the following definitions apply.

A. "Apparent U.S. Domestic Consumption" means apparent U.S. domestic consumption determined using statistics of the U.S. Census Bureau regarding imports and exports, and data from the American Iron & Steel Institute regarding domestic shipments, based on the methodology described in Appendix D of this Agreement.

B. "Certain Steel Products" means the following products, described in detail in Appendix A and not subject to antidumping suspension agreements.

Cold-Rolled Steel Products  
Semifinished Steel Products  
Galvanized Sheet Products  
Other Metallic Coated Flat-Rolled Products  
Certain Tin Mill Products  
Electrical Sheet Products  
Heavy Structural Shapes  
Rails  
Hot-Rolled Bars  
Cold-Finished Bars  
Pipe and Tube Products  
Wire Rod Products  
Tool Steel  
Hot-Rolled Steel Stainless and Alloy Products  
Drawn Wire Products  
Pig Iron

C. "Date of Export" of entries of Certain Steel Products to the United States shall be the date on which MOT issued the Export License.

D. "Date of Sale" means the date on which price and quantity become firm, e.g., the date the contract is signed or the specification date if the price and quantity become firm on that date, as reflected in Russian producers' records kept in the ordinary course of business.

E. "Effective Date" of this Agreement means Signature Date.

F. "Export License" is the document issued by MOT which serves as both an export limit certificate and a certificate of origin. Temporary documents issued by MOT during the first 120 days after the Effective Date in the form of mill certificates with official MOT stamps and signatures shall constitute Export Licenses for the purposes of this Agreement.

G. "Export Limit Period" means one of the following periods:

First Export Limit Period—The First Export Limit Period begins on February 22, 1999 and ends on December 31, 1999, and the Export Limit for the first period will be pro-rated

from the annual limits provided for each product category in II.B.1.

Subsequent Export Limit Periods—Each subsequent year, the first of which will begin on January 1, 2000 and end on December 31, 2000

H. "Indirect Exports" means exports of Certain Steel Products from Russia to the United States through one or more third countries, including Certain Steel Products that are subject to minor processing in such third countries.

I. "Minor processing" means processing that does not result in a substantial transformation or a change in the country of origin of the product that is processed. What constitutes minor processing may vary by product. An illustrative list follows:

Flat-Rolled Products: painting; slitting; beveling/edge finishing; pickling and oiling; annealing/heat treating; surface finishing; temper rolling/temper leveling.

Pipe and Tube Products: end finish; drawing; galvanizing.

Semifinished Products: milling; scarfing; grinding.

Rails: cutting; heat treating; controlled cooling.

Structural Products: cutting to length; end milling; drilling; punching.

Wire Rod: chemical cleaning; mechanical descaling.

Hot-Rolled Bars: pickling; oiling; phosphating.

Pipes: end finishing (i.e., threading and coupling); galvanizing; painting; cold working.

Tool Steel: since based on chemistry and covers products in a variety of forms (e.g., flat-rolled sheet, bars, rods, etc.), no processing other than making the product into a specific article classified outside of Chapter 72 of the HTS would result in non-inclusion.

Drawn Wire: coating (e.g., aluminum); cladding (e.g., copper); annealing.

Cold-Finished Bars: annealing; grinding.

J. "United States" means the customs territory of the United States of America (the 50 States, the District of Columbia, and Puerto Rico) and foreign trade zones located within the territory of the United States.

K. "U.S. purchaser" means the first purchaser in the United States that is not affiliated with the Russian exporter, and all subsequent purchasers, from trading companies to consumers.

## II. Market Disruption

A. Actual and prospective imports of Certain Steel Products from Russia are threatening to cause or significantly contribute to market disruption in the United States, so as to be a significant cause of threat of material injury to the United States domestic industry within the meaning of Article XI of the 1990 Agreement.

B. In order to remedy this threat of market disruption, MOT shall ensure that direct and indirect exports of Certain Steel Products from Russia to the United States do not exceed the following export limits.

1. The export limits for the first Export Limit Period are as follows:

Product	Quantity (in metric tons)
Cold-Rolled Steel Products ..	520,000
Semifinished Steel Products	385,000
Galvanized Sheet Products (of which, 60,000 hot- dipped 5,000 electrogalvanized) .....	65,000
Other Metallic Coated Flat- Rolled Products .....	1,552
Certain Tin Mill Products .....	5,000
Electrical Sheet Products .....	14,337
Heavy Structural Shapes .....	65,000
Rails .....	2,350
Hot-Rolled Bars (hot-rolled bars, reinforcing bars, light shapes) .....	20,000
Cold-Finished Bars .....	11,349
Pipe and Tube Products .....	3,000
Wire Rod Products .....	15,000
Tool Steel .....	800
Hot-Rolled Steel Stainless and Alloy Products .....	1,000
Drawn Wire Products .....	250
Pig Iron .....	575,000

These annual export limits shall be prorated for that proportion of 1999 remaining on the Date of initialing, February 22, 1999.

