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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV03–989–6 IFR]

Raisins Produced From Grapes Grown in California; Revision of Varietal Types

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the list of varietal types of raisins specified under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (RAC). The order provides authority for volume and quality regulations that are applied according to varietal type of raisin. This action combines the Oleate and Related Seedless varietal type (Oleates) with the Natural (sun-dried) Seedless varietal type (Naturals), and makes conforming changes to the order's volume and quality regulations. This action addresses changing cultural practices in the California raisin industry.

DATES: Effective July 22, 2003. Comments must be received by September 19, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule revises the list of varietal types of raisins specified under the order. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the RAC. The order provides authority for volume and quality regulations that are applied according to varietal type of raisin. This action combines the Oleate varietal type with the Natural varietal type, and makes conforming changes to the order's volume and quality regulations. This action was unanimously recommended by the RAC at a meeting on May 15, 2003, and addresses changing cultural practices in the California raisin industry.

Varietal Types

The order provides authority for quality and volume regulations that are applied according to varietal type of raisin. Section 989.10 of the order defines the term varietal type to mean raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. That section includes a list of eight varietal types, and provides authority for the RAC, with the approval of USDA, to change this list. A description of these varietal types, along with additional varietal types, may be found in § 989.110 of the order's administrative rules and regulations. There are currently 10 different varietal types of raisins listed in this section.

Paragraph (a) in § 989.110 currently defines the Natural varietal type to include all sun-dried seedless raisins that possess characteristics similar to Natural Thompson Seedless (NTS) raisins which, for the purpose of

expediting drying, have not been dipped in or sprayed with water, with or without soda, oil or other chemicals prior to or during the drying process. Naturals are the predominant varietal type of California raisin, comprising about 90 percent of California's raisin production.

Paragraph (c) in § 989.110 defines the Oleate varietal type to include all raisins produced by sun-drying or artificial dehydration of seedless grapes which, in order to expedite drying, are dipped in or sprayed with water with soda, oil, Ethyl Oleate, Methyl Oleate or any other chemicals either while such grapes are on the vine or after they have been removed from the vine.

Cultural practices are evolving in the raisin industry in an effort to reduce production and harvest costs. Traditionally, most California raisins have been made by hand picking grapes from the vine and drying them in the sun on trays laid on the ground. The process is labor intensive and expensive. Thus, in an effort to reduce costs, some growers have switched to sun-drying their grapes on the vine, and then mechanically harvesting them (''dried on the vine'' or DOV). A drying agent such as Oleate may be applied to the grapes on the vine to hasten the drying process.

Additionally, there is concern that Oleate could be applied to sun-dried Natural raisins, and that the raisins could be represented as Oleates to circumvent the volume regulations that are typically in effect for Naturals. With the exception of the 1998–99 crop year, volume regulation has been in place for Naturals every year since 1983–84. (The raisin crop year (season) runs from August 1 through July 31.) For the 1992–93 through the 1999–2000 seasons, average acquisitions of Oleates were 441.38 tons. For the 2000–01 and 2001–02 seasons, Oleate acquisitions were 3,669 and 6,495 tons, respectively. Volume regulation was in place for the beginning of the 2001–02 season for Oleates, but was lifted in November 2001 due to no acquisitions up to that time. Once volume regulation was lifted, Oleates were acquired. For the 2002–03 season, the RAC recommended final volume regulation percentages for Oleates in January 2003. However, by the week ending February 1, 2003, Oleate acquisitions were at 2,121 tons, and far below the 5,268-ton trade demand. Because the supply of Oleates was well below demand, volume regulation was lifted in mid-February 2003. Since that time, 2002–03 Oleate acquisitions have increased to 6,217 tons through the week ending April 26, 2003. Based on this data, and the fact that most raisins are typically acquired much earlier in the crop year, the RAC is concerned that Oleate could be sprayed on bins of Naturals and that the raisins could be represented as Oleates to circumvent volume regulation.

These different types of Oleate-treated grapes/raisins are difficult to distinguish from non-Oleate treated raisins. At its May 15, 2003 meeting, the RAC recommended eliminating the Oleate varietal type, and revising the Natural varietal type to include Oleates. Specifically, Naturals will include all sun-dried raisins possessing similar identifiable characteristics as raisins produced from Natural Thompson Seedless grapes, or similar grape varieties, whether dried on trays or on the vine, with or without application of a drying agent that is a food-grade additive, such as, soda, oil, Ethyl Oleate, or Methyl Oleate prior to, during, or after the drying process. The Committee recommended using ''accepted food-grade drying agent'' in the definition rather than ''drying agent that is a food-grade additive''. USDA changed the Committee's recommendation so it conforms more closely to accepted U.S. Food and Drug Administration terminology. Soda was also added to the examples of drying agents because soda has been used by the industry for this purpose in past years. Accordingly, paragraph (c) in § 989.110 regarding Oleates is removed, and paragraph (a) regarding Naturals is revised to include Oleates.

Industry members considered the merits of revising the definition for Dipped Seedless raisins. Dipped Seedless includes all raisins produced by artificial dehydration of seedless grapes that possess the characteristics similar to Thompson Seedless grapes which, in order to expedite drying, have been dipped in or sprayed with water only after such grapes have been removed from the vine. The current Oleate definition includes raisins produced by artificially dehydrating grapes with the application of a drying agent to the grapes. The question was raised regarding how raisins made from artificially dehydrated Oleate-treated grapes would be classified if sun-dried Oleates are included with Naturals. Industry members concluded that no such raisins are currently produced. Accordingly, the definition of Dipped Seedless raisins will not be revised to include artificially dehydrated Oleate-treated grapes.

Volume Regulation and Reserve Pool Requirements

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

Section 989.66 of the order specifies general requirements for reserve tonnage. Reserve tonnage acquired by handlers from producers and reserve tonnage transferred to a handler from the RAC must be held by the handler for the account of the RAC. Reserve tonnage must be stored separate and apart from other raisins and identified according to rules and procedures specified by the RAC and approved by the Secretary. Handlers may, under the direction and supervision of the RAC, substitute for any reserve tonnage raisins a like quantity of standard raisins of the same varietal type and of the same or more recent year's production.

Section 989.166 of the order's administrative rules and regulations specifies additional requirements for reserve raisins. Paragraph (a)(1) of that section prescribes identification, delivery, and transfer requirements for Natural reserve raisins. Specifically, lots of Natural reserve raisins that have been dipped in or sprayed with water, with or without chemicals, prior to or during the drying process, for purposes other than to expedite drying, or that have been produced from seedless varieties of grapes other than Thompson Seedless, must be identified by the Inspection Service affixing to one container on each pallet or to each bin in each lot, a prenumbered RAC control card which must remain affixed until the raisins are processed or disposed of as natural condition raisins. Additionally, such reserve raisins cannot be delivered to the RAC nor transferred to another handler without approval of the RAC or the receiving handler.

The current language in § 989.166(a)(1) regarding chemicals applied to Naturals for purposes other than to expedite drying was added to

the regulations in 1984 and refers to MP–11, a fungicide. The language regarding Naturals produced from grapes other than Thompson Seedless was added in 1991. In these respective instances, some handlers had indicated that they would not pack MP–11 raisins nor raisins made from grapes other than Thompson Seedless. In both cases, the RAC determined that these categories of Naturals should be considered as Naturals for volume and quality control purposes, but that additional requirements should be in place regarding identification, delivery, and transfers of reserve raisins.

As the RAC considered the merits of combining Oleates with Naturals, some handlers indicated that they would not pack Naturals treated with a drying agent such as Oleate. Thus, at its May 2003 meeting, the RAC recommended revising § 989.166(a)(1) to include reserve Naturals treated with drying agents. Such reserve raisins will have to be tagged and identified accordingly, and cannot be delivered to the RAC nor transferred to another handler without the approval of the RAC or the receiving handler. Handlers with only Oleate-treated reserve could substitute non-Oleate treated free tonnage Naturals if necessary. The RAC also recommended adding in this section authority for the RAC to specify additional categories of Naturals that have been produced using other cultural practices and that will be subject to these additional requirements. Any such additions will be made with USDA approval. This will give the RAC flexibility to address changing cultural practices regarding different categories of Naturals in the future. Section 989.166(a) will be revised accordingly.

Another concern regarding this issue is the impact of volume regulation on handlers that may have built up a market for Oleate-treated raisins. There is concern that volume regulation would contribute to handlers losing this market. However, pursuant to § 989.66(b)(3), handlers of Oleate-treated Naturals will have the flexibility to substitute free tonnage Naturals that will be acceptable to the RAC. Thus, handlers could substitute non-Oleate treated free tonnage Naturals for their Oleate-treated reserve raisins, and use their Oleate-treated fruit to meet their market needs.

Quality Requirements

This rule also revises the quality requirements specified in the order's regulations to remove references to Oleates. Specifically, this rule revises: The incoming quality requirements; the table of factors for converting between natural condition and processed weight; and the outgoing quality requirements. The details of these changes are discussed below.

Incoming Quality Requirements

Section 989.58(a) of the order provides authority for quality control regulations whereby natural condition raisins that are delivered from producers to handlers must meet certain incoming quality requirements. Section 989.701 of the order's regulations specifies minimum grade and condition standards for natural condition raisins for each varietal type. Paragraph (b) of that section currently specifies requirements for three varietal types of raisins—Dipped Seedless, Oleate, and Other-Seedless Sulfured. Specifically, such raisins must have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall: (1) Be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) have a normal characteristic flavor and odor of properly prepared raisins; (3) contain no more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes), and also contain at least 50 percent well-matured or reasonably well-matured raisins; (4) not exceed 14 percent moisture; and (5) be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the RAC. This rule revises this paragraph to remove reference to the Oleate varietal type.

Paragraph (a) of § 989.701 specifies incoming quality requirements for Naturals, Monukka and Other Seedless raisins. This rule combines Oleates with the Natural varietal type. Thus, the incoming quality requirements specified in § 989.701(a) will apply to Oleates. With the exception of the moisture requirement, the specifications in paragraphs (a) and (b) of § 989.701 are identical. Paragraph (a) specifies that Naturals, Monukkas, and Other Seedless raisins cannot exceed 16 percent moisture. The RAC's recommendation includes Oleates meeting a less restrictive moisture tolerance of 16 percent as opposed to the 14 percent currently required for Oleates.

Weight Dockage System

Section 989.58(a) also contains authority for handlers to acquire natural condition raisins that fall outside the tolerance established for maturity, which includes substandard raisins, under a weight dockage system. Handler acquisitions of raisins and payments to producers are adjusted according to the percentage of substandard raisins in a lot, or the percentage of raisins that fall below certain levels of maturity. Section 989.210(a) of the order's regulations lists the varietal types of raisins that may be acquired pursuant to a weight dockage system. Sections 989.212 and 989.213 contain tables with dockage factors applicable to lots of raisins that fall outside the tolerances for substandard raisins and maturity, respectively, specified in § 989.701. The substandard and maturity dockage factors are identical for Oleates and Naturals. This rule simply removes all references to Oleates contained in §§ 989.210(a), 989.212, and 989.213. This rule also removes paragraph (e) in § 989.213 that was applicable only to the 1998–99 crop year and is thus obsolete.

Raisin Weight Conversion Table

Section 989.601 of the order's regulations specifies a list of conversion factors for raisin weights. The factors are used to convert the net weight of reconditioned raisins acquired by handlers as packed raisins to a natural condition weight. The net weight of the raisins after the completion of processing is divided by the applicable factor to obtain the natural condition weight. If the adjusted weight exceeds the original weight, the original weight is used. This rule removes the reference to Oleates and its 0.92 conversion factor. Additionally, the table specifies a conversion factor for Naturals of 0.92. Thus, combining Oleates with the Natural varietal type results in no change to the conversion factor. Section 989.601 is revised accordingly.

Outgoing Quality Requirements

Section 989.59 of the order provides authority for quality control regulations for raisins subsequent to their acquisition by handlers (outgoing requirements). Section 989.702 of the order's regulations specifies minimum grade standards for packed raisins. Paragraph (a) of that section specifies identical requirements for four varietal types of raisins—Natural, Dipped Seedless, Oleate, and Other-Seedless Sulfured. Since the outgoing requirements for Naturals and Oleates are identical, this rule removes the reference to Oleates from paragraph (a).

Accordingly, Naturals must meet the requirements of U.S. Grade C as defined in the United States Standards for Grades of Processed Raisins (§§ 52.1841 through 52.1858) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622 through 1624). At least 70

percent, by weight, of the raisins in a lot must be well-matured or reasonably well-matured. With respect to select-sized and mixed-sized lots, the raisins must at least meet the U.S. Grade B tolerances for pieces of stem, and underdeveloped and substandard raisins, and small (midget) sized raisins must meet the U.S. Grade C tolerances for those factors.

Reporting Requirements

All raisin handlers are currently required to submit various reports to the RAC where the data collected is segregated by varietal type of raisin. These reports include: (1) Weekly Report of Standard Raisin Acquisitions (RAC–1); (2) Weekly Report of Standard Raisins Received for Memorandum Receipt or Warehousing (RAC–3); (3) Monthly Report of Free Tonnage Raisin Disposition (RAC–20); (4) Weekly Off-Grade Summary (RAC–30); (5) Inventory of Free Tonnage Standard Quality Raisins On Hand (RAC–50); and (6) Inventory of Off-Grade Raisins On Hand (RAC–51). This rule requires that these forms be revised to remove the columns for Oleates. The current total annual reporting burden for these six forms is 660 hours. This rule will not change this burden on handlers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), these information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control Number 0581–0178.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

The order provides authority for volume and quality regulations that are applied according to varietal type of raisin. This rule combines the Oleate varietal type with the Natural varietal type, and makes conforming changes to the order's volume and quality regulations. Pursuant to § 989.10 of the order, § 989.110 of the regulations is revised to remove the Oleate varietal type, and to include sun-dried raisins that may or may not be treated with Oleate or similar food-grade drying agent in the definition of the Natural varietal type. Pursuant to § 989.66, § 989.166(a)(1) is revised to add identification, delivery, and transfer requirements for Naturals treated with Oleate, or similar drying agents. Finally, pursuant to §§ 989.58 and 989.59, the order's quality regulations are revised to remove references to Oleates as follows: incoming quality requirements specified in §§ 989.210, 989.212, 989.213, and 989.701; a table of factors for converting between natural condition and processed weight specified in § 989.601; and outgoing quality requirements specified in § 989.702.

Regarding the impact of this action on affected entities, this rule helps ensure that sun-dried Natural Thompson raisins or raisins produced from similar grape varieties will be subject to the same volume regulation percentages. Concerns about circumventing volume regulation by representing Naturals as Oleates will be addressed. If volume regulation were in effect, handlers who have a market for Oleate-treated raisins will have the opportunity to substitute free tonnage non-Oleate treated Naturals for their reserve Oleates to meet their market needs.

The RAC considered several alternatives to this action. In the spring of 2002, the RAC recommended, and USDA approved, conducting a research study to determine if it is possible to distinguish whether Oleate or a similar agent was applied to a grape as opposed to a raisin. This would assist in determining if Oleate or a similar drying agent was being applied to raisins to circumvent volume regulation. Preliminary information indicates that distinguishing if Oleate or similar drying agent were applied to grapes or raisins may not be possible. There were also some discussions on establishing color specifications to differentiate between non-Oleate Naturals, Oleate-treated Naturals, and DOV. However, the general consensus is that raisins darken with time so that color specifications would be very difficult to apply. Further, there were discussions about requiring producers to file a declaration with the RAC prior to the beginning of the crop year regarding the use of Oleate or similar agent. However, such a producer declaration could not be required.

Regarding the impact of this action on reporting requirements under the order, all raisin handlers are currently required to submit various reports to the RAC where the data collected is segregated by varietal type of raisin. As previously listed, these reports include: (1) Weekly Report of Standard Raisin Acquisitions (RAC–1); (2) Weekly Report of Standard Raisins Received for Memorandum Receipt or Warehousing (RAC–3); (3) Monthly Report of Free Tonnage Raisin Disposition (RAC–20); (4) Weekly Off-Grade Summary (RAC–30); (5) Inventory of Free Tonnage Standard Quality Raisins On Hand (RAC–50); and (6) Inventory of Off-Grade Raisins On Hand (RAC–51). This rule requires that these forms be revised to remove the columns for Oleates. The current total annual burden for these six forms is 660 hours. This rule will not change this burden on handlers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements referenced above have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Additionally, except for applicable section 8e import regulations, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, Natural raisins must at least meet U.S. Grade C as defined in the United States Standards for Grades of Processed Raisins (§§ 52.1841 through 52.1858) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1622 through 1624).

Further, this action was reviewed at several industry meetings as follows—the RAC's Industry Solutions Subcommittee on April 21, 2003, the Administrative Issues Subcommittee on April 23, 2003, work group meetings on April 29 and May 12, 2003, and an

Administrative Issues Subcommittee and a RAC meeting on May 15, 2003. All of these meetings where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, interested persons are invited to submit information on the regulatory and informational impact of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Comments are invited concerning this rule. A 60-day comment period is provided to allow interested persons to respond to this rule. All written comments received will be considered before a final decision is made on this matter.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule needs to be implemented as soon as possible because the 2003–04 crop year begins August 1, 2003; (2) the RAC unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (3) a 60-day comment period is provided and all comments received will be considered in finalizing this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section § 989.110 is amended by:
■ a. Revising paragraph (a);
■ b. Removing paragraph (c); and
■ c. Redesignating paragraphs (d) through (j) as paragraphs (c) through (i).

The revised text reads as follows:

§ 989.110 Varietal types.

* * * * *

(a) Natural (sun-dried) Seedless includes all sun-dried seedless raisins possessing similar identifiable characteristics as raisins produced from Thompson Seedless grapes or similar grape varieties, whether dried on trays or on the vine, with or without the application of a drying agent that is a food-grade additive such as, soda, oil, Ethyl Oleate, or Methyl Oleate prior to, during, or after the drying process.

* * * * *

■ 3. In § 989.166, paragraph (a)(1) is revised to read as follows:

§ 989.166 Reserve tonnage generally.

(a) * * * (1) *Natural (sun-dried) Seedless.* Handlers who acquire any lot of natural condition Natural (sun-dried) Seedless raisins which have been dipped in or sprayed with water, with or without chemicals, prior to or during the drying process, for purposes other than to expedite drying, or that have been produced from seedless varieties of grapes other than Thompson Seedless (*i.e.*, Fiesta, Emerald Seedless, Perlette, Delight, and other similar grape varieties), or that have been treated with Oleate or similar drying agents, or such other Natural (sun-dried) Seedless raisins that have been produced using other cultural practices as recommended by the Committee with the approval of the Secretary, may set aside such raisins to satisfy their reserve pool obligation: *Provided,* That such raisins shall be identified by the Inspection Service affixing to one container on each pallet or to each bin in each lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed until raisins are processed or disposed of as natural condition raisins: and *Provided further,* That such raisins shall not be delivered to the Committee or transferred to another handler without approval of the Committee or the receiving handler.

* * * * *

§ 989.210 [Amended]

■ 4. In § 989.210, the first sentence in paragraph (a) is amended to remove the words ''Oleate and Related Seedless,''.

§ 989.212 [Amended]

■ 5. In § 989.212, the first sentence in paragraph (a) and the heading in paragraph (b) are amended to remove the words ''Oleate and Related Seedless,''.

§ 989.213 [Amended]

■ 6. Section 989.213 is amended by:
■ a. Removing the words ''Oleate and Related Seedless,'' in the first sentence in paragraph (a) and the introductory text in paragraphs (b), (c), and (d).
■ b. Removing paragraph (e) and the note immediately following it.

§ 989.601 [Amended]

■ 7. In § 989.601, the table is revised to read as follows:

§ 989.601 Conversion factors for raisin weight.

* * * * *

Varietal type	Conversion factor
Natural (sun-dried) Seedless	0.92
Golden Seedless, Dipped Seedless, Other Seedless, and Other Seedless-Sulfured	0.95
Muscats (including raisins with seeds):	
Seeded	0.80
Unseeded	0.92
Sultana	0.92
Zante Currant	0.91

§ 989.701 [Amended]

■ 8. In § 989.701, the first sentence in paragraph (b) is amended by removing the words ''Oleate and Related Seedless,''.

§ 989.702 [Amended]

■ 9. In § 989.702, the paragraph heading and the first sentence in paragraph (a) are amended by removing the words ''Oleate and Related Seedless,''.

Dated: July 16, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–18448 Filed 7–16–03; 5:08 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–55–AD; Amendment 39–13234; AD 2003–14–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–200C, 747–300, 747–400, 747–400D, 747–400F, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires inspections for cracking of the forward end clevis lugs of the flap track, and replacement of the flap track with a new flap track if necessary. That AD also currently provides for an optional modification of the forward end clevis lugs, which terminates the required inspections. This amendment expands the applicability of the existing AD, and requires new repetitive inspections for evidence of rotation or migration of the bushings or cracking of the lugs of the forward end clevis of the flap tracks that support the wing trailing edge flaps, corrective actions if necessary, and eventual accomplishment of a terminating action. These actions are necessary to prevent cracking and fracture of the forward end clevis of the flap track, which could result in reduced structural capability of the flap and reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective August 25, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 25, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 90–24–09, amendment 39–6815 (55 FR 48228, November 20, 1990), which is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on December 2, 2002 (67 FR 71497). The action proposed to continue to require inspections for cracking of the forward end clevis lugs of the flap track, and replacement of the flap track with a new flap track if necessary. The action also provided for an optional modification of the forward end clevis lugs, which would terminate the required inspections. The action proposed to expand the applicability of the existing AD, require new repetitive inspections for evidence of rotation or migration of the bushings or cracking of the lugs of the forward end clevis of the flap tracks that support the wing trailing edge flaps, and require corrective actions if necessary. The action also proposed to require eventual accomplishment of a terminating action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. The FAA has given due consideration to the single comment received.

Request To Clarify Corrective Action

One commenter notes that the procedures for the Terminating Action in part 2 of Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002, include a magnetic particle inspection of the clevis bore of a machined flap track assembly. The commenter points out that no corrective action is specified if a crack is found, though the commenter assumes that the flap track must be replaced. The commenter states that both the service bulletin and proposed AD should specify a corrective action.

We partially agree with the commenter. We note that, where the service bulletin specifies a magnetic particle inspection, the service bulletin refers to Boeing Standard Overhaul Practices Manual 20–20–01, Class A, Critical, for information pertaining to the inspection. We note that the acceptance criteria in that document do not allow cracking. Thus, a cracked flap track may not be used and must be replaced with a new flap track.

However, we agree that we could clarify the need to replace the existing flap track with a new flap track if any cracking is found during the magnetic particle inspection that is included in the procedures for the terminating action required by this AD. Therefore, we have revised paragraph (h) of this final rule to specify that, if a crack is found during any inspection required by paragraph (d), (i), or (j) of this AD (or paragraph (e), (f), or (g)(2)(i) of this AD, as specified in paragraph (h) of the proposed AD), the cracked flap track must be replaced with a new flap track before further flight.

Explanation of Editorial Change

We have revised paragraph (f) of this AD to make it clear that accomplishment of the terminating modification in paragraph (d) or (i) of this AD ends the repetitive inspections required by paragraph (f) of this AD.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Explanation of Change to Cost Impact

After the proposed AD was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Cost Impact

There are approximately 1,002 Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–200C, 747–

300, 747–400, 747–400D, 747–400F, and 747SR series airplanes of the affected design in the worldwide fleet. The FAA estimates that 219 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 90–24–09 take approximately 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $130 per airplane, per inspection cycle.

The new inspections that are required by this AD take approximately 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the new inspections on U.S. operators is estimated to be $28,470, or $130 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 removing amendment 39–6815 (55 FR 48228, November 20, 1990), and by adding a new airworthiness directive (AD), amendment 39–13234, to read as follows:

2003–14–15 Boeing: Amendment 39–13234. Docket 2002–NM–55–AD. Supersedes AD 90–24–09, Amendment 39–6815.

Applicability: Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–200C, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes; as listed in Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002; 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 (k)(1) 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 cracking and fracture of the forward end clevis of the flap track, which could result in reduced structural capability of the flap and reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 90–24–09

Initial Inspection

(a) For airplanes listed in Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990: Perform a detailed inspection of the forward end clevis lugs of the flap tracks for evidence of cracking, according to Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990, and according to the following schedule:

(1) For airplanes listed in Group 1 in the service bulletin: Perform the inspection at flap track positions 1 through 8 within the next 30 days after December 5, 1990 (the effective date of AD 90–24–09, amendment 39–6815).

(2) For airplanes listed in Group 2 in the service bulletin: Perform the inspection at flap track positions 1, 2, 7, and 8 prior to the later of the following:

(i) Prior to the accumulation of 30,000 flight hours or 8 years after airplane delivery, whichever occurs first; or

(ii) Within 120 days after December 5, 1990.

(3) For airplanes listed in Group 3 in the service bulletin: Perform the inspection at flap track positions 1 through 8 prior to the later of the following:

(i) Prior to the accumulation of 30,000 flight hours or 8 years after airplane delivery, whichever occurs first; or

(ii) Within 120 days after December 5, 1990.

Flap Track Replacement

(b) If cracking is found during any inspection required by paragraph (a) of this AD, replace the flap track prior to further flight, according to Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990.

Repetitive Inspections

(c) If no cracking is found during any inspection required by paragraph (a) of this AD, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 300 flight cycles for Group 1 airplanes, and 1,200 flight cycles for Group 2 and Group 3 airplanes, until paragraph (d), (e), or (i) of this AD has been done.

Optional Terminating Action

(d) For airplanes listed in Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990: Accomplishment of the modification of the forward end clevis lugs of the flap tracks as specified in Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990, constitutes terminating action for the requirements of paragraphs (a), (c), (e), and (i) of this AD.

New Requirements of this AD

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Detailed Inspections

(e) At the applicable compliance time specified in paragraph (e)(1) or (e)(2) of this AD, perform detailed inspections for evidence of rotation or migration of the bushings (including cracked or missing sealant around the bushing flange, or a gap between the bushing flange and the lug face)

or cracking of the lugs of the forward end clevis of the flap tracks that support the wing trailing edge flaps, according to Part 1 of the Work Instructions in Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002.

(1) For airplanes inspected before the effective date of this AD according to paragraph (a) of this AD: Do the inspection in paragraph (e) of this AD at the time specified in paragraph (e)(1)(i) or (e)(1)(ii) of this AD, as applicable. Doing this inspection terminates the requirements of paragraph (c) of this AD.

(i) For airplanes listed in Group 1 of Boeing Service Bulletin 747–57–2231, Revision 2: Inspect within 300 flight cycles after the most recent inspection per paragraph (a) or (c) of this AD.

(ii) For airplanes listed in Group 2 or 3 of Boeing Service Bulletin 747–57–2231, Revision 2: Inspect within 1,200 flight cycles after the most recent inspection per paragraph (a) or (c) of this AD.

(2) For airplanes not inspected before the effective date of this AD according to paragraph (a) of this AD: Do the inspection in paragraph (e) of this AD at the time specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD, whichever occurs later. This terminates the requirement to do paragraph (a) of this AD.

(i) Within 8 years after the earlier of the date of issuance of the original Airworthiness Certificate or the date of issuance of the Export Certificate of Airworthiness, or before the accumulation of 30,000 total flight hours, whichever occurs first.

(ii) Within 300 flight cycles or 120 days after the effective date of this AD, whichever occurs first.

Repetitive Inspections

(f) If no evidence of migration or rotation of the bushings or cracking of the lugs is found during the inspection required by paragraph (e) of this AD: Repeat the inspections at the applicable repetitive interval specified in Figure 1 of Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002, until the terminating modification of paragraph (d) or (i) of this AD has been done.

Corrective Actions and Repetitive Inspections

(g) If evidence of migration or rotation of the bushings is found during any inspection required by paragraph (e) or (f) of this AD, but no cracking is found: Do paragraph (g)(1) or (g)(2) of this AD, as applicable, according to Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002.

(1) For airplanes listed in Group 1 in the service bulletin and flap track numbers 3 and 6 on airplanes listed in Group 2 of the service bulletin: Before further flight, do the terminating modification in paragraph (i) of this AD, as specified in paragraph (i)(2) of this AD.

(2) For airplanes other than those identified in paragraph (g)(1) of this AD: Before further flight, apply corrosion-inhibiting compound according to the service bulletin, and do paragraphs (g)(2)(i) and (g)(2)(ii) of this AD at the intervals specified in those paragraphs, until paragraph (d) or (i) of this AD is done. Do paragraph (i) of this AD at the applicable time specified in paragraph (i)(2) of this AD.

(i) Repeat the inspections in paragraph (e) of this AD at the intervals specified in Figure 1 of the service bulletin.

(ii) Apply corrosion-inhibiting compound according to the service bulletin at intervals not to exceed 200 flight cycles.

Replacement of Flap Track

(h) If any cracking is found during any inspection required by paragraph (d), (e), (f), (g)(2)(i), (i), or (j) of this AD: Before further flight, replace the cracked flap track with a new flap track, according to Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002. Replacement with a new flap track having a part number listed in the ''New Part Number'' column of the table under paragraph 2.E. of the service bulletin constitutes terminating action for the requirements of this AD for the replaced track.

Terminating Modification

(i) At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD: Do all actions (including but not limited to machining, performing magnetic particle inspections, and applying cadmium plating to the clevis bore and bushing) associated with replacing the bushings of the forward end clevis with new bushings with a higher interference fit on flap tracks 1, 2, 3, 4, 5, 6, 7, and 8; as applicable; according to Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002. This replacement terminates the requirements of this AD.

(1) If no evidence of migration or rotation of the bushings or cracking of the lugs is found during any inspection required by paragraph (e) or (f) of this AD: Do the replacement within 8 years after the effective date of this AD.

(2) If any evidence of bushing migration or rotation is found during any inspection required by paragraph (e) or (f) of this AD: Do the replacement at the applicable time specified in Figure 1 of the service bulletin.

Credit for Actions According to Previous Revision of Service Bulletin

(j) Inspections, corrective actions, and terminating action done before the effective date of this AD according to Boeing Service Bulletin 747–57–2307, dated July 29, 1999, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance

(k)(1) 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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously according to AD 90–24–09, amendment 39–6815, are approved as alternative methods of compliance with paragraphs (a), (b), (c), and (d) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(l) 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.

Incorporation by Reference

(m) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990; and Boeing Service Bulletin 747–57–2307, Revision 1, dated January 17, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(n) This amendment becomes effective on August 25, 2003.

Issued in Renton, Washington, on July 8, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17772 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–326–AD; Amendment 39–13235; AD 2003–14–16]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 382G Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 382G series airplanes, that requires repetitive general visual inspections of certain bearings located in the emergency exit door for evidence of excessive wear; and repair of certain bearings, which would terminate the repetitive inspections. This action is necessary to prevent failure of the latch

mechanism, which could result in the inability to open the emergency exit door in an emergency. This action is intended to address the identified unsafe condition.

DATES: Effective August 25, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 25, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Corporation/ Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M , Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, Georgia 30063. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Herderich, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6082; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Lockheed Model 382G series airplanes was published in the **Federal Register** on April 29, 2003 (68 FR 22644). That action proposed to require repetitive general visual inspections of certain bearings located in the emergency exit door for evidence of excessive wear; and repair of certain bearings, which would terminate the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change in Labor Rate

After the proposed AD was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Cost Impact

There are approximately 10 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on the single U.S. operator is estimated to be $1,040.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

2003–14–16 Lockheed: Amendment 39–13235. Docket 2000–NM–326–AD.

Applicability: Model 382G series airplanes, as listed in Hercules Service Bulletin 382–52–9, dated July 5, 2000; 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 latch mechanism located inside the emergency exit door, which could result in the inability to open the door in an emergency, accomplish the following:

Inspection

(a) Within 30 days after the effective date of this AD: Perform a general visual inspection of bearings having part numbers (P/N) 3326653–1 and 3326653–2 for evidence of a groove greater than 0.060 inch deep. Perform the inspection per paragraph 2.A. of the Accomplishment Instructions specified in Hercules Service Bulletin 382–52–9, dated July 5, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If evidence of a groove greater than 0.060-inch deep is not found: Repeat the inspection at 30-day intervals until accomplishment of the terminating action required by paragraph (b) of this AD.

(2) If evidence of a groove greater than 0.060-inch deep is found: Before further flight, repair the bearings per paragraph (b) of this AD.

Repair

(b) Within 90 days after the effective date of this AD: Repair bearings having P/N 3326653–1 and P/N 3326653–2 per paragraph 2.B. of the Accomplishment Instructions specified in Hercules Service Bulletin 382–52–9, dated July 5, 2000. Accomplishment of this repair terminates the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

(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, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 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.

Incorporation by Reference

(e) The actions shall be done in accordance with Hercules Service Bulletin 382–52–9, dated July 5, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M , Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, Georgia 30063. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on August 25, 2003.

Issued in Renton, Washington, on July 8, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17771 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–39–AD; Amendment 39–13237; AD 2003–14–18]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S76A, B, and C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Sikorsky Aircraft Corporation (Sikorsky) model helicopters that requires removing non-conforming main landing gear brake discs (discs) and replacing them with different part-numbered airworthy discs. It also requires revising the Rotorcraft Flight Manual (RFM) to adjust takeoff and landing distances until the discs are replaced. This amendment is prompted by the manufacture of some discs using inferior materials. The actions specified by this AD are intended to prevent reduced braking performance and subsequent loss of control of the helicopter.

DATES: Effective August 25, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 25, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7155, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for Sikorsky Model S76A, B, and C helicopters was published in the **Federal Register** on February 7, 2003 (68 FR 6382). That action proposed to require, within 60 days, determining if discs, part number (P/N) 5014067, are installed. If so, replacing them with discs, P/N 5007672, and re-identifying brake assembly, P/N 5007555 and P/N 5007555–1, as brake assembly P/N 5007555–3, and brake assembly, P/N 5007555–2, as brake assembly, P/N 5007555–4, was proposed to be required within 90 days. The action also proposed to require revising the RFM to adjust the Category A rejected takeoff distance, the Category A landing distance, and the Category B landing distance by multiplying the distance by 1.67 to obtain the corrected distance until the discs are replaced.

Sikorsky has issued Alert Service Bulletin (ASB) No. 76–32–27, dated April 30, 2002, which contains Aircraft Braking Systems Corporation ASB S76–32–A24, dated April 10, 2002; and Sikorsky Aircraft Corporation ASB No. 76–32–28, dated May 17, 2002, which contains Aircraft Braking Systems Corporation ASB S76–32–A25, dated May 15, 2002. The ASBs describe procedures for replacing any non-conforming discs, reidentifying brake assemblies, and revising takeoff and landing distances in the RFM until the discs are replaced.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

The one commenter, the manufacturer, states that the AD should state that a manufacturer's warranty exists. The commenter states that the service information issued by Aircraft Braking Systems Corporation states that the replacement discs, P/N 5007672, are

available at no cost to the owners or operators. The FAA agrees, and that information is added to the economic impact paragraph of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

The FAA estimates that 180 helicopters of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour per helicopter to determine if non-conforming discs are installed, and 1.25 work hours per helicopter to remove, replace and re-identify any non-conforming discs. The average labor rate is $60 per work hour. Required parts will cost approximately $1,902 per disc, and there are two discs per helicopter. The Aircraft Braking Systems Corporation ASB's state that ''operators should contact their usual supply source for replacement of 5014067 Rotating Discs with free of charge 5007672 Rotating Discs on an exchange basis.'' Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $703,620 ($18,900 assuming brake discs are provided free of charge) to replace the discs throughout the fleet.

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 a new airworthiness directive to read as follows:

2003–14–18 Sikorsky Aircraft Corporation: Amendment 39–13237. Docket No. 2002–SW–39–AD.

Applicability: Model S76A, B, and C helicopters, with main landing gear brake assembly (brake assembly), part number (P/N) 5007555, 5007555–1, or 5007555–2 installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 (d) 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 reduced braking performance and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 60 days, determine if a main landing gear brake disc (disc), part number (P/N) 5014067, is installed in the braking assembly in accordance with:

(1) Section III—Accomplishment Instructions, paragraph 1.A. through 1.D., of Aircraft Braking Systems Corporation Alert Service Bulletin S76–32–A24, dated April 10, 2002 (ASB A24) for braking assembly, P/N 5007555 and P/N 5007555–1, and

(2) Section III—Accomplishment Instructions, paragraph 1.A. and 1.B., of Aircraft Braking Systems Corporation Alert Service Bulletin S76–32–A25, dated May 15, 2002 (ASB A25), for braking assembly, P/N 5007555–2.

(b) If disc, P/N 5014067, is installed, within 90 days, remove that disc and replace it with disc, P/N 5007672, and re-identify:

(1) Brake assembly, P/N 5007555 and P/N 5007555–1, as brake assembly, P/N 5007555–3, in accordance with the conversion of brake assembly instructions on page 6 of ASB A24, and

(2) Brake assembly, P/N 5007555–2, as brake assembly, P/N 5007555–4, in accordance with the conversion of brake assembly instructions on page 6 of ASB A25.

Note 2: Sikorsky Aircraft Corporation ASB No. 76–32–27, dated April 30, 2002, contains Aircraft Braking Systems Corporation ASB S76–32–A24, dated April 10, 2002, and Sikorsky Aircraft Corporation ASB No. 76–32–28, dated May 17, 2002, contains Aircraft Braking Systems Corporation ASB S76–32–A25, dated May 15, 2002.