2. The export limit for each Subsequent Export Limit Period shall be determined by making the following adjustments:

(a) first, the export limit for the previous Export Limit Period, shall be increased by three per cent of that export limit;

(b) second, the number obtained under paragraph (a) shall be increased or decreased by the result of multiplying the export limit for the previous Export Limit Period by the percent change (up to three percent) in Apparent U.S. Domestic Consumption of Certain Steel Products during the most recent 12 months for which data is available at the time the Department of Commerce ("DOC") makes this calculation, compared to the previous 12 months (as described in Appendix D).

3. DOC shall determine export limits for each Subsequent Export Limit Period no later than 60 days prior to the beginning of that Export limit Period. DOC will provide MOT with the worksheets supporting its Export Limit calculation.

C. When Certain Steel Products are imported into the United States and are subsequently re-exported, or re-packaged and re-exported, or further processed and re-exported (provided that they remain within the scope of the same product category covered by this Agreement), the amount re-exported shall be deducted from the amount of exports that have been counted against the export limit for the Export Limit Period in which the re-export takes place. The deduction will be applied only after DOC has received, and has had the opportunity to verify, evidence demonstrating the original importation, any repackaging or further processing, and subsequent exportation.

D. MOT will not issue Export Licenses authorizing the exportation to the United States of Certain Steel Products covered by this Agreement in any half of any Export Limit Period that exceed 60 percent of the export limit for that Export Limit Period.

E. Notwithstanding any other provision of this Agreement, up to 15 per cent of the export limit for any Certain Steel Product in any Export Limit Period may be "carried over" to the Subsequent Export Limit Period and up to 15 per cent of the export limit for any Certain Steel Product for any Export Limit Period may be "carried back" to the last 60 days of the previous Export Limit Period.

## III. Implementation

A. In order to remedy the threat of market disruption described in Section II.A, and acting in pursuance of its rights under the 1990 Agreement, MOT shall issue an original stamped Export License<sup>1</sup> for each entry into the United States of Certain Steel Products covered by this Agreement. Export Licenses shall contain, for each grade of Certain Steel Products covered by the license, the quantity in metric tons, dimensions (gauge, width, and length (for products bound in coils, length where appropriate)) unit price, and F.O.B. sales value. If necessary, additional information may be included on the Export License or a separate page attached to the Export License.

B. The U.S. Customs Service will be directed to deny entry to any imports of Certain Steel Products from Russia in excess of the export limits in this Agreement, or which otherwise fail to comply with the requirements of this Agreement (e.g., imports of Certain Steel Products unaccompanied by an Export License). The Customs Service shall require the presentation of an original stamped Export License as a condition for entry into the United States of Certain Steel Products covered by this Agreement, except where there are multiple shipments under a single license. For multiple shipments at multiple ports, the original license shall be presented at each port and deductions made upon that original license for individual entries at each Port. For multiple entries at one port, the original license will be presented and deductions made for the first entry drawn from that license. Subsequent entries at that port can be made from copies of the original license which reflect all of the deductions made from the original license.

C. DOC will monitor the levels of imports of Certain Steel Products from Russia and deduct the quantity listed on each Export License from the export limit for the Export Limit Period in which the Date of Export falls, except as provided in Paragraph II.E.

D. MOT will ensure compliance with all of the provisions of this Agreement. In order to ensure such compliance, MOT will take at least the following measures:

1. Ensure that no Certain Steel Products subject to this Agreement are exported directly or indirectly from Russia to the United States during any Export Limit Period that exceed the export limit for that Export Limit Period.

2. Establish an export limit licensing and enforcement program for all direct and Indirect Exports of Certain Steel Products from Russia to the United States no later than 120 days after the Effective Date.

<sup>1</sup> The validity of an Export License will not be affected by a subsequent change of HTS number.

3. Require that applications for Export Licenses be accompanied by a report specifying the identity of the original exporter and importer, the U.S. purchaser, if known, the original date of export and entry into the United States, if known, the quantity expressed in metric tons, and a complete description of the Certain Steel Products.

4. Refuse to issue an Export License to any applicant that does not permit full verification and reporting under this Agreement of all of the information in the application.

5. Issue Export Licenses sequentially, endorsed against the export limit for the relevant Export Limit Period, and reference any notice of export limit allocation results for the relevant Export Limit Period. Export Licenses shall remain valid for six months, unless DOC and MOT agree to an extension of their validity in extraordinary circumstances.

6. Issue Export Licenses in the English language and, at the discretion of MOT, also in the Russian language.

7. Issue Export Licenses no earlier than 90 days before the day on which the Certain Steel Products are accepted by a transportation company, as indicated in the bill of lading or a comparable transportation document, for export.