(c) Until all installed discs, P/N 5014067, on the helicopter are replaced with disc, P/N 5007672, and all brake assemblies are re-identified in accordance with paragraph (b) of this AD, before further flight, increase the Category A—Rejected Takeoff Distance, the Category A—Landing Distance, and the Category B—Landing Distance as stated in the current Rotorcraft Flight Manual (RFM) by multiplying these rejected takeoff and landing distances by a factor of 1.67.

Note 3: There are temporary revisions to the RFM available from the helicopter manufacturer that documents increased rejected takeoff and landing distances.

(d) 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, Boston Aircraft Certification Office, Engine and Propeller Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) Identifying, removing and replacing the discs shall be done in accordance with Aircraft Braking Systems Corporation Alert Service Bulletin No. S76–32–A24, dated April 10, 2002, and Aircraft Braking Systems Corporation Alert Service Bulletin S76–32–A25, dated May 15, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the FAA, Office of the Regional Counsel,

Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on August 25, 2003.

Issued in Fort Worth, Texas, on July 8, 2003.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17946 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–04–AD; Amendment 39–13239; AD 2003–14–20]

RIN 2120–AA64

Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd. Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 82–12–06, which applies to certain AeroSpace Technologies of Australia Pty Ltd. (ASTA) Models N22B and N24A airplanes. AD 82–12–06 currently requires repetitive visual inspections of all rudder control lever shaft assemblies for cracks and discrepancies, and, if cracks or discrepancies are found, it requires replacement with new or serviceable rudder control shafts, and a check of the fit of all rod end bearings in lever shafts. AD 82–12–06 also allows you to inspect all lever shafts by magnetic particle inspection or dye penetrant methods as terminating action for the repetitive visual inspections. This AD is the result of recent reports of failures of the upper control lever torque shaft due to fatigue loading on the affected airplanes, including those that included the terminating actions. This AD requires more detailed repetitive inspections (than there are in AD 82–12–06) of the upper and lower rudder pedal torque shafts and a one-time inspection for discrepancies in the thickness of the lever shaft side plates with appropriate follow-up action. The actions specified by this AD are intended to detect and correct cracks in the rudder control lever torque shafts and discrepancies in the thickness of the lever shaft side plates, which could result in failure of the rudder control lever torque shaft. Such failure could lead to reduced controllability of the airplane.

DATES: This AD becomes effective on September 8, 2003.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of September 8, 2003.

ADDRESSES: You may get the service information referenced in this AD from Nomad Operations, Aerospace Support Division, Boeing Australia, PO Box 767, Brisbane, QLD 4000 Australia; telephone 61 7 3306 3366; facsimile 61 7 3306 3111. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–04–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA taken any action to this point? Reports of cracking and other discrepancies on rudder control lever shaft assemblies on certain ASTA Models N22B and N24A airplanes caused us to issue AD 82–12–06, Amendment 39–4399. AD 82–12–06 currently requires the following on certain ASTA Models N22B and N24A airplanes:

—Repetitively inspecting visually all rudder control lever shafts for cracking;

—If cracks are found, before further flight, replacing with new or serviceable rudder control shafts;

—Checking for clearance of the fit of all rod end bearings in lever shafts; and

—Discontinuing the repetitive visual inspections when lever shafts are inspected either by magnetic particle inspection or dye penetrant methods.

What has happened since AD 82–12–06 to initiate this proposed action? The Civil Aviation Safety Authority (CASA), which is the airworthiness authority for Australia, recently notified FAA of the need to change AD 82–12–06. The CASA reports failures of the rudder control lever shaft. All the failures have occurred during ground operations and nosewheel steering/rudder loads are now considered the primary cause of the failure.

Some of the failures occurred on airplanes where the terminating action of AD 82–12–06 was incorporated.

What is the potential impact if FAA took no action? This condition, if not detected and corrected, could result in failure of the rudder control lever torque shaft. Such failure could lead to reduced controllability of the airplane.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain ASTA Models N22B and N24A. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 29, 2003 (68 FR 22636). The NPRM proposed to require you to repetitively inspect, using either dye penetrant or magnetic particle methods and measurements, rudder control lever shafts for cracks; inspect (one-time) all lever shaft side plates by measuring the thickness; and if cracks or discrepancies in thickness are found, replace unserviceable parts with new or serviceable parts.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—do not add any additional burden upon the public than was already proposed in the NPRM.

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 10 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
12 workhours × $60 per hour = $720	Not Applicable	$720	10 × $720 = $7,200.

We estimate the following costs to accomplish any necessary repetitive inspections:

Labor cost	Parts cost	Total cost per airplane
2 workhours × $60 per hour = $120	Not Applicable	$120

We estimate the following costs to accomplish any necessary lever shaft replacements that would be required based on the results of the proposed inspections. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
12 workhours × $60 per hour = $720	$930	$720 + $930 = $1,650.

We estimate the following costs to accomplish any necessary lever shaft side plate replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
12 workhours × $60 per hour = $720	$930	$720 + $930 = $1,650.

Regulatory Impact

Does this AD impact various entities? The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this 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) 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 final 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, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. FAA amends § 39.13 by removing Airworthiness Directive (AD) 82–12–06, Amendment 39–4399, and by adding a new AD to read as follows:

2003–14–20 Aerospace Technologies of Australia PTY LTD.: Amendment 39–13239; Docket No. 2003–CE–04–AD; Supersedes AD 82–12–06, Amendment 39–4399.

(a) *What airplanes are affected by this AD?* This AD affects Models N22B and N24A airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the rudder control lever torque shafts and discrepancies in the thickness of the lever shaft side plates, which could result in failure of the rudder control lever torque shaft. Such failure could lead to reduced controllability of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the rudder control lever shafts, part numbers (P/N) 2/N–45–1102, 1/N–45–1103, and 1/N–45–1104 (or FAA-approved equivalent part numbers) for cracks. Use dye penetrant while the shaft is installed; or either dye penetrant inspection or magnetic particle methods if the shaft is removed.	Within the next 100 hours time-in-service (TIS) after September 8, 2003 (the effective date of this AD), unless already accomplished.	In accordance with Nomad Alert Service Bulletin ANMD–27–51, dated September 13, 2002, and the applicable maintenance manual.
(2) Inspect all lever shaft side plates on P/Ns 2/N–45–1102, 1/N–45–1103, and 1/N–45–1104 (or FAA-approved equivalent part numbers) by measuring the thickness for discrepancies.	Within the next 100 hours TIS after September 8, 2003 (the effective date of this AD), unless already accomplished.	In accordance with Nomad Alert Service Bulletin ANMD–27–51, dated September 13, 2002, and the applicable maintenance manual.
(3) Visually inspect all rudder control lever shafts P/Ns 2/N–45–1102, 1/N–45–1103, and 1/N–45–1104 (or FAA-approved equivalent part numbers) for cracks.	Repetitively inspect at intervals not to exceed 100 hours TIS after the inspection required in paragraph (d)(1) of this AD.	In accordance with Nomad Alert Service Bulletin ANMD–27–51, dated September 13, 2002, and the applicable maintenance manual.
(4) If damage is found during any inspection required by this AD. (i) For lever shafts found with crack damage, replace with new or serviceable items (ii) For discrepancies in the thickness of lever shaft side plates, obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (e) of this AD and incorporate this repair scheme (iii) Repairable and nonrepairable damage is defined in the service information	Prior to further flight after any inspection required by this AD.	In accordance with Nomad Alert Service Bulletin ANMD–27–51, dated September 13, 2002, and the applicable maintenance manual.

(e) *Can I comply with this AD in any other way?*

(1) To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.13. Send these requests to the Manager, Los Angeles Aircraft Certification Office. For information on any already approved alternative methods of compliance, contact Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; facsimile (562) 627–5210.

(2) Alternative methods of compliance approved in accordance with AD 82–12–06, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

(f) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Nomad Alert Service Bulletin ANMD–27–51, dated September 13, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Nomad Operations, Aerospace Support Division, Boeing Australia, PO Box 767, Brisbane, QLD 4000 Australia; telephone 61 7 3306 3366; facsimile 61 7 3306 3111. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 82–12–06, Amendment 39–4399.

Note: The subject of this AD is addressed in Australian AD GAF–N22/44, dated November 14, 2002.

(h) *When does this amendment become effective?* This amendment becomes effective on September 8, 2003.

Issued in Kansas City, Missouri, on July 10, 2003.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17945 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–165–AD; Amendment 39–13225; AD 2003–14–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 2003–14–06 that was published in the **Federal Register** on July 9, 2003 (68 FR 40759). The typographical error resulted in an incorrect AD number in one location of the document. This AD is applicable to certain Boeing Model 737–200, –200C, –300, –400, and –500 series airplanes. This AD requires repetitive inspections for cracking of certain lap splices, and corrective action if necessary.

DATES: Effective July 14, 2003.

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6452; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 2003–14–06, amendment 39–13225, applicable to certain Boeing Model 737–200, –200C, –300, –400, and –500 series airplanes, was published in the **Federal Register** on July 9, 2003 (68 FR 40759). That AD requires repetitive inspections for cracking of certain lap splices, and corrective action if necessary.

As published, the AD number appears as ''2003–14–60'' in the Product Identification line in the regulatory text of the AD. The correct AD number is 2003–14–06. The number is referenced correctly throughout the remainder of the document.

Since no other part of the regulatory information has been changed, the final rule is not being republished in the **Federal Register**.

The effective date of this AD remains July 14, 2003.

§ 39.13 [Corrected]

■ On page 40761, in the first column, the Product Identification line of AD 2003–14–06 is corrected to read as follows:

* * * * *

2003–14–06 Boeing: Amendment 39–13225. Docket 2003–NM–165–AD.

* * * * *

Issued in Renton, Washington, on July 15, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–18421 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–56–AD; Amendment 39–13231; AD 2003–14–12]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA330F, G, and J; AS332C, L, and L1; SA341G; SA342J; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2 and N; SA–365C, C1, and C2; SA–365N and N1; and AS–365N2 and N3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters that requires determining whether specified main or tail rotor (rotor) parts are installed and, if so, updating and recording the correct hours time-in-service (TIS) or cycles of each part. If the hours TIS or cycles of any rotor part exceed its life limit, this AD also requires replacing that part with an airworthy part within 50 hours TIS. This amendment is prompted by the need to correct the Equipment Log Card (FME) to accurately reflect the total hours TIS and cycles of certain repaired or overhauled rotor parts. The actions specified by this AD are intended to prevent failure of a life limited rotor part, loss of a rotor, and subsequent loss of control of the helicopter.

DATES: Effective August 25, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 25, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on March 14, 2003 (68 FR 12318). That action proposed to require determining whether specified rotor parts are installed and, if so, updating and recording the correct hours TIS or cycles of each part. If the hours TIS or cycles of any rotor part exceed its life limit, this AD would also require replacing that part with an airworthy part within 50 hours TIS.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model SA330F, G, and J; AS332C, L, and L1; SA341G; SA342J; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2 and N; SA–365C, C1, and C2; SA–365N and N1; and AS–365 N2 and N3 helicopters. The DGAC advises of the discovery of a discrepancy in the computer program used to carry over the number of operating hours of parts following repair or overhaul, which is the cause of incorrect completion of FMEs.

ECF has issued the following Alert Telexes for the helicopter model series specified: Nos. 65.110 for SA330, 62.00.58 for AS332, 65.60 for SA341 and SA342, 62.00.25 for AS350, 62.00.27 for AS355, 65.41 for SA–365C, and 62.00.19 for AS–365N, all dated August 13, 2002. These alert telexes specify correcting the FME to list the correct total number of operating hours and cycles for specified parts installed on dynamic components. After correcting the FME, if the parts have exceeded their life limit, the alert telexes specify removing or monitoring the parts. The DGAC classified these alert telexes as mandatory and issued AD No. 2002–452(A), dated September 4, 2002, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the AD requires, within 10 hours TIS, determining whether the specified rotor part and serial numbers are installed by reference to the FME and, if installed, correcting the hours TIS and cycles. If a part exceeds its life limit, the AD requires replacing the part within 50 hours TIS. The actions would be required for the parts listed in the appendix of the alert telexes described previously.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

The FAA estimates that this AD will affect 760 helicopters of U.S. registry, and the required actions will take approximately 1 work hour to determine the part and serial number and 8 hours to replace each affected part on 38 helicopters (5 percent of the total affected helicopters). The average labor rate is $60 per work hour. Required parts will cost approximately $64,560 depending on which part will be replaced. Based on these figures, we estimate the total cost impact of the AD on U.S. operators will be $2,517,120.

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 a new airworthiness directive to read as follows:

2003–14–12 Eurocopter France: Amendment 39–13231. Docket No. 2002–SW–56–AD.

Applicability: Model SA330F, G, and J; AS332C, L, and L1; SA341G; SA342J; AS350B, BA, B1, B2, B3, and D; AS355E, F, F1, F2, and N; SA–365C, C1, and C2; SA–365N and N1; and AS–365N2 and N3 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 (b) 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 a life-limited, main or tail rotor (rotor) part, loss of a rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), determine by reference to the equipment log card (FME) whether any rotor part and serial number specified in Table 1, paragraph 3, of the Appendix of each of the following Eurocopter France (ECF) Alert Telexes for the specified helicopter model series is installed: Nos. 65.110 for SA330, 62.00.58 for AS332, 65.60 for SA341 and SA342, 62.00.25 for AS350, 62.00.27 for AS355, 65.41 for SA–365C, and 62.00.19 for SA365N and AS–365, all dated August 13, 2002.

(1) If none of the parts are installed, no further action is required.

(2) For each affected part listed in Table 1, paragraph 3, of the Appendix of each applicable ECF Alert Telex specified in paragraph (a) of this AD, add the hours TIS and cycles to the hours TIS and cycles recorded on the FME. If a part exceeds its life limit in TIS or cycles, replace the part with an airworthy part within 50 hours TIS.

(b) 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, Safety Management Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Safety Management Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Safety Management Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) Determine the rotor part and serial number for the specified helicopter model series in accordance with Table 1, paragraph 3, of the Appendix of the applicable Eurocopter Alert Telex No. 65.110 for SA330, 62.00.58 for AS332, 65.60 for SA341 and SA342, 62.00.25 for AS350, 62.00.27 for AS355, 65.41 for SA–365C, and 62.00.19 for SA365N and AS–365, all dated August 13, 2002. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 25, 2003.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2002–452(A), dated September 4, 2002.

Issued in Fort Worth, Texas, on July 1, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–17948 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–369–AD; Amendment 39–13240; AD 2003–14–21]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Models L–1011 Airplanes and Rolls-Royce plc RB211 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that is applicable to Lockheed Martin L–1011–385 series airplanes. That AD currently requires modifications of the engine turbine cooling air overheat monitoring panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and the installation of a high speed gearbox (HSGB) overheat detector system into the monitoring system for the engine turbine air temperature. This amendment requires the same modifications. In addition, this amendment adds Lockheed Martin L–1011–385 series airplanes with RB211–22B–02 series engines to the applicability, requires installation of a revised engine front bearing housing assembly, installation of a revised speed probe loom electrical support assembly, and installation of a low pressure (LP) compressor shaft extreme axial movement detector system. Also, this amendment requires additional modifications to the engine turbine cooling air overheat monitoring panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel. The actions specified by this AD are intended to prevent undetected fires originating within the HSGB from breaching the HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire, and to prevent undetected LP compressor shaft location bearing failure, which could result in LP compressor and turbine shaft assembly failure, turbine

overspeed, and possible uncontained engine failure.

DATES: Effective August August 25, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 25, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242–424; fax: 011–44–1332–245–418 and Lockheed Martin & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7176; fax: (781) 238–7199, and Robert A. Bosak, Aerospace Engineer, Atlanta Aircraft Certification Office, One Crown Center, Suite 475, 1895 Phoenix Blvd., Atlanta, GA 39348, telephone: (770) 703–6094; fax: (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–17–10 R1, Amendment 39–12378 (66 FR 44030 August 22, 2001), which is applicable to Lockheed Martin Models L–1011 airplanes and Rolls-Royce plc RB211 series turbofan engines was published in the **Federal Register** on March 11, 2003 (68 FR 11476). That action proposed to require:

- Modifications of the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel.
- Installation of an engine turbine air temperature monitoring system.
- Installation of a revised engine front bearing housing assembly.
- Installation of speed probe loom electrical support assembly part number (P/N) FW15212, if applicable.
- Installation of an LP compressor shaft extreme axial movement detector system. The actions would be required to be done in accordance with RR service bulletin (SB) RB.211–72–6149, Revision 9, dated November 24, 1999, RR SB RB.211–72–C178, Revision 1, dated March 9, 2001, RR SB RB.211–77–C144, Revision 1, dated February 13, 2002, RR mandatory service bulletin RB.211–71–E047, dated August 2, 2002, Lockheed Martin SB 093–77–059, Revision 2, dated April 11, 2002, and Lockheed Martin SB 093–77–060, dated April 11, 2002.

These actions must be done so that the installation of the HSGB overheat detector system and installation of the LP compressor shaft extreme axial movement detector system into the engine turbine cooling air overheat monitoring system are complete.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. The comments received are all from Lockheed Martin. Due consideration has been given to the comments received.

Clarifications of Modification Description in the Summary

Lockheed Martin requests that the second sentence of the proposal summary be changed to read ''That AD currently requires modifications of the engine turbine cooling air overheat monitoring panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and the installation of a high speed gearbox (HSGB) overheat detector system into the monitoring system for the engine turbine air temperature.'' The commenter states that this change clarifies that the modification adds the HSGB overheat detection system in series with the engine turbine cooling air overheat monitoring system. The sentence as-written in the proposal incorrectly states to require installation of an engine turbine air temperature monitoring system.

The FAA agrees and has changed the summary in the final rule accordingly.

Lockheed Martin also requests that the fourth sentence of the proposal summary be changed to read ''Also, this proposal would require additional modifications to the engine turbine cooling air overheat monitoring panel at the flight engineer/second officer's console and the pilot's caution and warning light panel on the main instrument panel.'' The commenter states that this change clarifies which two panels are to be modified.

The FAA agrees and has changed the summary in the final rule accordingly.

Clarification of Modification Description in the Discussion

Lockheed Martin requests that the first sentence of the proposal discussion be changed to read ''On August 15, 2001, the FAA issued airworthiness directive (AD) 2000–17–10 R1, Amendment 39–12378 (66 FR 44030 August 22, 2001), to require modifications of the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and the installation of an HSGB overheat detector system into the engine turbine cooling air overheat monitoring system.'' The commenter states that this change clarifies that the modification adds the HSGB overheat detection system in series with the engine turbine cooling air overheat monitoring system. The sentence as-written in the proposal incorrectly states to require installation of an engine turbine air temperature monitoring system.

The FAA agrees and has changed the summary, which is where this information appears in the final rule, accordingly.

Request To Delete Model RB211–524B–B–02 From Discussion and Applicability

Lockheed Martin requests that model RB211–524B–B–02 engines be deleted from the proposal discussion and from the proposal applicability. The commenter states that model RB211–524B–B–02 engines are not FAA-approved for installation on Lockheed L–1011 model airplanes.

The FAA does not agree. The model RB211–524B–B–02 engine is not currently approved for installation in the Lockheed L–1011 model airplane. However, this model may be in service on other airplanes and therefore the requirements of paragraph (b) of this AD would also be applicable for those installations. Please note that the CAA ADs and the Rolls-Royce service bulletins referenced in this AD apply to the model RB211–524B–B–02 engine as well as those engine models installed on the Lockheed L–1011 model airplane. Based on this, no change is made to the final rule.

Change Description of Method Used To Detect Pending Failure

Lockheed Martin requests that the last sentence in the second paragraph of the proposal discussion be changed to read ''The manufacturer states that the method used to detect pending failure of the LP compressor shaft location bearing is to monitor the airborne vibration monitoring system on the flight engineer/second officer's console.'' The commenter states that the engine vibration monitoring system successfully detected LP location bearing failures.

The FAA does not agree. The vibration monitoring system has detected imminent failures of LP compressor shaft location bearing failures in the past. However, bearing and shaft failures have occurred, suggesting that flight crew reaction time due to workload or other circumstances have rendered vibration monitoring only partially effective. Therefore, no change is made to the final rule.

Clarification of Actions in Discussion

Lockheed Martin requests that the second sentence in the third paragraph of the proposal discussion be changed to read ''Those actions must be done so that the installation of the HSGB overheat detector system and installation of the LP compressor shaft extreme axial movement detector system into the engine turbine cooling air overheat monitoring system are complete.'' Lockheed Martin states that this change clarifies that the modification adds the HSGB overheat detection system in series with the engine turbine cooling air overheat monitoring system. The sentence as-written in the proposal incorrectly states to require installation of an engine turbine air temperature monitoring system.

The FAA agrees and has changed the supplementary information paragraph, which is where this information appears in the final rule, accordingly.

Clarification of Service Bulletin (SB) Lockheed Martin SB 093–77–059 Description

Lockheed Martin requests that the fifth service bulletin listed under Manufacturer's Service Information in the proposal be changed to read ''Lockheed Martin SB 093–77–059, Revision 2, dated April 11, 2002, which introduces modifications to the airplane instrument panels and consoles, necessary for compatibility with the installation of the HSGB overheat detector system and installation of the LP compressor shaft extreme axial movement detector system into the engine turbine cooling air overheat monitoring system.'' The commenter states that this change clarifies that the modification adds the HSGB overheat detection system in series with the engine turbine cooling air overheat monitoring system. The sentence as-written in the proposal incorrectly states to require installation of an engine turbine air temperature monitoring system.

The FAA agrees. However, because SB 093–77–060, Revision 1, dated June 30, 2003, replaces SB 093–77–059 in its entirety, all references to SB 093–77–059 are deleted from the final rule.

Clarification of Lockheed Martin SB 093–77–060 Description

Lockheed Martin requests that the sixth service bulletin listed under Manufacturer's Service Information in the proposal be changed to read ''Lockheed Martin SB 093–77–060, dated April 11, 2002, which introduces modifications to the airplane instrument panels and consoles, necessary for compatibility with the installation of Lockheed Martin SB 093–77–059 and the LP compressor shaft extreme axial movement detector system into the engine turbine cooling air overheat monitoring system.'' The commenter states that this change is needed to clarify that the modification is necessary for compatibility with SB 093–77–059 and the LP compressor shaft extreme axial movement detector system into the engine turbine cooling air overheat monitoring system.

The FAA agrees. However, because SB 093–77–060, Revision 1, dated June 30, 2003, replaces SB 093–77–059 in its entirety, all references to SB 093–77–059 are deleted from the final rule.

Clarification of First Requirement Listed in the Proposal

Lockheed Martin requests that the first requirement listed in the proposal under proposed requirements of this AD, be changed to read: ''Modifications of the engine turbine cooling air overheat monitoring panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel.'' The commenter states that this change is needed to clarify that the panel is the engine turbine cooling air overheat monitoring panel.

The FAA agrees and has changed the summary, which is where this information appears in the final rule, accordingly.

Clarification of Second Requirement Listed in the Proposal

Lockheed Martin requests that the second requirement listed in the proposal under proposed requirements of this AD, be changed to read ''Installation of an HSGB overheat detector system.'' The commenter states that the existing second proposed requirement is referencing a system that already exists on the airplane.

The FAA agrees and has changed the summary, which is where this information appears in the final rule, accordingly.

Changes to Economic Analysis

Lockheed Martin requests that the economic analysis be changed to reflect that instead of one engine requiring a speed probe loom electrical support assembly part number FW15212, ten engines require this part, and to reflect that the total cost of the AD to U.S. operators is estimated to be $19,996,560.

The FAA agrees and has made these changes in the economic analysis in the AD.

Delete Compliance Paragraph (a)(2)

Lockheed Martin requests that paragraph (a)(2) be deleted from the AD. The commenter states that Lockheed Martin SB 093–77–059 will be reconfigured when complying with Lockheed Martin SB 093–77–060.

The FAA agrees. SB 093–77–060, Revision 1, dated June 30, 2003, replaces SB 093–77–059 in its entirety, and therefore, paragraph (a)(2) is not required. Paragraph (a)(2) has been deleted and the following substeps have been relettered in the final rule.

Change Wording in Compliance Paragraph (a)(5)

Lockheed Martin requests that proposal paragraph (a)(5) be changed to read: ''Modify airplane instrument panels and consoles with the installation of the engine failure indicators, failure lenses, and marker, in accordance with Lockheed Martin SB 093–77–060, dated April 11, 2002. The commenter states that this change provides clarity on how the panels and consoles are modified.

The FAA agrees and has changed the affected paragraph by referencing SB 093–77–060, Revision 1, dated June 30, 2003.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously.

Economic Analysis

There are approximately 492 engines and 164 airplanes of the affected design in the worldwide fleet. The FAA estimates that 270 engines installed on 90 airplanes of U.S. registry would be affected by this AD. The FAA estimates that it would take approximately 40 work hours per engine to accomplish the actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $58,956 per engine. The FAA estimates that it would cost approximately $37,920 per airplane to do the airframe panel modifications. In addition, ten airplanes of U.S. registry would require speed

probe loom electrical support assemblies P/N FW15212 installed on all three engines, at an estimated cost of $588 per engine. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $19,996,560.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and it 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, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 removing Amendment 39–12378, 66 FR 44030 August 22, 2001), and by adding a new airworthiness directive:

2003–14–21 Lockheed Martin and Rolls-Royce plc: Amendment 39–13240. Docket No. 2000–NM–369–AD. Supersedes AD 2000–17–10 R1, Amendment 39–12378.

Applicability: This airworthiness directive (AD) is applicable to Lockheed Martin models L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 airplanes and Rolls-Royce plc (RR) RB211–22B–02, RB211–524B–02, RB211–524B–B–02, RB211–524B3–02, RB211–524B4–02, and RB211–524B4–D–02 series turbofan engines.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent undetected fires originating within the high speed gearbox (HSGB) from breaching the HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire, and to prevent undetected low pressure (LP) compressor shaft location bearing failure, which could result in LP compressor and turbine shaft assembly failure, turbine overspeed, and possible uncontained engine failure, do the following:

Requirements for All Applicable Airplanes and Engines

(a) Incorporate the following service bulletins concurrently or before accomplishing the requirements of RR Mandatory Service Bulletin (MSB) RB.211–72–C963, dated December 4, 2001, or RR MSB RB.211–72–C863, dated February 15, 2002, whichever is applicable, as specified in paragraphs (b) through (d) of this AD:

(1) Install a new design engine front bearing housing assembly in accordance with RR SB RB.211–72–6149, Revision 9, dated November 24, 1999.

(2) Install a revised gearbox breather assembly in accordance with RR SB RB.211–72–C178, Revision 1, dated March 9, 2001.

(3) Install overheat detectors in the gearbox breather duct assembly, in accordance with RR SB RB.211–77–C144, Revision 1, dated February 13, 2002.

(4) Modify airplane instrument panels and consoles with the installation of the engine failure indicators, failure lenses, and marker, in accordance with Lockheed Martin SB 093–77–060, Revision 1, dated June 30, 2003.

RB211–524B–02 and RB211–524B–B–02 Engines

(b) Within three months after the effective date of this AD, for RB211–524B–02 and RB211–524B–B–02 engines, do the following:

(1) Install an LP compressor shaft extreme axial movement detector system in accordance with RR MSB RB.211–72–C963, dated December 4, 2001.

(2) Replace existing speed probe loom electrical support assembly, located on the engine front bearing housing assembly, with speed probe loom electrical support assembly P/N FW15212, in accordance with 3.A. Accomplishment Instructions of RR MSB RB.211–71-E047, dated August 2, 2002.

RB211–22B–02 Engines

(c) Within three years after the effective date of this AD, for RB211–22B–02 engines, install an LP compressor shaft extreme axial movement detector system in accordance with RR MSB RB.211–72-C863, dated February 15, 2002.

RB211–524B3–02, RB211–524B4–02, and RB211–524B4–D–02 Engines

(d) Within four years after the effective date of this AD, for RB211–524B3–02, RB211–524B4–02, and RB211–524B4–D–02 engines, install an LP compressor shaft extreme axial movement detector system in accordance with RR MSB RB.211–72–C963, dated December 4, 2001.

Alternative Methods of Compliance

(e) 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, Engine Certification Office (ECO) for engines or Manager, Atlanta Aircraft Certification Office (ACO) for airplanes. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO, or Manager, ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO or ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 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 done.

Note 2: The subject of this AD is addressed in CAA airworthiness directive AD 006–12–2001, AD 003–08–2002, and AD 006–02–2002.

Documents That Have Been Incorporated by Reference

(g) The actions in this AD must be done in accordance with the following Rolls-Royce plc service bulletins and Lockheen Martin service bulletin:

Document No.	Pages	Revision	Date
RB.211–72–6149 Total pages: 72	All	9	Nov. 24, 1999.
RB.211–77–C144 Total pages: 57	All	1	Feb. 13, 2002.
RB.211–72–C963 Total pages: 75	All	Original	Dec. 4, 2001.
RB.211–71–E047	All	Original	Aug. 2, 2002.

Document No.	Pages	Revision	Date
Total pages: 6			
RB.211–72–C863	All	Original	Feb. 15, 2002.
Total pages: 75			
Lockheed Martin			
093–77–060	1	1	Jun. 30, 2003.
	2–4	Original	Apr. 11, 2002.
	5	1	Jun. 30, 2003.
	6–10	Original	Apr. 11, 2002.
Total pages: 10			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242–424; fax: 011–44–1332–245–418 and Lockheed Martin & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on August 25, 2003.

Issued in Burlington, Massachusetts, on July 10, 2003.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–17949 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–13013; Airspace Docket No. 02–ANM–10]

RIN 2120–AA66

Revision of Legal Descriptions of Multiple Federal Airways in the Vicinity of Farmington, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal descriptions of eight Federal airways and seven jet routes that have the ''Farmington, NM, very high frequency omnidirectional range/tactical air navigation (VORTAC)'' included as part of their route structure. Currently, the Farmington VORTAC and the Four Corners Regional Airport, NM, share the same location identifier. The fact that the VORTAC and the airport are not co-located has led to confusion among users. To eliminate this confusion, the Farmington VORTAC will be renamed the ''Rattlesnake VORTAC.'' All airways with ''Farmington VORTAC'' included in their legal descriptions will be amended, concurrent with the effective date of this final rule, to reflect the name change.

EFFECTIVE DATE: 0901 UTC, October 30, 2003.

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:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) by amending the legal descriptions of eight Federal airways and seven jet routes that have ''Farmington VORTAC'' included as part of their route structure. Currently, the Farmington, NM, VORTAC and the Four Corners Regional Airport, NM, share the same location identifier. The fact that the VORTAC and the airport are not co-located has led to confusion among users. To eliminate this confusion, the Farmington VORTAC will be renamed the ''Rattlesnake VORTAC.'' All airways with ''Farmington VORTAC'' included in their legal descriptions will be amended to reflect the name change. The name change of the VORTAC will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes in the legal description of eight Federal airways and seven jet routes, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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 regulation: (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.

Jet routes and domestic VOR Federal airways are published in paragraphs 2004 and 6010(a), respectively, of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The jet routes and airways listed in this document will be published subsequently in the order.

Environmental Review

There are no changes to the lateral limits. Therefore, the FAA has determined that this action is not subject to environmental assessments and procedures in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 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.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

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J–10 [Revised]

From Los Angeles, CA; via INT Los Angeles 083° and Twentynine Palms, CA, 269° radials; Twentynine Palms; INT of Twentynine Palms 075° and Drake, AZ, 262° radials; Drake; Rattlesnake, NM, Blue Mesa, CO; Falcon, CO; North Platte, NE; Wolbach, NE; Des Moines, IA; to Iowa City, IA.

* * * * *

J–15 [Revised]

From Humble, TX, via INT Humble 269° and Junction, TX, 112° radials; Junction; Wink, TX; Chisum, NM; Corona, NM; Albuquerque, NM; Rattlesnake, NM; Grand Junction, CO; Wasatch, UT; Twin Falls, ID; Boise, ID; Kimberly, OR; INT Kimberly 288° and Battle Ground, WA, 136° radials; to Battle Ground.

* * * * *

J–44 [Revised]

From Phoenix, AZ; via Winslow, AZ, Rattlesnake, NM; Alamosa, CO; INT Alamosa 015° and Falcon, CO, 209° radials; Falcon; McCook, NE; to Lincoln, NE.

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J–58 [Revised]

From Oakland, CA, via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Rattlesnake, NM; Las Vegas, NM; Panhandle, TX; Wichita Falls, TX; Ranger, TX; Alexandria, LA; Harvey, LA.

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J–64 [Revised]

From Los Angeles, CA, via INT Los Angeles 083° and Hector, CA, 226° radials; Hector; Peach Springs, AZ; Tuba City, AZ; Rattlesnake, NM; Pueblo, CO; Hill City, KS; Pawnee City, NE; Lamoni, IA; Bradford, IL; via the INT of the Bradford 089° and the Fort Wayne, IN, 280° radials; Fort Wayne; Ellwood City, PA; Ravine, PA; to Robbinsville, NJ.

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J–110 [Revised]

From Oakland, CA, via Salinas, CA; Clovis, CA; Boulder City, NV; Rattlesnake, NM; Alamosa, CO; Garden City, KS; Butler, MO; St. Louis, MO; Brickyard, IN; Bellaire, OH; to Coyle, NJ.

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J–161 [Revised]

From Zuni, NM, to Rattlesnake, NM.

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V–68 [Revised]

From Montrose, CO; Cones, CO; Dove Creek, CO; Cortez, CO; Rattlesnake, NM; INT Rattlesnake 128° and Albuquerque, NM, 345° radials; Albuquerque, via INT Albuquerque 120° and Corona, NM, 311° radials; Corona; 41 miles 85 MSL, Chisum, NM; Hobbs, NM; Midland, TX; San Angelo, TX; Junction, TX; Center Point, TX; San Antonio, TX; INT San Antonio 064° and Industry, TX, 267° radials; Industry; INT Industry 101° and Hobby, TX, 290° radials to Hobby.

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V–95 [Revised]

From Gila Bend, AZ, via INT Gila Bend 096° and Phoenix, AZ, 197° radials; Phoenix; 49 miles, 40 miles 95 MSL; Winslow, AZ; 66 miles, 39 miles 125 MSL; Rattlesnake, NM; Durango, CO; Blue Mesa, CO; INT Blue Mesa 081° and Falcon, CO, 208° radials; to Falcon.

* * * * *

V–187 [Revised]

From Socorro, NM, via INT Socorro 015° and Albuquerque, NM, 160° radials; Albuquerque; Rattlesnake, NM; 50 miles, 62 miles, 115 MSL, Grand Junction, CO; 75 miles, 50 miles, 112 MSL, Rock Springs, WY; 20 miles, 37 miles, 95 MSL, INT Rock Springs 026° and Riverton, WY, 180° radials; Riverton; Boysen Reservoir, WY; 9 miles, 78 miles, 105 MSL, Billings, MT; INT Billings 317° and Great Falls, MT, 122° radials; Great Falls; Missoula, MT; Nez Perce, ID; Pasco, WA; INT Pasco 32l° and Ellensburg, WA, 107° radials; Ellensburg; INT Ellensburg 274° and McChord, WA, 096° radials; McChord; INT McChord 275° and Olympia, WA, 031° radials; Olympia; to Astoria, OR.

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V–210 [Revised]

From Los Angeles, CA, INT Los Angeles 083° and Pomona, CA, 240° radials; Pomona; INT Daggett, CA, 229° and Hector, CA, 263° radials; Hector; Goffs, CA; 13 miles, 23 miles 71 MSL, 85 MSL, Peach Springs, AZ; Grand Canyon, AZ; Tuba City, AZ; 10 miles 90 MSL, 91 miles 105 MSL, Rattlesnake, NM; Alamosa, CO; INT Alamosa 074° and Lamar, CO, 250° radials; 40 miles, 51 miles, 65 MSL, Lamar; 13 miles, 79 miles, 55 MSL, Liberal, KS; INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; INT Will Rogers 113° and Okmulgee, OK, 238° radials; Okmulgee. From Brickyard, IN, Muncie, IN; Rosewood, OH; Tiverton, OH; Briggs, OH; INT Briggs 044° and Akron, OH, 088° radials; INT Akron 088° and Youngstown, OH, 116° radials; INT Youngstown 116° and Clarion, PA, 222° radials; Revloc, PA; INT Revloc 096° and Harrisburg, PA, 285° radials; Harrisburg; Lancaster, PA; INT Lancaster 095° and Yardley, PA, 255° radials; to Yardley.

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V–361 [Revised]

From Rattlesnake, NM, via Montrose, CO; INT Montrose 025° and Red Table, CO, 224° radials; Red Table; Kremmling, CO; via INT Kremmling 059° and Cheyenne, WY, 216° radials; to Cheyenne.

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V–368 [Revised]

From Alamosa, CO; INT Rattlesnake, NM, 086° and Alamosa 232° radials; to Rattlesnake, NM.

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V–391 [Revised]

From Rattlesnake, NM; via Cortez, CO; via Dove Creek, CO; via Grand Junction, CO; via Vernal, UT; to Rock Springs, WY.