8. Require all Russian producers and exporters of Certain Steel Products to furnish to MOT, as a condition of obtaining Export Licenses under this Agreement, the information in Appendix C and a letter in the form set forth in Appendix E.

9. Ensure compliance with all procedures established in order to effectuate this Agreement by any official Russian institution, chamber, or other authorized Russian entity, and any Russian producer, exporter, broker, and trader of the Certain Steel Products, their affiliated parties, and any trading company or reseller utilized by a Russian producer to make sales to the United States.

10. Impose strict measures, such as prohibition from obtaining Export Licenses under this Agreement, in the event that any Russian entity does not comply in full with the requirements established by MOT pursuant to this Agreement.

11. Permit DOC to verify, on an annual basis, that the export limits in this Agreement have not been exceeded, that MOT is collecting all of the information it is required to collect under Paragraph IV.A of this Agreement, and that MOT is ensuring the collection of all information that it is required to ensure is collected under this Agreement.

#### IV. Monitoring and Notifications

A. MOT will collect, maintain, and provide to DOC such information as is necessary and appropriate to ensure that exports of Certain Steel Products from Russia to the United States do not exceed the export limits in this Agreement, including the following:

1. The information in Appendix B.
2. Notice of any non-implementation of any provisions of this Agreement that come to its attention and of the measures taken with respect to such non-implementation.
3. Such additional information as DOC and MOT agree, after consultations, is required.

B. MOT shall ensure that each Russian producer and exporter of Certain Steel Products shall collect and maintain, for each Certain Steel Product exported to the United States, the basic company-specific information on factors of production and U.S. sales prices described in Appendix C. In the event that Russia is determined to be a market economy for purposes of the U.S. antidumping law, these reporting requirements shall be adjusted to reflect this change. MOT shall provide this information to DOC upon request.

C. DOC shall provide MOT with the following information relating to the implementation and enforcement of this Agreement.

1. Semi-annual reports, within 120 days after the end of each semi-annual period, indicating the volume of U.S. imports of Certain Steel Products subject to this Agreement, together with such additional information as is necessary and appropriate to monitor compliance with the export limit levels.

2. Notice of any non-implementation of any term of this Agreement.

#### V. Consultations

A. MOT and DOC shall hold consultations each year on the anniversary date of this Agreement concerning the implementation, operation, and enforcement of the licensing program established by MOT, and the export limits established by this Agreement.

B. Additional consultations may be held at any other time upon the request of either MOT or DOC.

C. If DOC receives information indicating that any provision of this Agreement is not being implemented, DOC shall promptly request emergency consultations with MOT. Such consultations shall begin no later than 21 days after the day of DOC's request, and must be completed within 40 days after commencement. After completion of the consultations, DOC will provide MOT 20 days within which to provide comments.

#### VI. Implementation Issues

A. DOC will investigate any information that is brought to its attention indicating that this Agreement is not being fully implemented, both by asking MOT to investigate such allegations and by itself gathering relevant information. If DOC informs MOT of such information and requests MOT to supply information relevant to the potential non-implementation, MOT will supply DOC with the requested information within 30 days. After receiving the information from MOT, DOC will consider whether the Agreement is being fully implemented. If DOC preliminarily determines that the Agreement is not being fully implemented, it will notify MOT of its determination and provide MOT with an opportunity to engage in consultations within 15 days after MOT receives the notification of DOC's preliminary determination. DOC will make a final determination as to whether the Agreement is being fully implemented within 30 days after these consultations have been completed.

B. If DOC finally determines that this Agreement is not being fully implemented,

DOC may take any appropriate action authorized under U.S. law, which may include either or both of the following:

1. DOC may require MOT to furnish to DOC, within 14 days, the complete information described in Appendix C of this Agreement.

2. DOC may self-initiate an antidumping investigation of any Certain Steel Product from Russia for which imports into the United States have exceeded the export limits in this Agreement on an accelerated basis. If DOC self-initiates such an accelerated investigation, the information maintained pursuant to Appendix C and furnished to DOC shall constitute the complete questionnaire responses of the Russian producers and exporters in that investigation. To the extent that this information is an insufficient basis for determining dumping margins, DOC may base its determination upon the facts available, which may be adverse to the interests of the Russian producers and exporters.

#### VII. Antidumping or Countervailing Duty Petitions

If DOC initiates an antidumping or countervailing duty investigation of any Certain Steel Products from Russia pursuant to a petition filed by the U.S. domestic industry (as opposed to a self-initiated investigation), this Agreement shall remain in force with respect to those products. In that case, however, DOC will, using the information maintained pursuant to Appendix C and supplied to DOC by MOT, as the Russian producers' questionnaire responses, conduct the investigation on an accelerated basis, including the preliminary determination and, where appropriate under U.S. law, any suspension agreement negotiations. Any measure imposed on a Certain Steel Product pursuant to the U.S. antidumping or countervailing duty law shall substitute for the measure applied to that product under this Agreement.