* * * * *

V–421 [Revised]

From Zuni, NM, via Gallup, NM; Rattlesnake, NM; Durango, CO; Blue Mesa, CO; Red Table, CO; Kremmling, CO; Robert, CO; INT Robert 340° and Hayden, CO, 055° radials.

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Issued in Washington, DC, July 10, 2003.

Paul Gallant,

Acting Manager, Airspace and Rules Division

[FR Doc. 03–18382 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2003–15478; Airspace Docket No. 03–AWP–6]

RIN 2120–AA66

Amendment to Restricted Area 4809, Tonopah; NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action adds ''FAA, Los Angeles Air Route Traffic Control Center (ARTCC)'' as the controlling agency for Restricted Area 4809 (R–4809), Tonopah, NV. Additionally, this action changes the using agency of R–4809 from the ''Department of Energy (DOE), Albuquerque Operations Office, NM,'' to the ''U.S. Air Force (USAF), Headquarters Air Warfare Center, Nellis Air Force Base (AFB), NV.'' These changes will facilitate the FAA's ''Joint-Use Concept'' of managing airspace areas in a more dynamic manner. This action does not change any boundaries, times of designation, or activities conducted in the restricted airspace area.

EFFECTIVE DATE: 0901 UTC, October 30, 2003.

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:

History

In April 2002, the DOE signed an agreement transferring responsibility for the daily use of R–4809 to the USAF. On May 14, 2003, the USAF submitted a request to add the Los Angeles ARTCC as the controlling agency of R–4809, and to change the area's using agency from the DOE to the USAF.

The Rule

This action responds to the above agreement and requested changes. Specifically, this action adds ''FAA, Los Angeles ARTCC,'' as the controlling agency for R–4809, and changes the using agency from the ''DOE, Albuquerque Operations Office, NM,'' to the ''USAF, Headquarters Air Warfare Center, Nellis AFB, NV.'' These changes will designate R–4809 as a joint-use area, and make the airspace accessible to nonparticipating aircraft. This action does not change any boundaries, times of designation, or activities conducted in the restricted airspace area.

Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8K, dated September 26, 2002.

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 regulation: (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

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for 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.

§ 73.48 [Amended]

■ 2. § 73.48 is amended as follows:

* * * * *

R–4809, NV [Amended]

By removing ''Using agency. DOE, Albuquerque Operations Office, NM,'' and substituting ''Using agency. USAF, Headquarters Air Warfare Center, Nellis AFB, NV.''

By adding ''Controlling agency. FAA, Los Angeles ARTCC.''

* * * * *

Issued in Washington, DC, on July 10, 2003.

Paul Gallant,

Acting Manager, Airspace and Rules Division.

[FR Doc. 03–18381 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AB39

Performance Data and Disclosure for Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting regulations establishing a core principle for commodity trading advisors (''CTAs'') with regard to performance disclosures concerning partially-funded accounts. The core principle specifies that such disclosure must be offered in a manner that is balanced and is not in violation of the antifraud provisions of the Commodity Exchange Act (the ''Act'') or the Commission's regulations thereunder.

EFFECTIVE DATE: August 20, 2003.

FOR FURTHER INFORMATION CONTACT: Kevin P. Walek, Assistant Director, telephone: (202) 418–5463 or Eileen Chotiner, Futures Trading Specialist, telephone: (202) 418–5467, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. E-mail: *kwalek@cftc.gov* or *echotiner@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 13, 2003, the Commission published in the **Federal Register** [1] proposed rule amendments regarding the computation and presentation of rate of return information and other disclosures concerning past performance of accounts over which the CTA has had trading authority. In that release, the Commission also sought comment on whether a core principle should replace detailed performance requirements.

The Commission received thirteen comments on the proposal. The commenters included one industry association,[2] one CTA,[3] one bar association,[4] one consumer organization,[5] one accounting firm,[6] the National Futures Association (''NFA''), and seven members of the public.[7] The industry and bar associations, NFA, and the CTA supported the amendments, particularly the use of nominal account size as the basis for computing rates of return. The seven members of the public and the consumer organization submitted comments expressing concern over the use of nominal account size rather than actual funds as the basis for presentation of a CTA's past performance. Commenters who addressed the core principle approach indicated that specific standards for performance presentation should exist in an area in which continuity and comparability are important, although several indicated that additional flexibility in the application of those standards would be welcome. These comments are discussed more fully below.

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[1] 68 FR 12001 (Mar. 13, 2003).

[2] Managed Funds Association (''MFA'').

[3] John Henry & Company, Inc.

[4] Association of the Bar of the City of New York, Committee on Futures Regulation.

[5] Consumer Federation of America (''CFA'').

[6] Arthur F. Bell, Jr., & Associates, LLC.

[7] One of these commenters, Paul H. Bjarnason, Jr., is an accountant and former Commission employee. Six commenters, Elizabeth M. Buckman, Bonnie Kayser, James S. Finucane, Christine E. Schoen, Laura M. Stephens, and Ray Weaver, submitted identical letters.

II. Final Rules

A. Use of Nominal Account Size and Other Detailed Performance Requirements in the Proposal

The key component of the Commission's rule proposal is the use of nominal account size, rather than actual funds, as the basis for CTAs' computation of rates of return. The consumer organization and members of the public noted that investors look at actual funds when making investment decisions, and expressed concern that performance based on nominal account size would reduce the appearance of volatility of the CTA's trading program. Commenters who supported use of nominal account size noted that it is the amount both the CTA and the client consider to be the account size. They also pointed out that use of actual funds can result in widely divergent return figures for similarly traded accounts; exaggerates positive and negative rates of return; and measures the cash management strategies of clients rather than the performance of the CTA.

The Commission has not found persuasive the comments opposing use of nominal account size rather than actual funds as the basis for computing CTA rates of return. Some commenters and press reports appear to have misunderstood the intent of past performance reporting under Commission rules—to present to prospective clients information on how the trading program, which the CTA is offering, has performed. The amount of actual funds in a client's account is determined by the client and its FCM, not the CTA, and does not affect the CTA's trading decisions based on nominal account size. Use of nominal account size would permit CTAs to present to prospective clients composite performance results that will be consistent for the accounts within the program, even if those accounts have widely divergent amounts of actual funds supporting the same level of trading. The alternatives—either blending all accounts, regardless of the variation in funding levels, into a single actual funds-based table, or presenting multiple performance tables to address each individual funding level—could be less informative and potentially more confusing to prospective clients.

The Commission similarly does not agree that disclosure of the volatility and risk of a CTA's trading program will be reduced if the nominal account size is used. As NFA noted in its comment letter, the proposed use of nominal account size would not understate either volatility or risk, as the dollar amount of any profit or loss will be the same for accounts with the same nominal account size, regardless of the funding level. Further, whatever incentive a CTA may have to make its losses appear smaller would be offset by the fact that calculating rate of return on a larger nominal account size would reduce the appearance of profits as well.

B. Adoption of a Core Principle

In seeking comment on the desirability of implementing a core principle in the proposing release, the Commission cited Congressional intent as expressed in the Commodity Futures Modernization Act of 2000 (''CFMA'').[8] Section 125 of the CFMA required the Commission to conduct a study of the Act and the Commission's rules and orders governing the conduct of registrants under the Act, identifying, among other things, Commission rules that could be replaced with core principles.[9] While commenters participating in the study expressed concerns regarding replacement of regulations with core principles in certain contexts, they did identify a number of areas where existing rules could be modified or eliminated.[10] Several commenters on the current proposal noted that the flexibility offered by a core principle might not adequately address the need for a standard method of calculating performance that will enable continuity and comparability in the presentation of CTAs' rates of return. The Commission believes, however, that a core principle adopted by the Commission would not preclude the development of more explicit guidance or performance standards by the Commission, self-regulatory organizations, and/or an independent organization, as one commenter suggested, that is otherwise consistent with the core principle.[11] The Commission understands that NFA plans in the near future to adopt specific rules regarding presentation of partially funded accounts that would apply to all member CTAs,[12] and that would be consistent with the rules proposed by the Commission.[13] Although the Commission agrees that nominal account size is an appropriate basis for calculating performance results, the Commission encourages NFA, in the development of guidance carrying out a core principle approach, to consider whether or not these nominal account performance results can be supplemented with other performance measures or statistics that enable customers with accounts that are not fully funded to generally gauge performance results for these types of accounts. The Commission further notes that CTAs presenting partially funded account performance in accordance with the detailed requirements in its March 2003 rule proposal[14] will be considered to be in compliance with the core principle.

After evaluating the comments received on both the detailed proposed amendments and the alternative of a core principle described in the proposal, the Commission has determined not to adopt the detailed proposed rules, but rather to amend Commission Rule 4.35(a)[15] so as to permit CTAs to comply with a core principle with respect to the performance of partially-funded accounts. While the Commission is fully supportive of the content and approach of its detailed rule proposal of March 2003, the history of discourse on this issue suggests that any prescriptive rule adopted by the Commission could soon be inconsistent with evolving industry developments and practices in this area. The flexibility of a core principle, rather than a single set of rigid requirements, would ensure that core Commission regulatory concerns are complied with without impeding legitimate business needs. The Commission believes that this approach is consistent with the objective of the CFMA that the Commission, when

[8] Pub. L. 106–554, 114 Stat. 2763 (2000) (codified as amended in scattered sections of 7 U.S.C.).

[9] A copy of the study may be viewed on the Commission's Web site at: www.cftc.gov/files/opa/opaintermediarystudy.pdf.

[10] Report on the Study of the Commodity Exchange Act and the Commission's Rules and Orders Governing the Conduct of Registrants Under the Act, p. 25. In certain areas, commenters mentioned concerns with regard to the practicability and legal certainty of core principles.

[11] For example, the Association for Investment Management Research (''AIMR''), an international nonprofit organization of investment practitioners and educators, has developed voluntary standards for presentation of investment performance that are used by many investment managers and advisers. AIMR's Investment Performance Council recently issued an invitation to comment on proposed guidance regarding leverage and derivatives to be added to its Global Investment Performance Standards (GIPS). Neither the existing GIPS standards nor the proposed guidance directly addresses the partial funding issue that is the subject of the core principle adopted herein. As standards such as AIMR's evolve to address this issue, they may provide additional guidance to persons or organizations seeking to comply with this core principle or seeking to develop best practices in this area.

[12] With exceptions not otherwise pertinent here, a CTA that conducts futures business with the public and is required to register with the Commission must be a member of NFA, pursuant to NFA Bylaw 1101.

[13] Any rules adopted by NFA would be submitted to the Commission according to the review process for rules of a registered futures association provided in Section 17(j) of the Act.

[14] *See* note 1.

[15] Commission rules referred to herein may be found at 17 CFR Ch. I (2002).

appropriate, permit the industry flexibility in the manner it complies with certain regulatory mandates. Moreover, a core principle regarding the presentation of past performance of partially funded accounts is consistent with the approach governing use of promotional material by CTAs and commodity pool operators (''CPOs'').[16] In addition, as noted in the proposing release, a core principle approach would also be consistent with Federal securities laws applicable to investment advisers, who generally may present past performance in any manner that does not run afoul of general anti-fraud provisions.[17]

The core principle requires that the disclosure must be presented in a manner that is balanced and is not in violation of the antifraud provisions of the Commodity Exchange Act (the ''Act'') or the Commission's regulations thereunder.[18] Each of these two requirements must be complied with in order for the core principle to be met. First, the presentation must not violate the antifraud provisions of the Commodity Exchange Act. For example, a materially misleading disclosure would violate those provisions,[19] and thus would violate this core principle. In addition, the presentation must be balanced. For example, a presentation that emphasizes past gains and minimizes past losses would fail to meet this requirement, and thus would violate the core principle.[20]

Although a few commenters expressed concern that a core principle might impede the Commission's enforcement efforts, or limit them to ''the most egregious cases,'' the Commission believes that the adoption of a core principle based on existing antifraud provisions, which also requires balance, in no way diminishes its current ability to address improper disclosure, nor its ability to address violations of that core principle consistent with its current authority to enforce the antifraud provision of the Act. The SEC has successfully brought actions under its anti-fraud authority against those who have used misleading performance presentations,[21] and NFA has successfully disciplined members who have used unbalanced promotional material.[22]

In addition to the amendment to Rule 4.35, the Commission is also adopting the definition of a ''partially-funded account'' and a conforming amendment to Rule 4.25 regarding the presentation of a CTA's partially-funded account performance in a commodity pool disclosure document.

The rule amendments being adopted herein relate solely to partially-funded accounts. In that regard, Advisory 93–13,[23] which the proposing release stated would be superseded by the adoption of the proposed rule amendments, will remain in effect until such time as the Commission and/or an appropriate self-regulatory organization adopts further guidance on the presentation of partially funded accounts. Other issues noted in the proposal published March 13, 2003, regarding performance presentation generally, such as changes in the calculation of drawdown figures and application of the Commission's 1991 Advisory concerning additions and withdrawals,[24] will be addressed in a subsequent **Federal Register** release.

III. Other Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the Regulatory Flexibility Act.[25] The Commission previously has determined that registered CPOs are not small entities for the purpose of the Regulatory Flexibility Act.[26] With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities for purposes of the Regulatory Flexibility Act and, if so, to analyze the economic impact on them of any such rule at that time.[27] The Commission has previously determined that disclosure requirements governing CTAs do not have a significant economic impact on a substantial number of small entities.[28] Moreover, the amendments being adopted herein do not impose additional requirements on CTAs, but rather offer CTAs an alternative means by which to comply with existing Commission rules. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[29] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. These rule amendments do not require a new collection of information on the part of any entities subject to the rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that these rule amendments will not impose any new reporting or recordkeeping requirements.

C. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires

[16] Commission Rule 4.41 reiterates the anti-fraud provisions of Section 4*o* of the Act. NFA has promulgated its Compliance Rule 2–29 and issued interpretive notices, which provide more detailed guidance on the preparation and use of promotional material.

[17] *See* the Investment Advisers Act of 1940 section 206(4) (15 U.S.C. 80b–6(4)) and Securities and Exchange Commission Rule 275.206(4)–1(a)(5) (17 CFR 275.206(4)–(1)(a)(5). The SEC's general antifraud approach to performance disclosure, which is analogous to the core principle approach adopted herein, has not impeded the SEC's ability to bring enforcement actions for inappropriate disclosure. For a more complete discussion regarding the use of past performance by investment advisers for soliciting clients, *see* Robert J. Zutz, *Compliance Review,* Schwab Institutional, Vol. 10, Issue 8, Aug. 2001.

[18] 7 U.S.C. 1 *et seq.* (2000); 17 CFR Ch. I (2002). Antifraud provisions under the Act and regulations include Sections 4b, 4o, and Regulations 1.1, 4.41, 30.9, 32.9 and 33.10.

[19] *See, e.g., In re Slusser,* [1998–1999 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,701 at 48,311 (CFTC July 19, 1999), *aff'd in part and rev'd in part on other grounds sub nom. Slusser* v. *CFTC,* 210 F.3d 783, 784 (7th Cir. 2000).

[20] *See also* National Futures Association Compliance Rule 2–29(b)(3) (prohibiting the use of promotional material that ''mentions the possibility of profit unless accompanied by an equally prominent statement of the risk of loss.'') NFA has issued guidance interpreting this rule, *see, e.g.,* NFA Interpretive Notices ¶ 9003.

[21] *See, e.g., In Re F.X.C. Investors Corp. and Francis X. Curzio* 79 SEC 276 (2002) (Distribution of misleading performance information violates section 206(4) of Investment Advisers Act and SEC Rule 275.206(4)–1(a)(5)).

[22] *See, e.g., Minogue Investment Company, Inc.* (NFA Case No. 98–App–006); *Vision Limited Partnership* (NFA Case No. 00–BCC–005).

[23] CFTC Advisory 93–13, 58 FR 8226 (February 12, 1993).

[24] CFTC Advisory, ''Adjustments for Additions and Withdrawals to Computation of Rate of Return in Performance Records of Commodity Pool Operators and Commodity Trading Advisors,'' 56 FR 8109 (Feb. 27, 1991).

[25] 47 FR 18618–18621 (Apr. 30, 1982).

[26] 47 FR 18619–18620.

[27] 47 FR 18618–18620.

[28] *See* 60 FR 38146, 38181 (July 25, 1995) and 48 FR 35248 (Aug. 3, 1983).

[29] 44 U.S.C. 3501 *et seq.*

the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Commission is considering the costs and benefits of these rules in light of the specific provisions of Section 15(a) of the Act:

1. Protection of Parket Participants and the Public

The amendments being adopted herein are not expected to result in less protection of market participants or the public. Rather, the amendments provide the opportunity for a more meaningful and accurate disclosure, as demanded by marketplace forces. Moreover, the Commission, along with NFA, will continue to monitor the presentation of performance by CTAs and take action wherever necessary.

2. Efficiency and Competition

The amendments are expected to increase efficiency by providing a CTA with increased flexibility for providing past performance. With this flexibility, a CTA will be better able to respond to changes in the industry and demands from the marketplace with regard to the disclosure of the CTA's past performance.

3. Financial Integrity of Futures Markets and Price Discovery

The amendments should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the commodity futures and options markets.

4. Sound Risk Management Practices

The amendments should have no effect on sound risk management practices.

5. Other Public Interest Considerations

The amendments being adopted herein provide more flexibility for CTAs in being able to present past performance in a manner that more accurately represents the trading results of their systems, while maintaining adequate safeguards so as to protect prospective clients from misleading or fraudulent solicitations.

After considering these factors, the Commission has determined to issue the amended rules.

List of Subjects in 17 CFR Part 4

Advertising, Commodity Futures, Customer Protection, Reporting and recordkeeping.

■ For the reasons discussed in the foregoing, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

■ 1. The authority citation for Part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6(c), 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

■ 2. Section 4.10 is amended by adding paragraph (m) to read as follows:

§ 4.10 Definitions.

* * * * *

(m) *Partially-funded account* means a client participation in the program of a commodity trading advisor in which the amount of funds in the client's commodity interest account over which such commodity trading advisor has trading authority is less than the account size that establishes the client's level of trading in a commodity trading advisor's program.

■ 3. Section 4.25 is amended by adding paragraph (a)(1)(ii)(H) to read as follows:

§ 4.25 Performance disclosures.

* * * * *

(a) * * *

(1) * * *

(ii) * * *

(H) Partially-funded accounts directed by a commodity trading advisor may be presented in accordance with § 4.35(a)(7).

* * * * *

■ 4. Section 4.35 is amended as follows:

■ a. By redesignating paragraphs (a)(7) and (a)(8) as (a)(8) and (a)(9) respectively;

■ b. And adding new paragraph (a)(7) to read as follows:

§ 4.35 Performance disclosures.

* * * * *

(a)(7) *Performance of partially-funded accounts.* Notwithstanding the foregoing, a commodity trading advisor will be deemed in compliance with this § 4.35(a) concerning the performance of partially-funded accounts if the commodity trading advisor presents the performance of such accounts in a manner that is balanced and is not in violation of the antifraud provisions of the Commodity Exchange Act or the Commission's regulations thereunder.

* * * * *

Issued in Washington, DC, on July 15, 2003 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03–18413 Filed 7–18–03; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Meloxicam

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 new animal drug application (NADA) filed by Boehringer Ingelheim Vetmedica, Inc. The NADA provides for use of meloxicam oral suspension for the control of pain and inflammation associated with osteoarthritis in dogs.

DATES: This rule is effective July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: mberson@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Vetmedica, Inc., 2621 North Belt Highway, St. Joseph, MO 64506–2002, filed NADA 141–213 that provides for use of METACAM (meloxicam) Oral Suspension for the control of pain and inflammation associated with osteoarthritis in dogs. The NADA is approved as of April 15, 2003, and the regulations are amended in 21 CFR part 520 by adding new § 520.1350 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 21 CFR part 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application 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 section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning April 15, 2003.

The agency has determined under 21 CFR 25.33(d)(1) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. Section 520.1350 is added to read as follows:

§ 520.1350 Meloxicam.

(a) *Specifications*. Each milliliter of suspension contains 0.5 or 1.5 milligrams (mg) meloxicam.

(b) *Sponsor*. See No. 000010 in § 510.600(c) of this chapter for uses as in paragraph (c) of this section.

(c) *Conditions of use in dogs*—(1) *Amount*. Administer orally 0.2 mg/kilogram (kg) body weight on the first day of treatment. For all treatment after day 1, administer 0.1 mg/kg body weight once daily.

(2) *Indications for use*. For the control of pain and inflammation associated with osteoarthritis.

(3) *Limitations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: July 8, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–18354 Filed 7–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

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 abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The supplemental ANADA provides for a new pouch size of oxytetracycline hydrochloride soluble powder used to make medicated drinking water for swine.

DATES: This rule is effective July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed a supplement to ANADA 200–144 that provides for a new pouch size of TETROXY (oxytetracycline HCl) Soluble Powder used to make medicated drinking water for administration to swine. The supplemental application is approved as of April 21, 2003, and the regulations are amended in 21 CFR 520.1660d 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 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (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.

The agency has determined under 21 CFR 25.33(a)(1) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.1660d [Amended]

■ 2. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraph (a)(9) by removing ''and 19.75 oz'' and by adding in its place '', 19.75 oz, and 3.91 lb''.

Dated: July 8, 2003.

Steven D. Vaughn,

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

[FR Doc. 03–18351 Filed 7–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Injectable or Implantable Dosage Form New Animal Drugs; Euthanasia Solution; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

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. and a supplemental abbreviated new animal drug application (ANADA) filed by Delmarva Laboratories, Inc. The supplemental applications add environmental warning statements to product labeling.

DATES: This rule is effective July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish

Pl., Rockville, MD 20855, 301–827–0159; e-mail: *msharar@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083, filed a supplement to NADA 119–807 for BEUTHANASIA–D–SPECIAL Solution and Delmarva Laboratories, Inc., 1500 Huguenot Rd., suite 106, Midlothian, VA 23113, filed a supplement to ANADA 200–071 for EUTHASOL Solution. The supplemental applications provide for the addition of environmental warning statements to product labeling. The supplemental applications are approved as of May 2, 2003, and the regulations are amended in § 522.900 (21 CFR 522.900) to reflect the approvals.

In addition, the agency has found that the regulations do not reflect the 1996 change of sponsorship (61 FR 5505, February 13, 1996) of NADA 128–967 for REPOSE Euthanasia Solution from Syntex Animal Health, Division of Syntex Agri-business, Inc., to Fort Dodge Animal Health, Division of Wyeth. At this time, § 522.900 is revised to reflect that change of sponsorship and a current format.

The agency has determined under 21 CFR 25.33(d)(1) that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither environmental assessments nor environmental impact statements are required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the 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 522.900 is revised to read as follows:

§ 522.900 Euthanasia solution.

(a) *Specifications.* Each milliliter (mL) of solution contains:

(1) 390 milligrams (mg) of pentobarbital sodium and 50 mg phenytoin sodium.

(2) 400 mg secobarbital sodium and 25 mg dibucaine hydrochloride.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter:

(1) Nos. 000061 and 059079 for use of product described in paragraph (a)(1) of this section.

(2) No. 000856 for use of product described in paragraph (a)(2) of this section.

(c) *Special considerations.* Product labeling shall bear the following warning statements:
''ENVIRONMENTAL HAZARD: This product is toxic to wildlife. Birds and mammals feeding on treated animals may be killed. Euthanized animals must be properly disposed of by deep burial, incineration, or other method in compliance with state and local laws, to prevent consumption of carcass material by scavenging wildlife.''

(d) *Conditions of use in dogs*—(1) *Indications for use.* For humane, painless, and rapid euthanasia.

(2) *Amount.* One mL per 10 pounds of body weight.

(3) *Limitations.* Do not use in animals intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: July 7, 2003.

Clifford Johnson,

Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 03–18352 Filed 7–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Gentamicin Sulfate, Betamethasone Valerate, Clotrimazole Ointment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for the use of gentamicin sulfate, betamethasone valerate, and clotrimazole ointment for the treatment of canine otitis externa.

DATES: This rule is effective July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, St. Joseph, MO 64503, filed ANADA 200–287 that provides for use of gentamicin sulfate, United States Pharmacopeia (USP); betamethasone valerate, USP; and clotrimazole, USP; (GBC) Ointment for the treatment of canine otitis externa associated with yeast (*Malassezia pachydermatis*, formerly *Pityrosporum canis*) and/or bacteria susceptible to gentamicin. Phoenix Scientific's GBC Ointment is approved as a generic copy of Schering-Plough Animal Health's OTOMAX Ointment approved under NADA 140–896. The ANADA is approved as of March 28, 2003, and the regulations are amended in § 524.1044g (21 CFR 524.1044g) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 524.1044g is being amended to reflect the supplemental approval of several additional container sizes under NADA 140–896 and ANADA 200–229, which were not codified, and to reflect a current format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (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.

The agency has determined under 21 CFR 25.33(a)(1) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

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 524 is amended as follows:

PART 524–OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

■ 2. Section 524.1044g is amended by revising paragraphs (b) and (c) to read as follows:

§ 524.1044g Gentamicin sulfate, betamethasone valerate, clotrimazole ointment.

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for uses as in paragraph (c) of this section.

(1) No. 000061 for use of 7.5- or 15-gram (g) tubes, 12.5-, 30-, or 215-g bottles.

(2) No. 051259 for use of 7.5- or 15-g tubes, 10-, or 25-g bottles.

(3) No. 059130 for use of 10- or 215-g bottles.

(c) *Conditions of use in dogs*—(1) *Amount.* Instill ointment twice daily into the ear canal. Therapy should continue for 7 consecutive days.

(i) From 7.5- or 15-g tubes, 10-, 12.5-, 25-, or 30-g bottles: 4 drops for dogs weighing less than 30 pounds (lb) or 8 drops for dogs weighing 30 lb or more.

(ii) From 215-g bottles: 2 drops for dogs weighing less than 30 lb or 4 drops for dogs weighing 30 lb or more.

(2) *Indications for use.* For the treatment of canine otitis externa associated with yeast (*Malassezia pachydermatis*, formerly *Pityrosporum canis*) and/or bacteria susceptible to gentamicin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: July 3, 2003.

Andrew J. Beaulieu,

Associate Director, Center for Veterinary Medicine.

[FR Doc. 03–18353 Filed 7–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9081]

RIN 1545–BC33

Prohibited Allocations of Securities in an S Corporation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations concerning requirements for employee stock ownership plans (ESOPs) holding stock of Subchapter S corporations. The temporary regulations provide guidance on identifying disqualified persons and determining whether a plan year is a nonallocation year under Section 409(p) and on the definition of synthetic equity under section 409(p)(5). These temporary regulations would generally affect plan sponsors of, and participants in, ESOPs holding stock of Subchapter S corporations. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective July 21, 2003.

Applicability Date: These temporary regulations are applicable with respect to plan years ending after October 20, 2003.

FOR FURTHER INFORMATION CONTACT: John T. Ricotta at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 4975(e)(7) provides that an ESOP is a defined contribution plan that is designed to invest primarily in qualifying employer securities and that is either a stock bonus plan which is qualified, or a stock bonus plan and money purchase pension plan both of which are qualified, under section 401(a). Section 4975(e)(7) authorizes the Secretary to issue regulations imposing additional requirements for ESOPs (*see* § 54.4975–11 of the Excise Tax Regulations). A plan is not treated as an ESOP under the Code unless it meets the following requirements, to the extent applicable: Section 409(h) (relating to participants' right to receive employer securities; put options); section 409(o) (relating to participants' distribution rights and payment requirements); section 409(n) (relating to securities received in transactions to which section 1042 applies); section 409(p) (relating to prohibited allocations of securities in an S corporation); section 664(g) (relating to qualified gratuitous transfers of qualified employer securities); and section 409(e) (relating to participants' voting rights if the employer has a registration-type class of securities). As authorized by section 4975(e)(7), additional requirements are imposed under § 54.4975–11.

Section 1361(b)(1)(D) provides that a Subchapter S corporation (S corporation) may not have more than one class of stock. Section 1361(b)(1)(B) provides that an S corporation may not have as a shareholder a person that is not an estate, a trust described in section 1361(c)(2), an organization described in section 1361(c)(6), or an individual. In 1996, section 1361(c)(6) was amended to permit a qualified plan under section 401(a) to be a shareholder in an S corporation. Section 1316(a) of the Small Business Job Protection Act of 1996 (SBJPA) (110 Stat. 1755) (1996).

Section 511(a)(1) imposes a tax on the unrelated business taxable income (as defined in section 512(a)) of organizations described in section 511(a)(2), which include plans that qualify under section 401(a). Section 512(e)(1) provides that if an organization described in section 1361(c)(6) holds stock in an S corporation, the interest is treated as an interest in an unrelated trade or business and, notwithstanding the organization's general tax-exempt status, all items of income, loss, or deduction taken into account under section 1366(a) and any gain or loss on the disposition of the stock in the S corporation are taken into account in computing the unrelated business taxable income of the organization. In 1997, section 512(e) was amended to provide that section 512(e) does not apply to employer securities (within the meaning of section 409(l)) held by an ESOP described in section 4975(e)(7). Section 1523 of the Taxpayer Relief Act of 1997 (TRA '97) (111 Stat. 788) (1997). Accordingly, S corporation income allocable to stock held by an ESOP is not subject to regular income or unrelated business income tax, but S corporation income allocable to stock held by any other qualified plan or tax-exempt entity under section 501(c)(3) is subject to the unrelated business income tax under section 511.

Congress became aware that the tax exemption for earnings on S corporation stock held by an ESOP may lead to

inappropriate tax deferral or avoidance in some cases. In order to address these concerns, Congress enacted section 409(p) as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) (115 Stat. 38) (2001). Section 409(p) is intended to limit the tax benefits of ESOPs maintained by S corporations unless the ESOP provides meaningful benefits to rank-and-file employees. As explained in the legislative history:

> The Committee continues to believe that S corporations should be able to encourage employee ownership through an ESOP. The Committee does not believe, however, that ESOPs should be used by S corporation owners to obtain inappropriate tax deferral or avoidance.
>
> Specifically, the Committee believes that the tax deferral opportunities provided by an S corporation ESOP should be limited to those situations in which there is broad-based employee coverage under the ESOP and the ESOP benefits rank-and-file employees as well as highly compensated employees and historical owners.

H.R. Rep. No. 107–51, part 1, at 100 (2001).

Section 409(p)(1) requires an ESOP holding employer securities consisting of stock in an S corporation to provide that no portion of the assets of the plan attributable to (or allocable in lieu of) such employer securities may, during a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a)) for the benefit of any disqualified person, as defined in section 409(p).[1]

Section 409(p)(3)(A) provides that a ''nonallocation year'' includes any plan year during which the ownership of the S corporation is so concentrated among disqualified persons that they own at least 50 percent of its shares. Section 409(p)(3)(B) provides that, in determining the shares owned by an individual for purposes of section 409(p)(3)(A), the attribution rules of section 318(a) apply, with certain exceptions, and the individual is treated as owning his or her deemed-owned ESOP shares.

Under section 409(p)(4)(C)(i), the term *deemed-owned shares* includes, with respect to any person, the stock in the S corporation constituting employer securities of an ESOP which is allocated to that person under the ESOP, and that person's share of the stock in the S corporation which is held by the ESOP but which is not allocated to participants under the ESOP. Suspense account stock is deemed to be allocated to participants in the same proportion as the most recent plan allocation.

Section 409(p)(4) provides, in general, that whether someone is a ''disqualified person'' depends on a person's ownership of deemed-owned shares of S corporation stock held by an ESOP (deemed-owned ESOP shares). Section 409(p)(4) provides, in general, that a ''disqualified person'' means any person whose deemed-owned ESOP shares are at least 10 percent of the number of deemed-owned ESOP or for whom the aggregate number of deemed-owned ESOP shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned ESOP shares.

The determination of whether someone is a disqualified person and whether a plan year is a nonallocation year is made without regard to ''synthetic equity'' attributable to that person and is also made separately taking into account synthetic equity. Synthetic equity is a general classification unique to section 409(p). The provisions relating to synthetic equity do not modify the rules relating to S corporations, *e.g.*, the circumstances in which options or similar interests are treated as creating a second class of stock. H.R. Conf. Rep. No. 107–84, at 102 n.52. Under section 409(p)(6)(C), synthetic equity is defined as:

> any stock option, warrant, restricted stock, deferred issuance stock right, or similar interest or right that gives the holder the right to acquire or receive stock of the S corporation in the future. Except to the extent provided in regulations, synthetic equity also includes a stock appreciation right, phantom stock unit, or similar right to a future cash payment based on the value of such stock or appreciation in such value.

Under the rules for the treatment of synthetic equity at section 409(p)(5), if a person owns synthetic equity in an S corporation, then the shares of stock in such corporation on which such synthetic equity is based are generally treated as outstanding stock in such corporation, and as deemed-owned shares of such person, if such treatment of synthetic equity results either in the treatment of any person as a disqualified person or the treatment of any year as a nonallocation year. Accordingly, if a person is treated as a disqualified person or a year is treated as a nonallocation year without regard to synthetic equity, then the inclusion of synthetic equity as outstanding stock does not cause the person to fail to be treated as a disqualified person or the year to fail to be treated as a nonallocation year.

Section 409(p)(7)(A) authorizes the Secretary to prescribe such regulations as may be necessary to carry out the purposes of section 409(p). As indicated by the legislative history above, section 409(p) is intended to limit the tax benefits of ESOPs maintained by S corporations unless the ESOP provides meaningful benefits to rank-and-file employees. *See* H.R. Rep. No. 107–51, part 1, at 100 (2001). Section 409(p)(7)(B) provides that the Secretary may, by regulation or other guidance of general applicability, provide that a nonallocation year occurs in any case in which the principal purpose of the ownership structure of an S corporation constitutes an avoidance or evasion of section 409(p). ''For example, this might apply if more than 10 independent businesses are combined in an S corporation owned by an ESOP in order to take advantage of the income tax treatment of S corporations owned by an ESOP.'' H.R. Conf. Rep. No. 107–84, at 277 (2001).

Under section 656 of EGTRRA, section 409(p) is effective for plan years ending after March 14, 2001, except for those ESOPs eligible for a delayed effective date applicable to certain ESOPs that were established on or before March 14, 2001. *See* Rev. Rul. 2003–6, 2003–3 I.R.B. 286.

Section 4979A imposes a 50 percent excise tax in certain cases, including an allocation of employer securities that is prohibited by section 409(p), the ownership of any synthetic equity by a disqualified person during a nonallocation year, and the occurrence of the first nonallocation year of an ESOP, as described in section 4979A(e)(2)(C).

Explanation of Provisions

Overview

Section 409(p) was enacted to address concerns about ownership structures involving S corporations and ESOPs that concentrate the benefits of the ESOP in a small number of persons. Under the statute as amended, an ESOP is still permitted to hold S corporation stock, provided that the ESOP benefits a sufficiently broad-based group of employees.

These temporary regulations reflect the statutory language under section 409(p)(1) prohibiting an accrual or allocation in a nonallocation year, but do not provide additional guidance on what constitutes a prohibited accrual or allocation. It is expected that this issue will be addressed in additional regulations.

An ESOP has a nonallocation year for any plan year during which, at any time,

[1] This definition is different from the definition of disqualified person for purposes of section 4975.

disqualified persons hold at least 50 percent of the outstanding shares of stock in the S corporation or 50 percent of the outstanding shares of stock and synthetic equity in the S corporation. These temporary regulations provide guidance on the rules applicable for this purpose. In addition, pursuant to section 409(p)(7)(B), these temporary regulations authorize the Commissioner to provide that a nonallocation year exists in any year in which the principal purpose of the ownership structure is avoidance or evasion of section 409(p). These temporary regulations also provide guidance on identification of disqualified persons.

Synthetic Equity

As discussed above, disqualified persons and nonallocation years are identified both with and without synthetic equity. Section 409(p) defines synthetic equity very broadly. Synthetic equity includes restricted stock, rights to acquire stock in the corporation, such as stock options or warrants, and other similar interests. It also includes payments denominated in share value, including a phantom stock unit, stock appreciation right, or similar interest.

In addition, under these temporary regulations, synthetic equity includes two other categories of interests or payments: Nonqualified deferred compensation (even though it is neither payable in, nor calculated by reference to, stock in the S corporation) and rights to acquire interests in certain related entities. In each case, treatment of these interests as synthetic equity is necessary to carry out the Congressional purpose of section 409(p) of limiting the tax deferral opportunities provided by an S corporation ESOP to those situations in which the benefits of the ESOP ownership are available, at a minimum, to a broad group of rank-and-file employees who have the opportunity to be the primary beneficiaries of the growth of the business through the ESOP. Unless these interests are treated as synthetic equity, the benefits associated with ownership of an interest in an S Corporation by means of the ESOP could be concentrated in a small group, and diverted away from the rank-and-file employees, through use of these interests. In this respect, these interests have the same effect as stock appreciation rights payable in cash, which are explicitly included in synthetic equity by statute.

Nonqualified Deferred Compensation as Synthetic Equity

Since the addition of section 409(p), arrangements have been promoted to taxpayers in which an S corporation that is either entirely or substantially owned by an ESOP is used to shelter the income of an active business while the profits of the business are primarily provided for certain management employees of the business through various obligations to make future payments to the employees. Typically in these arrangements, the obligation to make future payments to the management employees suppresses the value of the company's stock that is allocated to rank-and-file employees through the ESOP, depriving them of the opportunity to be the primary beneficiaries of the growth of the business through the ESOP.