#### VIII. Duration

A. This Agreement will enter into force on the date of signature and remain in force for five years.

B. DOC or MOT may terminate this Agreement at any time upon written notice to the other party. Termination shall be effective 60 days after such notice is given.

#### IX. Other Provisions

A. The consultations and negotiations that led to the conclusion of this Agreement shall constitute the consultations provided for in Articles XI.1 and XI.2 of the 1990 Agreement. These consultations and negotiations have provided Russia with the transparency and opportunity to submit its views provided for in Article XI.7 of the 1990 Agreement.

B. The English and Russian language versions of this Agreement shall be authentic, with the English version being controlling.

C. For all purposes hereunder, the signatory Parties shall be represented by, and all communications and notices shall be given and addressed to:

DOC: Assistant Secretary for Import Administration, International Trade

Administration, U.S. Department of Commerce, Washington, D.C. 20230, U.S.A.

MOT: Department for State Regulation, of External Economic Activities, Ministry of Trade of the Russian Federation, 18/1 Ovchinnikovskaya naberezhnaya, Moscow 113324, Russia.

Signed on this \_\_\_\_th day of \_\_\_\_\_, 1999.

*Robert S. LaRussa,*  
Assistant Secretary for Import Administration, U.S. Department of Commerce.

*Roald Piskoppel,*  
Deputy Minister, Ministry of Trade of the Russian Federation.

**Appendix A**

For purposes of this Agreement, Certain Steel Products are defined as the following 16 products:

For purposes of this agreement, Hot-Rolled Steel Stainless and Alloy Products are defined as the following:

Certain stainless and other alloy hot-rolled flat-rolled steel products of a rectangular shape, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances and in the following forms: in coils (whether or not in successively superimposed layers) with a width of 0.5 inch or greater, regardless of thickness; in straight lengths with a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness; and in straight

lengths, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness.

Specifically excluded from this scope are all products which are included in the scope definitions of the *Agreement Suspending the Antidumping Duty Investigation on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation and the Agreement Suspending the Antidumping Duty Investigation on Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*. Specifically excluded are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy ("HSLA") steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be excluded in the scope of this investigation, regardless of HTSUS definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is 2 percent or less, by weight, and (3) none of the elements listed below exceed the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or

- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the levels listed above, are outside the scope of this agreement unless otherwise included. The following products, by way of example, are included in the scope of this agreement:

- II. Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
- III. SAE/AISI grades of series 2300 and higher.
- IV. Ball bearing steels, as defined in the HTSUS.
- V. Tool steels, as defined in the HTSUS.
- VI. Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- VII. ASTM specifications A710 and A736.
- VIII. USS abrasion-resistant steels (USS AR 400, USS AR 500).
- IX. Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14% .....	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

X. Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.16% .....	0.70–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max

Mo							
0.21% Max							

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

XI. Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14% .....	1.30–1.80%	0.025%, Max	0.005%, Max	0.30–0.5%	0.50–0.70%	0.20–0.40%	0.20%, Max

V(wt.)	Cb						
0.10, Max .....	0.08% Max						

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

XII. Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15%, Max .....	1.40%, Max	0.025%, Max	0.010%, Max	0.50%, Max	1.00%, Max	0.50%, Max	0.20%, Max
Nb	Ca	Al					
0.005%, Min .....	Treated	0.01–0.07%					

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses >0.148 inches; Tensile Strength = 80,000 psi minimum.

XIII. Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm<sup>2</sup> and 640 N/mm<sup>2</sup> and an elongation percentage ≤26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm<sup>2</sup> and 690 N/mm<sup>2</sup> and an elongation percentage ≤25 percent for thicknesses of 2mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.11.0030, 7219.11.0060, 7219.12.0005, 7219.12.0020, 7219.12.0025, 7219.12.0050, 7219.12.0055, 7219.12.0065, 7219.12.0070, 7219.12.0080, 7219.13.0030, 7219.13.0050, 7219.13.0070, 7219.13.0080, 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.21.0005, 7219.21.0020, 7219.21.0040, 7219.21.0060, 7219.22.0005, 7219.22.0015, 7219.22.0020, 7219.22.0025, 7219.22.0035, 7219.22.0040, 7219.22.0045, 7219.22.0070, 7219.22.0075, 7219.22.0080, 7219.23.0030, 7219.23.0060, 7219.24.0030, 7219.24.0060, 7220.11.0000, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, 7220.90.0080, 7225.11.0000, 7225.19.0000, 7225.20.0000, 7225.30.1000, 7225.30.3005, 7225.30.3050, 7225.30.5030, 7225.30.5060, 7225.30.7000, 7225.40.1015, 7225.40.1090, 7225.40.3005, 7225.40.3050, 7225.40.5030, 7225.40.5060, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.20.0000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560,

7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Hot-rolled steel is equivalent to AISI categories 31 (hot-rolled sheet), 36 (hot-rolled strip), 6A (cut-to-length plate), and 6B (plate in coils)

For purposes of this agreement, Cold-Rolled Steel Products are defined as the following:

The products covered are certain carbon, stainless and other alloy cold-rolled (cold-reduced) steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. Included in this scope are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges.