For example, under some of these arrangements, the owners of the operating company establish a management company and the operating company agrees to pay management fees equal to substantially all (or most) of the profits of the operating company. The management company agrees to provide future compensation to certain executives or other employees of the operating company or the management company in an amount equal to substantially all of the profits of the management company. Finally, the management company elects to be treated as an S corporation and transfers all, or a substantial portion, of its stock to an ESOP established to cover rank-and-file employees. Under this arrangement, the operating company claims a deduction for the fees paid to the management corporation. The management corporation in turn retains these fees to satisfy its obligations to pay future compensation. Although the stock of the management corporation is owned by the ESOP, the ownership interest held for rank-and-file employees through the ESOP has a substantially reduced value. Rather than being a mechanism for the transfer of not only ownership, but also the rights associated with ownership, to the employees of the S corporation, the ESOP is used as part of a structure designed to shelter profits that will be paid as future compensation for a small group of executives or management employees.

These temporary regulations treat nonqualified deferred compensation provided by the S corporation or certain related entities as synthetic equity, including deferred compensation that is neither payable in stock of the S corporation nor calculated by reference to stock of the S corporation. S Corporations that do not maintain ESOPs typically do not provide nonqualified deferred compensation to owners. By treating nonqualified deferred compensation provided by the S corporation (or certain related entities) as synthetic equity, these temporary regulations address ownership structures that are designed to avoid or evade section 409(p) and provide guidance allowing individuals to determine when these interests result in a failure to comply with section 409(p). Nonqualified deferred compensation is appropriately characterized as synthetic equity because it functions similarly to other forms of synthetic equity by diverting value away from shareholders, thereby reducing the value of the S corporation and diminishing the ESOP's interest in the value that, absent the nonqualified deferred compensation, would be reflected in the shares of the S corporation held by the ESOP. This effect occurs even if the nonqualified deferred compensation is a fixed dollar amount, and even if such deferred compensation is not payable in stock of the S corporation or measured by reference to that stock (directly, such as a stock appreciation right payable in cash, or less directly, such as percentage of the future profits of the S corporation).

Right To Acquire Assets as Synthetic Equity

Under these temporary regulations, rights to acquire stock or other similar interests in a related entity are treated as synthetic equity if the ownership of such interests in the related entity is the only significant asset of the S corporation and the S corporation is the only significant holder of stock (or other similar interests) of the related entity. For this purpose, related entities are entities in which the S corporation holds an interest and with respect to which income is passed through to the S corporation. These rights are properly treated as synthetic equity because they provide the holders of these rights with an opportunity to benefit from the S corporation ESOP structure that is comparable to the opportunity provided through synthetic equity issued directly by the S corporation. Taking rights to acquire stock or other similar interests in a related entity into account as synthetic equity provides a method for identifying situations in which the interests in the S corporation (and its assets) have, directly or indirectly, become concentrated in a manner that should result in a nonallocation year under section 409(p).

These temporary regulations provide that synthetic equity does not include rights to acquire goods or services at fair market value in the ordinary course of business. The temporary regulations do not address, at this time, rights to acquire other assets of the S Corporation

or assets of the related entity or other related entities. This absence should not be interpreted as a conclusion that a right to acquire these other assets cannot be synthetic equity. It may be appropriate to treat the right to acquire assets of the S Corporation, other than its interest in a related entity (such as its ownership of a manufacturing plant), as synthetic equity. It may also be appropriate to treat rights to acquire assets held by the related entity as synthetic equity.

The temporary regulations also do not address rights to acquire interests in related entities if the ownership of such interests in the related entity is not the only significant asset of the S corporation or the S corporation is not the only significant holder of stock (or other similar interests) of the related entity. Rights to acquire interests in other related entities is reserved because, for example, it may be appropriate in cases in which a related entity is not the only significant asset of the S Corporation to treat as synthetic equity only a portion of the value of the rights to acquire stock or other similar interests in the related entity.

The IRS and Treasury intend to issue additional regulations providing guidance on the definition of synthetic equity on a number of issues, including issues identified as reserved in these temporary regulations. For example, the IRS and Treasury intend to issue additional guidance relating to rights to acquire interests in other related entities and rights to acquire assets of an S corporation or related entity. The additional regulations are expected to address the treatment of these interests, including how any such interests treated as synthetic equity should be converted into shares of synthetic equity in the S corporation and whether such conversion should take into account the extent to which income of the related entity is allocated to a shareholder that is subject to regular income tax or unrelated trade or business income tax. These items are reserved in order to allow for additional consideration of these issues, including consideration of comments on the proposed regulations accompanying these regulations. The additional regulations are expected to be issued in conjunction with guidance on prohibited accruals or allocations to disqualified persons in a nonallocation year, which is also identified as reserved in these temporary regulations.

In the meantime, these temporary regulations provide an anti-abuse provision treating acquisition rights as synthetic equity in certain situations. Specifically, this treatment applies to an option or right to acquire assets of the S corporation, or a related person, that is part of a structure that provides rights to the holder comparable to the rights provided by arrangements identified as synthetic equity under these temporary regulations and in which the principal purpose of the structure is the avoidance or evasion of section 409(p). In addition, the temporary regulations delegate authority to the Commissioner to provide, through revenue rulings, notices and other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter), that synthetic equity includes a right to acquire stock or other similar interests in a related entity in cases in which the S corporation's interest in the related entity is not the only significant asset of the S corporation or the S corporation is not the only significant owner of the related entity.

Rights To Acquire Shares of Stock That Are Issued and Outstanding

The definition of synthetic equity provides that rights to acquire shares in an S corporation with respect to shares that are, at all times during the period when such rights are effective, both issued and outstanding and held by persons other than the ESOP, S corporation, or a related entity are not synthetic equity. These arrangements include, for example, rights of first refusal held by one shareholder in the S corporation with respect to the shares of another taxable shareholder (*i.e.,* shares held outside the tax-exempt structure created by the ESOP). However, in certain limited cases, a disqualified person who has the right to acquire such issued and outstanding stock is treated as owning the stock if such treatment results in a nonallocation year.

Conversion of Synthetic Equity

Synthetic equity that is determined by reference to shares of S corporation stock is treated as the corresponding number of shares of stock. Synthetic equity that is determined by reference to shares of stock (or similar interests) in a related entity is converted into an equivalent number of shares of stock of the S corporation with the same aggregate value as the number of shares of stock (or similar interests) of the related entity (with such value determined without regard to any lapse restriction as defined at § 1.83–3(i)). The value of any other synthetic equity interest, such as fixed dollar nonqualified deferred compensation, is converted into an equivalent number of shares of stock in the S corporation based on the present value of the interest or right to nonqualified deferred compensation (with such value determined without regard to any lapse restriction as defined at § 1.83–3(i)) and the fair market value of the S corporation shares on the determination date (with both values determined as of any reasonable date during the plan year).

Identification of Disqualified Persons

Under these temporary regulations, a person is a disqualified person based either on deemed-owned ESOP shares or deemed-owned ESOP shares combined with synthetic equity. Whether there is a nonallocation year is then determined by taking into account the holdings of all disqualified persons, first based only on outstanding shares of stock of the corporation and then based on outstanding shares of stock and synthetic equity of the corporation. In accordance with the last sentence of section 409(p)(5), synthetic equity cannot result in a person who is treated as a disqualified person for a year, or a year that is treated as a nonallocation year, not being so treated. In addition, these temporary regulations provide that, in any year in which the Commissioner provides that a nonallocation year occurs because the principal purpose of the ownership structure of the S corporation is an avoidance or evasion of section 409(p), the Commissioner may also treat any individual as a disqualified person.

As a result of the provisions of these temporary regulations relating to synthetic equity, employees who benefit from nonqualified deferred compensation arrangements or who hold rights to acquire interests in certain related entities will be treated as owning synthetic equity and may be treated as disqualified persons. As a result, certain plan years of the ESOP may be treated as nonallocation years. This result will not occur unless the aggregate interest held by disqualified persons—through synthetic equity, direct share ownership, and deemed-owned ESOP shares—constitutes at least half of the value of the outstanding stock and synthetic equity of the S corporation.

Effective Date

In the case of an ESOP holding stock in an S corporation that is eligible for the delayed effective date under section 656(d)(2) of EGTRRA applicable to certain ESOPs established on or before March 14, 2001, these temporary regulations do not apply until plan years beginning on or after January 1, 2005. For an ESOP to which the delayed effective date is not applicable, these temporary regulations are applicable with respect to plan years ending after

October 20, 2003. The temporary regulations permit S corporations to avoid having nonqualified deferred compensation treated as synthetic equity under paragraph (f)(2)(iv) of these temporary regulations by distributing the deferred compensation by July 21, 2004.

Request for Comments in Proposed Regulations and Future Guidance

See the preamble of the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**, which asks for comments with respect to issues raised by S corporation ESOPs.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is John T. Ricotta of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Section 1.409(p)–1T is also issued under 26 U.S.C. 409(p)(7). * * *

■ 2. Section 1.409(p)–1T is added to read as follows:

§ 1.409(p)–1T Prohibited allocation of securities in an S corporation (temporary).

(a) *Organization of this section.* Sections 409(p) and 4979A apply if a nonallocation year occurs in an employee stock ownership plan (ESOP), as defined in section 4975(e)(7), that holds shares of stock of a Subchapter S corporation (S corporation) that are employer securities as defined in section 409(l). Paragraph (b) of this section sets forth the general rule under section 409(p)(1) and (2) prohibiting an allocation to a disqualified person in a nonallocation year. Paragraph (c) of this section sets forth rules under section 409(p)(3), (5), and (7) for determining whether a year is a nonallocation year, generally based on whether disqualified persons own at least 50 percent of the shares of the S corporation, either taking into account only the outstanding shares of the S corporation (including shares held by the ESOP) or taking into account both the outstanding shares and synthetic equity of the S corporation. Paragraphs (d), (e), and (f) of this section contain definitions of a disqualified person under section 409(p)(4) and (5), deemed-owned ESOP shares under section 409(p)(4)(C), and synthetic equity under section 409(p)(6)(C).

(b) *Prohibited accruals in a nonallocation year*—(1) *General rule.* An ESOP holding employer securities consisting of stock in an S corporation must provide that no portion of the assets of the plan attributable to (or allocable in lieu of) such employer securities may, during a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a)) for the benefit of any disqualified person.

(2) *Additional rules.* [Reserved.]

(c) *Nonallocation year*—(1) *Definition generally.* A *nonallocation year* means a plan year of an ESOP during which, at any time, the ESOP holds any employer securities that are shares of an S corporation and either—

(i) Disqualified persons own at least 50 percent of the number of outstanding shares of stock in the S corporation (including deemed-owned ESOP shares), or

(ii) Disqualified persons own at least 50 percent of the aggregate number of outstanding shares of stock (including deemed-owned ESOP shares) and synthetic equity in the S corporation.

(2) *Attribution rules.* For purposes of this paragraph (c), the rules of section 318(a) apply to determine ownership of shares in the S corporation (including deemed-owned ESOP shares) and synthetic equity. However, for this purpose, section 318(a)(4) (relating to options to acquire stock) is disregarded and, in applying section 318(a)(1), the members of an individual's family include members of the individual's family under paragraph (d)(2) of this section. In addition, an individual is treated as owning deemed-owned ESOP shares of that individual notwithstanding the employee trust exception in section 318(a)(2)(B)(i). If the attribution rules in paragraph (b)(1) of this section apply, those rules must be followed before applying the rules in this paragraph (c)(2).

(3) *Special rule for avoidance or evasion.* Under section 409(p)(7)(B), the Commissioner, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(B) of this chapter), may provide that a nonallocation year occurs in any case in which the principal purpose of the ownership structure of an S corporation constitutes an avoidance or evasion of section 409(p). For any year that is a nonallocation year under this paragraph (c)(3), the Commissioner may treat any person as a disqualified person.

(4) *Special rule for certain stock rights.* (i) For purposes of paragraph (c)(1) of this section, a person is treated as owning stock that the person has a right to acquire if, at all times during the period when such rights are effective, the stock that the person has the right to acquire is both issued and outstanding and is held by persons other than the ESOP, the S corporation, or a related entity (as defined in paragraph (f)(2)(iii)(A)(*4*) of this section).

(ii) This paragraph (c)(4) applies only if treating persons as owning the shares described in paragraph (c)(4)(i) results in a nonallocation year. This paragraph (c)(4) does not apply to a right that, under § 1.1361–1(l)(2)(iii) or (l)(4)(iii)(C), would not be taken into account in determining if an S corporation has a second class of stock, and does not apply for purposes of determining ownership of deemed-owned ESOP shares or whether an interest constitutes synthetic equity (see the last sentence of paragraph (f)(2)(i)).

(d) *Disqualified persons*—(1) *General rule.* A *disqualified person* is any person for whom—

(i) The number of such person's deemed-owned ESOP shares is at least 10 percent of the number of deemed-owned ESOP shares of the S corporation;

(ii) The aggregate number of such person's deemed-owned ESOP shares and synthetic equity shares is at least 10 percent of the aggregate number of

deemed-owned ESOP and synthetic equity shares of the S corporation;

(iii) The aggregate number of deemed-owned ESOP shares of such person and of the members of such person's family is at least 20 percent of the number of deemed-owned ESOP shares of the S corporation; or

(iv) The aggregate number of deemed-owned ESOP shares and synthetic equity shares of such person and of the members of such person's family is at least 20 percent of the aggregate number of deemed-owned ESOP and synthetic equity shares of the S corporation.

(2) *Treatment of family members; definition.* (i) Each member of the family of any person who is a disqualified person under paragraph (d)(1)(iii) or (iv) of this section is a disqualified person. *Member of the family* means, with respect to an individual—

(A) The spouse of the individual;

(B) An ancestor or lineal descendant of the individual or the individual's spouse;

(C) A brother or sister of the individual or of the individual's spouse and any lineal descendant of the brother or sister; and

(D) The spouse of any individual described in paragraph (d)(2)(ii) or (iii) of this section.

(ii) A spouse of an individual who is legally separated from such individual under a decree of divorce or separate maintenance is not treated as such individual's spouse for purposes of this paragraph (d)(2).

(3) *Special rule for certain nonallocation years.* See paragraph (c)(3) of this section (relating to avoidance or evasion of section 409(p)) for a special rule permitting any person to be treated as a disqualified person in certain nonallocation years.

(e) *Deemed-owned ESOP shares.* A person is treated as owning his or her deemed-owned ESOP shares. *Deemed-owned ESOP shares* mean, with respect to any person—

(1) Any shares of stock in the S corporation constituting employer securities that are allocated to such person's account under the ESOP; and

(2) Such person's share of the stock in the S corporation that is held by the ESOP but is not allocated to the account of any participant or beneficiary (with such person's share to be determined in the same proportion as the most recent stock allocation under the ESOP).

(f) *Synthetic equity*—(1) *Ownership of synthetic equity.* For purposes of section 409(p) and this section, synthetic equity is treated as owned by a person in the same manner as stock is treated as owned by a person, directly or under the rules of section 318(a)(2) and (3). *Synthetic equity* means the rights described in paragraph (f)(2) of this section.

(2) *Synthetic equity*—(i) *Rights to acquire stock of the S corporation. Synthetic equity* includes any stock option, warrant, restricted stock, deferred issuance stock right, stock appreciation right payable in stock, or similar interest or right that gives the holder the right to acquire or receive stock of the S corporation in the future. Rights to acquire stock in an S corporation with respect to stock that is, at all times during the period when such rights are effective, both issued and outstanding and held by persons other than the ESOP, the S corporation, or a related entity, are not synthetic equity (but see paragraph (c)(4) of this section).

(ii) *Special rule for certain stock rights. Synthetic equity* also includes a right to a future payment (payable in cash or any other form other than stock of the S corporation) from an S corporation that is based on the value of the stock of the S corporation or appreciation in such value, such as a stock appreciation right with respect to stock of an S corporation that is payable in cash or a phantom stock unit with respect to stock of an S corporation that is payable in cash.

(iii) *Rights to acquire assets of an S corporation or related entity*—(A) *Rights to acquire interests in a related entity*—(*1*) *Treatment as synthetic equity. Synthetic equity* includes a right to acquire stock or other similar interests in a related entity that is described in this paragraph (f)(2)(iii)(A).

(*2*) Significant interests. *Synthetic equity* includes a right to acquire stock or other similar interests in a related entity if such interests in the related entity are the only significant asset of the S corporation and the S corporation is the only significant owner of the related entity. Whether an asset is the only significant asset of the S corporation or the S corporation is the only significant owner of the related entity depends on the relevant facts and circumstances.

(*3*) *Rights to acquire interests in other related entities.* [Reserved]

(*4*) *Related entity.* For purposes of this section, *related entity* means any entity in which the S corporation holds an interest and which is a partnership, a trust, an eligible entity that is disregarded as an entity that is separate from its owner under § 301.7701–3 of this chapter or a Qualified Subchapter S Subsidiary under section 1361(b)(3).

(B) *Rights to acquire assets of an S corporation or related entity other than rights to acquire stock or similar interests in a related entity*—(1) *General rule.* [Reserved]

(*2*) *Exception for rights to acquire goods or services in ordinary course of business. Synthetic equity* does not include rights to acquire goods or services at fair market value in the ordinary course of business.

(C) *Authority to provide guidance.* The Commissioner, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(B) of this chapter), may provide that *synthetic equity* includes a right to acquire stock or other similar interests in a related entity in cases in which such interests in the related entity are not the only significant asset of the S corporation or the S corporation is not the only significant owner of the related entity if necessary to carry out the purposes of section 409(p).

(D) *Synthetic equity includes comparable rights.* An option or right to acquire assets of the S corporation or another person is treated as synthetic equity if such option or right is part of a structure that provides rights to the holder comparable to the rights provided by arrangements identified as synthetic equity under this paragraph (f)(2)(iii) and the principal purpose of the structure is the avoidance or evasion of section 409(p).

(iv) *Special rule for nonqualified deferred compensation. Synthetic equity* also includes any remuneration for services rendered to the S corporation, or a related entity, to which section 404(a)(5) applies (including remuneration for which a deduction would be permitted under section 404(a)(5) if separate accounts were maintained), any right to receive property (to which section 83 applies) in a future year for the performance of services to an S corporation, or related entity, and any transfer of property (to which section 83 applies) in connection with the performance of services to an S corporation, or a related entity, to the extent that the property is not substantially vested within the meaning of § 1.83–3(i) by the end of the plan year in which transferred. *Synthetic equity* also includes any other remuneration for services rendered to the S corporation, or a related entity, under a plan, or method or arrangement, deferring the receipt of compensation to a date that is after the 15th day of the 3rd calendar month after the end of the entity's taxable year in which the related services are rendered, other than a plan that is an eligible retirement plan within the meaning of section 402(c)(7)(B).