Included in this scope is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

The merchandise is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7208.18.2510, 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6075, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090,

7219.31.0010, 7219.31.0050, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, 7220.90.0080, 7225.11.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8015, 7225.50.8085, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.20.0000, 7226.92.1030, 7226.92.1060, 7226.92.3030, 7226.92.3060, 7226.92.5000, 7226.92.7005, 7226.92.7050, 7226.92.8005, 7226.92.8050, 7226.99.0000.

Cold-rolled steel is equivalent to AISI categories 32 (cold-rolled sheet), 37 (cold-rolled strip), and 28 (black plate).

For purposes of this agreement, Semifinished Steel Products are defined as the following:

The products covered are iron and steel products (whether or not stainless, other alloy, or non-alloy) in the following forms: ingots and other primary forms; semifinished products (whether or not of rectangular cross-section, and whether or not with a width measuring at least twice the thickness).

The merchandise is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 72.12.00.10, 7207.12.00.50, 7207.20.00.25, 7207.20.00.45, 7224.90.00.45, 7224.90.00.55, 7206.10.0000, 7224.10.0075, 7206.80.0000, 7207.11.0000, 7207.19.0030, 7224.90.0065, 7207.19.0090, 7224.90.0075, 7207.20.0075, 7207.20.0090, 7218.10.0000, 7218.91.0015, 7218.91.0030, 7218.91.0060, 7218.99.0015, 7218.99.0030, 7218.99.0045, 7218.99.0060, 7218.99.0090, 7224.10.0005, 7224.10.0045, 7224.90.0005, 7224.90.0015, 7224.90.0025, and 7224.90.0035.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Semifinished steel is equivalent to AISI categories 1A (ingots and steel for castings) and 1B (blooms, billets, and slabs).

For purposes of this agreement, Galvanized Sheet Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight flat-rolled lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic coating of zinc, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.70.6030, 7210.70.6060, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7225.91.0000, 7225.92.0000, 7226.93.0000, and 7226.94.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Galvanized Sheet Products reflect AISI categories 33A (hot-dipped galvanized sheet/strip) and 33B (electrolytic galvanized sheet/strip).

For purposes of this agreement, Other Metallic Coated Flat Rolled Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic coating (other than zinc, tin, chromium oxides, or chromium and chromium oxides), or clad, with metals such as aluminum, lead, aluminum-zinc alloys, and nickel, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7210.20.0000, 7210.61.0000, 7210.69.0000, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Other Metallic Coated Flat-Rolled Products reflect AISI category 34 (metallic sheet and strip).

For purposes of this agreement, Certain Tin Mill Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or

if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic plating of tin, chromium oxides, or chromium and chromium oxides, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7210.11.0000, 7210.12.0000, 7210.50.0000, and 7212.10.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Certain Tin Mill Products reflect AISI categories 29 (tin plate) and 29A (tin-free sheet).

For purposes of this agreement, Electrical Sheet Products are defined as the following:

Cold-rolled flat-rolled alloy steels, or that contain by weight at least 0.6 percent of silicon but not more than 6 percent of silicon and not more than 0.08 percent of carbon. They may also contain by weight not more than 1 percent of aluminum but no other element in a proportion that would give the steel the characteristics of another alloy steel.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7225.11.0000, 7225.19.0000, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, and 7226.19.9000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Electrical Sheet Products reflect AISI category 35 (electrical sheet).

For purposes of this agreement, Heavy Structural Shapes are defined as the following:

Angles, shapes, and sections having a uniform cross section across their length, of alloy (other than tool steel as defined by the HTS) or non-alloy steel, whether hot-rolled or cold-rolled, with a height of at least 80 mm. Included are shapes such as U, I, H, and T.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7216.31.0000, 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.40.0010, 7216.40.0050, 7216.50.0000, 7216.99.0000, 7222.40.3020, 7222.40.3040, 7228.70.3020, 7228.70.3040, and 7301.10.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Heavy Structural Shapes reflect AISI categories 4 (structural heavy shapes) and 5 (steel piling).

For purposes of this agreement, Rails are defined as the following:

Rails for railway and tramway construction and replacement. This includes load-bearing rails such as standard T, light, crane, and girder rails, and conductor or electrical rails.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7302.10.1010, 7302.10.1015, 7302.10.1025, 7302.10.1035, 7302.10.1045, 7302.10.1055, and 7302.10.5020.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Rails reflect AISI categories 7 (standard rails) and 8 (other rails).

For purposes of this agreement, Hot-Rolled Bars are defined as the following:

Hot-rolled products, not in coils, whether of alloy (other than tool steel as defined by the HTSUS) or non-alloy steel, with a uniform solid cross section along their whole length, that do not meet the definition for flat-rolled products outlined in the HTSUS, in the following shapes:

(1) circles, segments of circles, ovals, rectangles (including squares), triangles, or other convex polygons, regardless of whether they include indentations, ribs, grooves or other deformations produced during the rolling process (rebar);

(2) angles, shapes, and sections such as U, I, H, L, and T with a height of less than 80 mm.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7213.10.0000, 7213.20.0000, 7213.99.0060, 7214.10.0000, 7214.20.0000, 7214.30.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0015, 7214.99.0030, 7214.99.0045, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.1000, 7216.10.0010, 7216.10.0050, 7216.21.0000, 7216.22.0000, 7221.00.0005, 7221.00.0045, 7221.00.0075, 7222.11.0005, 7222.11.0050, 7222.19.0005, 7222.19.0050, 7222.40.3060, 7222.40.3080, 7227.20.0000, 7227.90.6005, 7227.90.6050, 7228.20.1000, 7228.30.8005, 7228.30.8050, 7228.40.0000, 7228.60.6000, 7228.70.3060, 7228.70.3080, and 7228.80.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Hot-Rolled Bars reflect AISI categories 14 (hot-rolled bars), 14A (light shapes), and 15 (reinforcing bars).

For purposes of this agreement, Cold Finished Bars are defined as the following:

Cold-finished (e.g. cold-rolled, cold-drawn, turned) products, not in coils, whether of alloy (other than tool steel as defined by the HTS) or non-alloy steel, with a uniform solid cross section along their whole length, that do not meet the definition for flat-rolled products outlined in the HTS, in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, or other convex polygons, regardless of whether they include indentations, ribs, grooves or other deformations produced during the rolling process (rebar).

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7215.10.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.3000,

7215.90.5000, 7222.20.0005, 7222.20.0045, 7222.20.0075, 7222.30.0000, 7228.20.5000, 7228.50.5005, 7228.50.5050, and 7228.60.8000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Cold-Finished Bars reflect AISI category 16 (cold-finished bars).

For purposes of this agreement, Pipe and Tube Products are defined as the following:

Hollow steel products of either circular or non-circular cross section, of alloy (e.g. stainless) or non-alloy steel, whether seamless or not seamless (e.g. welded, open seam), whether plain end or finished (e.g. upset, threaded, coupled), regardless of size.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7304, 7305, and 7306.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Pipe and Tube Products reflect AISI categories 18 (standard), 19 (oil country tubular goods), 20 (line pipe), 21A (mechanical tubing), 21B (pressure tubing), 21C&D (stainless pipe and tubing), 21E (pipe and tube, not classified), 22A (structural pipe and tubing), and 22B (structural pipe and tubing for piling).

For purposes of this agreement, Wire Rod Products are defined as the following:

Hot-rolled bars and rods, whether of alloy (other than tool steel as defined by the HTSUS) or non-alloy steel, in irregularly wound coils, which have a solid cross section, generally round in cross-sectional shape.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7221.00.0015, and 7221.00.0030.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Wire Rod Products reflect AISI category 3 (wire rod).

For purposes of this agreement, Tool Steel is defined as the following:

Steel products, in the form of semifinished steel, flat-rolled products, bars and rods, and wire, meeting the following chemistries:

- (1) more than 1.2 percent of carbon and more than 10.5 percent chromium; or
- (2) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or
- (3) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or
- (4) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or
- (5) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or
- (6) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7224.10.0045, 7224.90.0015, 7224.90.0025, 7224.90.0035, 7225.20.0000, 7225.30.1000, 7225.30.5030, 7225.30.5060, 7225.40.1015, 7225.40.1090, 7225.40.5030, 7225.40.5060, 7225.50.1030, 7225.50.1060, 7226.20.0000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.92.1030, 7226.92.1060, 7226.92.3030, 7226.92.3060, 7227.10.0000, 7227.90.1030, 7227.90.1060, 7227.90.2030, 7227.90.2060, 7228.10.0010, 7228.10.0030, 7228.10.0060, 7228.30.2000, 7228.30.4000, 7228.30.6000, 7228.50.1010, 7228.50.1020, 7228.50.1040, 7228.50.1060, 7228.50.1080, 7228.60.1030, 7228.60.1060, and 7229.10.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Tool Steel is equivalent to AISI category 17 (tool steel).

For purposes of this agreement, Drawn Wire Products are defined as the following:

Cold-drawn products in coil form, of any uniform solid cross section along their whole length, whether of alloy (other than tool steel as defined by the HTSUS) or non-alloy steel.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.4030, 7217.10.4090, 7217.10.5030, 7217.10.5090, 7217.10.6000, 7217.10.7000, 7217.10.8010, 7217.10.8020, 7217.10.8025, 7217.10.8030, 7217.10.8045, 7217.10.8060, 7217.10.8075, 7217.10.8090, 7217.10.9000, 7217.20.1500, 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, 7217.20.4580, 7217.20.6000, 7217.20.7500, 7217.30.1530, 7217.30.1560, 7217.30.3000, 7217.30.4510, 7217.30.4520, 7217.30.4530, 7217.30.4540, 7217.30.4550, 7217.30.4560, 7217.30.4590, 7217.30.6000, 7217.30.7500, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7223.00.1015, 7223.00.1030, 7223.00.1045, 7223.00.1060, 7223.00.1075, 7223.00.5000, 7223.00.9000, 7229.20.0000, 7229.90.1000, 7229.90.5015, 7229.90.5030, 7229.90.5050, and 7229.90.9000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Drawn Wire Products reflect AISI categories 23 (wire drawn).

For purposes of this agreement, Pig Iron is defined as the following:

Iron-carbon alloys that are not usefully malleable, containing more than 2% by weight of carbon.

The merchandise subject to this agreement is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7201.10.0000, 7201.20.0000, 7201.50.3000, and 7201.50.6000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this agreement is dispositive.

Pig Iron is equivalent to AISI categories 65 (pig iron).

## Appendix B

In accordance with the established format, MOT shall collect and provide to DOC all information necessary to ensure compliance with this Agreement. This information will be provided to DOC on a semi-annual basis.

MOT will collect and maintain data on exports to the United States on a continuous basis.

MOT will provide a narrative explanation to substantiate all data collected in accordance with the following formats.

MOT will provide all Export Licenses issued to Russian entities, which shall contain the following information with the exception that information requested in item #9, date of entry, item #10, importer of record, item #16, final destination, and item #17, other, may be omitted if unknown to MOT and the licensee.

1. Export License/Temporary Document: Indicate the number(s) relating to each sale and or entry.

2. Complete Description of Merchandise: Include the 10 digit HTS category, the ASTM or equivalent grade, and the width and thickness of merchandise.

3. Quantity: Indicate in metric tons.

4 F.O.B. Sales Value: Indicate value and currency used.

5. Unit Price: Indicate unit price per metric ton and currency used.

6. Date of Sale: The date all essential terms of the order (i.e. price and quantity) become fixed.

7. Sales Order Number(s): Indicate the number(s) relating to each sale and/or entry.

8. Date of Export: Date the Export License/Temporary Document is Issued.

9. Date of Entry: Date the merchandise entered the United States or the date book transfer took place.

10. Importer of Record: Name and address.

11. Trading Company: Name and address of trading company involved in sale.

12. Customer: Name and address of the first unaffiliated party purchasing from the Russian exporter.

13. Customer Relationship: Indicate whether the customer is affiliated or unaffiliated to the Russian exporter.

14. Allocation to Exporter: Indicate the total amount of quota allocated to the individual exporter during the Relevant Period.

15. Allocation Remaining: Indicate the remaining export limit allocation available to the individual exporter during the export limit period.

16. Final Destination: The complete name and address of the U.S. purchaser.

17. Other: The identity of any party(ies) in the transaction chain between the customer and the final destination/U.S. purchaser.

## Appendix C

### Russian Self-Monitoring Data

MOT and relevant Russian entities will compile and maintain data on a semi-annual basis to achieve the goals of this Agreement. The data will be used for self-monitoring and possible reporting to DOC in connection with

the consultation provisions of this Agreement, a self-initiated antidumping investigation or both. MOT will ensure that data is maintained by the producers of each covered product for both normal values and U.S. sales in a form suitable for analysis consistent with the standards of U.S. antidumping law and regulations. Department officials will coordinate closely with MOT and relevant Russian entities to ensure ongoing data collection and maintenance consistent with these standards.

Categories of Self-Monitoring Data:

- I. Normal Value Data
  - A. Factors of Production
  - B. Product Codes and Characteristics
  - C. Market-Economy Inputs
- II. U.S. Sales Data
  - A. Product Codes and Characteristics
  - B. Individual Sales Data
  - C. Sales Type and Process

#### Appendix D

For purposes of this Agreement, U.S. Apparent Consumption will be calculated using data provided by the American Iron and Steel Institute and the U.S. Bureau of the Census. For each of the sixteen product categories covered by this Agreement, we will calculate apparent consumption based on the AISI categories specified in the relevant section of Appendix III of this Agreement. The calculation will be made in the following manner:

Apparent Consumption =  
 Domestic Shipments  
 + Imports  
 - Exports

#### Appendix E

To: Ministry of Trade, Russian Federation

1. We understand that the data being provided to the Ministry of Trade of the Russian Federation may be provided to the U.S. Department of Commerce for use in a self-initiated antidumping duty investigation, pursuant to the Agreement between the Ministry of Trade and the Department of Commerce dated \_\_\_\_\_, 1999. We further understand that, if such an antidumping duty investigation is self-initiated, it may be conducted on an expedited basis with, a preliminary determination being issued as early as 60 days following initiation.

2. We acknowledge and accept that the data being provided to the Ministry of Trade will be considered to be our complete questionnaire response in such an antidumping investigation. We agree that the Ministry of Trade's requirements for periodic reporting may be considered as requests for information for purposes of any such antidumping duty investigation.

3. Consistent with these understandings, we hereby waive any right provided by U.S.

statutes or regulations to any minimum time period for responding to a questionnaire in such an antidumping duty investigation. We understand and accept that the U.S. Department of Commerce may possibly provide us with one opportunity to supplement this data. In light of our understanding that the investigation will be very accelerated, however, we recognize and accept that any time provided for supplementing the data will be very limited.

4. For all data submissions to the Russian government, we agree that we will identify data which we regard as business proprietary information. We will include with each data submission a statement that the business proprietary information contained therein may be released under an appropriately drawn administrative protective order in any antidumping duty investigation in which the data is utilized consistent with our understandings in paragraph 1.

5. We understand that, to the extent the data concerning our factors of production and U.S. sales obtained by the U.S. Department of Commerce pursuant to its Agreement with the Ministry of Trade dated \_\_\_\_\_, 1999 is an insufficient basis on which to determine any actual margin of dumping, the Department of Commerce will base its determination in the accelerated investigation on the facts available, which may be adverse to our interests.

#### Appendix F

##### Section 125 of the Trade Act of 1974, 19 U.S.C. 2135

##### SEC. 125. TERMINATION AND WITHDRAWAL AUTHORITY

(a) Every trade agreement entered into under this Act shall be subject to termination, in whole or in part, or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 month's notice.

(b) The President may at any time terminate, in whole or in part, any proclamation made under this Act.

(c) Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems

necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States. No proclamation shall be made under this subsection increasing any existing duty to a rate more than 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States, as in effect on January 1, 1975, or 20 percent ad valorem above the rate existing on January 1, 1975, whichever is higher.

(d) Whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor, the President, in pursuance of rights granted to the United States under any trade agreement and to the extent necessary to protect United States economic interests (including United States balance of payments), may—

(1) withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality; and

(2) proclaim under subsection (c) such increased duties or other import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

(e) Duties or other import restrictions required or appropriate to carry out any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930 shall not be affected by any termination, in whole or in part, of such agreement or by the withdrawal of the United States from such agreement and shall remain in effect after the date of such termination or withdrawal for 1 year, unless the President by proclamation provides that such rates shall be restored to the level at which they would be but for the agreement. Within 60 days after the date of any such termination or withdrawal, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or withdrawal or would have been so affected but for the preceding sentence.

(f) Before taking any action pursuant to subsection (b), (c), or (d), the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard, unless he determines that such prior hearings will be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action.

[FR Doc. 99-4975 Filed 2-25-99; 8:45 am]

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**FRIDAY  
FEBRUARY 26, 1999**

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**Friday  
February 26, 1999**

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**Part VII**

**The President**

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**Notice of February 24, 1999—  
Continuation of the National Emergency  
Relating to Cuba and of the Emergency  
Authority Relating to the Regulation of  
the Anchorage and Movement of Vessels**



## Title 3—

Notice of February 24, 1999

## The President

**Continuation of the National Emergency Relating to Cuba and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Vessels**

On March 1, 1996, by Proclamation 6867, I declared a national emergency to address the disturbance or threatened disturbance of international relations caused by the February 24, 1996, destruction by the Government of Cuba of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba. In July 1996 and on subsequent occasions, the Government of Cuba stated its intent to forcefully defend its sovereignty against any U.S.-registered vessels or aircraft that might enter Cuban territorial waters or airspace while involved in a memorial flotilla and peaceful protest. Since these events, the Government of Cuba has not demonstrated that it will refrain from the future use of reckless and excessive force against U.S. vessels or aircraft that may engage in memorial activities or peaceful protest north of Cuba. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Cuba and the emergency authority relating to the regulation of the anchorage and movement of vessels set out in Proclamation 6867.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,  
*February 24, 1999.*

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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