(3) *No overlap among shares of deemed-owned ESOP shares or synthetic equity.* Synthetic equity under this paragraph (f) does not include shares that are deemed-owned ESOP shares. In addition, synthetic equity under a specific subparagraph of this paragraph (f) does not include anything that is synthetic equity under a preceding subparagraph of this paragraph (f).

(4) *Number of synthetic shares*— (i) *Synthetic equity determined by reference to S corporation shares.* In the case of synthetic equity that is determined by reference to shares of stock of the S corporation, the person who is entitled to the synthetic equity is treated as owning the corresponding number of shares of stock. For example, if a corporation grants an employee of an S corporation an option to purchase 100 shares of the corporation's stock, the employee is the deemed owner of 100 synthetic equity shares of the stock of the corporation.

(ii) *Synthetic equity determined by reference to shares in a related entity.* In the case of synthetic equity that is determined by reference to shares of stock (or similar interests) in a related entity, the person who is entitled to the synthetic equity is treated as owning shares of stock of the S corporation with the same aggregate value as the number of shares of stock (or similar interests) of the related entity (with such value determined without regard to any lapse restriction as defined at § 1.83–3(i)).

(iii) *Other synthetic equity.* In the case of any other synthetic equity, the person who is entitled to the synthetic equity is treated as owning a number of shares of stock in the S corporation equal to the present value of the synthetic equity (with such value determined without regard to any lapse restriction as defined at § 1.83–3(i)) divided by the fair market value of a share of the S corporation's stock as of the same date. For purposes of this paragraph (f)(4)(iii), the number of shares of S corporation is permitted to be determined as of the first day of the ESOP's plan year, or any other reasonable determination date or dates during a plan year that is consistently used by the corporation for this purpose for all persons. The number of shares of synthetic equity treated as owned for any period from a determination date through the date immediately preceding the next following determination date is the number of shares treated as owned on the first day of that period.

(g) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* Corporation X is a calendar year S corporation that maintains an ESOP. X has a single class of common stock, of which there are a total of 1,200 shares outstanding. X has no synthetic equity. In 2006, individual A, who is not an employee of X (and is not related to any employee of X), owns 100 shares directly, individual B owns 100 shares directly, and the remaining 1,000 shares are owned by an ESOP maintained by X for its employees. The ESOP's 1,000 shares are allocated to the accounts of individuals who are employees of X (none of whom are related), as set forth in columns 1 and 2 in the following table:

1—Shareholders	2—Deemed-owned ESOP shares (total of 1,000)	3—Percentage deemed-owned ESOP shares	4—Disqualified person
B	33	33	Yes.
C	145	14.5	Yes.
D	75	7.5	No.
E	30	3	No.
F	20	2	No.
Other participants	400 (none exceed 10 shares)	1 or less	No

(ii) *Conclusion with respect to disqualified persons.* As shown in column 4 in the table above, individuals B and C are disqualified persons for 2006 under paragraph (d)(1) of this section because each owns at least 10% of X's deemed-owned ESOP shares.

(iii) *Conclusion with respect to nonallocation year.* However, 2006 is not a nonallocation year under section 409(p) because disqualified persons do not own at least 50% of X's outstanding shares (the 100 shares owned directly by B, B's 330 deemed-owned ESOP shares, plus C's 145 deemed-owned directly by B, B's 330 deemed owned ESOP shares, plus C's 145 deemed-owned ESOP shares equal only 47.9% of the 1,200 outstanding shares of X).

Example 2. (1) *Facts.* The facts are the same as in *Example 1,* except that, as shown in column 4 of the table below, individual E has an option to acquire 500 shares of the common stock of X from X:

1—Shareholders	2—Deemed-Owned ESOP shares (total of 1,000)	3—Percentage deemed-owned ESOP shares	4—Synthetic equity (500)	5—Percentage deemed-owned ESOP plus Synthetic equity shares (total of 1,500)	6—Disqualified person
B	330	33		22	Yes (cols. 3 and 5).
C	145	14.5		9.7	Yes (col. 3).
D	75	7.5		5	No.
E	30	3	500	35.3	Yes (col. 5).
F	20	2		1.3	No.
Other participants	400 (none exceed 10 shares).	1 or less		under 1	No.

(ii) *Conclusion with respect to disqualified persons.* E's option constitutes 500 shares of synthetic equity. Accordingly, as shown in column 6 in the table above, individuals B, C, and E are disqualified persons for 2006 because each owns at least 10% of X's deemed-owned ESOP shares or X's total deemed-owned ESOP and synthetic equity shares.

(iii) *Conclusion with respect to nonallocation year.* The 100 shares owned directly by B, B's 330 deemed-owned ESOP shares, C's 145 deemed-owned ESOP shares, E's 30 deemed-owned ESOP shares, plus E's 500 synthetic equity shares equals 65% of the 1,700 outstanding and synthetic equity shares of X. Thus, 2006 is a nonallocation year for X's ESOP under section 409(p) because disqualified persons own at least 50% of X's total shares of outstanding stock and synthetic equity. In addition,

independent of the preceding conclusion, 2006 would be a nonallocation year because disqualified persons own at least 50% of X's outstanding shares because the 100 shares owned directly by B, B's 330 deemed-owned ESOP shares, C's 145 deemed-owned ESOP shares, plus E's 30 deemed-owned ESOP shares equals 50.4% of the 1,200 outstanding shares of X.

(h) *Effective date*—(1) *General effective dates.* Except as provided in paragraph (h)(2) of this section, section 409(p) applies for plan years ending after March 14, 2001 and this section applies for plan years ending after October 20, 2003, except that paragraph (f)(2)(iv) of this section is disregarded with respect to nonqualified deferred compensation that is distributed on or before July 21, 2004.

(2) *Certain ESOPs established on or before March 14, 2001.* If an ESOP holding stock in an S corporation was established on or before March 14, 2001 and the election under section 1362(a) with respect to that S Corporation was in effect on March 14, 2001,

Robert E. Wenzel,

Deputy Commissioner of Services and Enforcement.

Approved: July 9, 2003.

Pamela F. Olson,

Assistant Secretary of (Tax Policy).

[FR Doc. 03–18210 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AL41

Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

AGENCIES: Department of Defense, Department of Homeland Security (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for Fiscal Year 2003 (October 1, 2002, through September 30, 2003) are changed to show a 1.5% increase in these rates.

DATES: *Effective Date:* This final rule is effective July 21, 2003.

Applicability Date: The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lynn M. Cossette, Education Adviser, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7294.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 10 U.S.C. 16131(b) for Fiscal Year 2003, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 1.5%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2001, through June 30, 2002, exceeds the total of the monthly Consumer Price Index-W for July 1, 2000, through June 30, 2001.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 1.5% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in Fiscal Year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

A nonsubstantive correction is made in 38 CFR 21.7636 to designate the table as paragraph (a)(2)(i).

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2002, in accordance with the applicable statutory provisions discussed above.

Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule directly affects only individuals and does not directly affect small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan

programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 20, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Human Resources.

Charles S. Abell,

Principal Deputy Under Secretary of Defense (Personnel and Readiness).

■ For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

■ 1. The authority citation for part 21, subpart L, continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

■ 2. Section 21.7636 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(2)(i) introductory text and table.

■ b. In paragraph (a)(3), removing ''September 30, 2001, and before October 1, 2002,'' and adding, in its place, ''September 30, 2002, and before October 1, 2003,''.

The revisions read as follows:

§ 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2002, and before October 1, 2003, to a reservist pursuing a program of education is the rate stated in this table:

Training	Monthly rate
Full time	$276.00
¾ time	207.00
½ time	137.00
¼ time	69.00

(2)(i) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2002, and before October 1, 2003, is the rate stated in this table:

Training period	Monthly rate
First six months of pursuit of training	$207.00
Second six months of pursuit of training	151.80
Remaining pursuit of training	96.60

* * * * *

[FR Doc. 03–18435 Filed 7–18–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN157–1a; FRL–7517–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on January 7, 2003. The revised SIP pertains to certain miscellaneous metal coating operations and the control of gasoline Reid vapor pressure in Clark and Floyd Counties, Indiana. The purpose of this action is to approve amendments to the applicable Indiana rules, assuring that certain controls in the two counties remain in effect even after the counties' redesignation to attainment. In addition, EPA is approving minor changes to the rules, which are administrative in nature and intended to enhance the rules' clarity.

DATES: This rule is effective on September 19, 2003, unless EPA receives adverse written comments by August 20, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6061, E-Mail: *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the term ''me'' refers to the reader of this rulemaking and the terms ''we,'' ''us,'' or ''our'' refer to the EPA.

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I. Background

A. What Is a SIP?

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling attainment demonstrations.

B. What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the federally enforceable SIP, states must formally adopt the regulations and emission control strategies consistent with state and federal requirements. This process generally includes public notice, public hearings, public comment periods, and

formal adoption by state-authorized rulemaking bodies.

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

The EPA incorporates into the federally approved SIP all state regulations and supporting information it has approved under section 110 of the Act. Records of such SIP actions are maintained in 40 CFR part 52, titled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations the EPA has approved are not reproduced in their entirety in the Code of Federal Regulations (CFR), but are ''incorporated by reference,'' which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Rule Mean to Me?

Enforcement of a state rule before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the rule is federally approved as part of the SIP, however, it becomes enforceable by the EPA, which can then take enforcement actions against violators. The CAA also offers citizens legal recourse to address SIP violations, as provided in section 304 of the Act.

D. What Is the Purpose of Indiana's Miscellaneous Metal Coating Operations and Control of Gasoline Reid Vapor Pressure Requirements?

326 Indiana Administrative Code (IAC) 8–2–9 contains Indiana's miscellaneous metal coating operation requirements, and establishes limitations on the amount of volatile organic compounds that may be discharged into the atmosphere for facilities engaged in the surface coating of miscellaneous metal parts and products. The Indiana Air Pollution Control Board originally adopted these requirements and submitted them to EPA for federal approval on October 23, 1990. EPA incorporated these requirements into Indiana's federally enforceable ozone SIP as part of the State's stationary source control strategy in partial satisfaction of the requirements of the CAA.

326 IAC 13–3 contains Indiana's gasoline Reid vapor pressure requirements, and limits the Reid vapor pressure level of gasoline during the summer ozone season in Clark and Floyd Counties to seven and eight-tenths (7.8) pound per square inch per gallon.

Lower Reid vapor pressure gasoline is a fuel control measure that is used during the summer ozone season to reduce emissions of volatile organic compounds from motor vehicles. Fuel with a lower volatility achieves emissions reductions in ozone precursors by reducing aromatic hydrocarbon emissions from gasoline and thereby reducing its ability to evaporate as quickly. The Indiana Air Pollution Control Board adopted this requirement on July 6, 1995; EPA incorporated it into Indiana's enforceable ozone SIP on February 9, 1996 (61 FR 4895).

E. Why Is Indiana Making Changes to These Rules?

Section 182(a) of the Act requires States with ozone nonattainment areas classified as ''marginal'' or above to submit SIP revisions to reduce volatile organic compound emissions. Initially, EPA had designated Clark and Floyd Counties as ''moderate'' for ozone. On October 9, 2001, EPA announced that Clark and Floyd Counties had monitored attainment of the national air quality standard for ozone and had met all applicable requirements of the Act. As a result, EPA approved Indiana's request to redesignate the area to attainment of the ozone standard (See 66 FR 53665).

Because of the change in Clark and Floyd Counties' attainment status, Indiana revisited a number of rules to clarify that certain requirements would continue to apply even after the change in classification. The purpose of today's action is to approve amendments to those Indiana rules which assure that certain controls in the two counties remain in effect even after the counties' redesignation to attainment.

F. What Public Review Opportunities Did Indiana Provide for This Rule?

Indiana held public hearings on this rule on June 5, 2002 and August 7, 2002, in Indianapolis, Indiana. The Indiana Air Pollution Control Board adopted final rules on August 7, 2002. The rule revisions became effective December 15, 2002, and were formally submitted to EPA on January 7, 2003, as a revision to the Indiana SIP for ozone.

II. Evaluation of the Rule

A. What Are the Changes to the State's Miscellaneous Metal Coating Operations and Control of Gasoline Reid Vapor Pressure Requirements?

Indiana's amendments to 326 IAC 8–2–9 (Miscellaneous metal coating operations) and 326 IAC 13–3–1 (Applicability, Control of gasoline Reid vapor pressure) are not a substantive change to the rules, but rather are intended to ensure that certain existing requirements stay in place in Clark and Floyd even though the area has been redesignated to attainment for ozone.

Indiana amended 326 IAC 8–2–9, Miscellaneous metal coating operations, to add language concerning the application of coating in Clark or Floyd County to assure controls in the two counties remained in effect after the counties were redesignated to attainment. Indiana amended 326 IAC 13–3–1, Control of gasoline Reid vapor pressure applicability, to delete the reference to Clark and Floyd Counties being in an ozone nonattainment area. The rest of the changes to the rule are administrative in nature and are intended to enhance the clarity of the rule.

B. Is This Rule Approvable?

Our review of the material submitted indicates that the changes made to Indiana's Miscellaneous metal coatings operations (326 IAC 8–2–9) and Control of gasoline Reid vapor pressure (326 IAC 13–3–1) should assure that certain existing VOC requirements remain in effect. These rule revisions are, therefore, approvable.

III. EPA Rulemaking Action

We are approving, through direct final rulemaking, revisions to Indiana's Miscellaneous metal coatings operations and Control of gasoline Reid vapor pressure requirements. The purpose of this action is to approve amendments to these Indiana rules which assure controls in Clark and Floyd Counties remain in effect, even after the counties' redesignation to attainment. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by August 20, 2003. Should we receive such comments, we will publish a final rule informing the public that this action

will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on September 19, 2003.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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 the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hazardous air pollutants Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 9, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart P—Indiana

■ 2. Section 52.770, is amended by adding paragraph (c)(162) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(162) On January 7, 2003 the Indiana Department of Environmental Management submitted a State Implementation Plan (SIP) revision amending certain provisions of Indiana's 326 IAC 8–2–9 (Miscellaneous metal coating operations) and 326 IAC 13–3–1 (Applicability, Control of gasoline Reid vapor pressure).

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 8–2–9; and 13–3–1 adopted August 7, 2002, effective December 15, 2002.

(ii) Additional materials.

(A) January 7, 2003 letter and enclosures from the Indiana Department of Environmental Management (IDEM) Commissioner to the Regional Administrator of the United States

Environmental Protection Agency (EPA) submitting Indiana's revisions to the ozone SIP.

[FR Doc. 03–18298 Filed 7–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY60–257a, FRL–7519–8]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is announcing approval of a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New York. This revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO_X) from eighteen units at three facilities owned by Tenneco Gas Corporation in New York. This direct final rule approves the source-specific RACT determination that was made by New York in accordance with provisions of its regulation. The intended effect of this rulemaking is to approve source-specific emission limitations required by the Clean Air Act.

DATES: This direct final rule is effective on September 19, 2003 without further notice, unless EPA receives adverse comment by August 20, 2003. If an adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866. Electronic comments could be sent either to *Werner.Raymond@epa.gov* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. Please follow the on-line instructions for submitting comments. Copies of the State submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. New York Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233. Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella (*Gardella.Anthony@epa.gov*) or Richard Ruvo *(Ruvo.Richard@epa.gov),* Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: The following table of contents describes the format for the Supplementary Information section:

I. What Action Is EPA Taking Today?
II. What Is EPA's Finding on the State Submittal?
III. What Are the Clean Air Act Requirements for NO_X RACT?
IV. What Are New York's Regulatory Requirements for NO_X RACT?
A. EPA Approval of New York's NO_X RACT Regulation
B. Case-by-Case NO_X RACT Determinations
V. What Is EPA's Analysis of the State Submittal?
VI. What is EPA's Conclusion?
VII. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is approving a revision to New York's ozone SIP submitted on November 20, 1996 as supplemented on February 24, 1997. The SIP revision addresses specific sources that were submitted by New York in response to the Clean Air Act (CAA) requirement that states require Reasonably Available Control Technology (RACT) at all major stationary sources of NO_X. The SIP revision consists of a source-specific NO_X RACT determination for controlling oxides of nitrogen (NO_X) from eighteen gas-fired reciprocating engines, located at three compressor stations in New York State, that are owned/operated by Tenneco Gas Corporation (also known as Tenneco Gas Pipeline Company and Tennessee Gas Pipeline Company).

II. What Are EPA's Findings of Each State Submittal?

The following is a summary of EPA's finding for a source-specific SIP revision for the Tenneco Gas Corporation's eighteen stationary internal combustion engines at three facilities. Tenneco Gas sought approval of, and New York agreed to, NO_X RACT emission limits higher than that which are established in Subpart 227–2. It should be noted that EPA is only acting on the permitted emission rates and conditions of approval related to emissions of NO_X; action is not being taken on any other pollutants which may be permitted by New York with regard to these sources.

Tenneco Gas Corporation (Tenneco Gas Pipeline Company or Tennessee Gas Pipeline Company)

Tenneco Gas operates six 1400-horsepower reciprocating engines at the Hamburg (Eden) Compressor Station in Erie County, six 1400-horsepower engines at the Nassau (Chatham) Compressor Station in Columbia County, and five 1400-horsepower and one 3500-horsepower engine (Worthington model ML–12) at the West Winfield Station in Herkimer County. All 18 units are gas-fired reciprocating lean-burn internal combustion engines. The facility's RACT analysis concluded, and New York agreed, that RACT for the seventeen 1400-horsepower engines (Worthington model UTC–165) is low emission combustion, consisting of a pre-combustion chamber with modified turbochargers, whereas RACT for the one 3500-horsepower engine (Worthington ML–12) is timing controls, new air-to-fuel ratio controls and modifications of the turbochargers. The alternative NO_X emission limit for each of the seventeen 1400-horsepower engines is 7.0 grams per horsepower-hour and for the one 3500-horsepower engine is 13.3 grams per horsepower-hour.

III. What Are the Clean Air Act Requirements for NO_X RACT?

The CAA required certain states to develop RACT regulations for major stationary sources of NO_X and to provide for the implementation of the required measures as soon as practicable but no later than May 31, 1995. Under the CAA, the definition of major stationary source is based on the tons per year (tpy) air pollution a source emits and the quality of the air in the area of the source. In ozone transport regions, attainment/unclassified areas as well as marginal and moderate ozone nonattainment areas, a major stationary source for NO_X is considered to be one which emits or has the potential to emit 100 tpy or more of NO_X and is subject to the requirements of a moderate nonattainment area. New York is within the Northeast ozone transport region

established by section 184(a) of the Act. New York has defined a major stationary source of NO_X as a source which has the potential to emit 25 tpy in the New York City and lower Orange County metropolitan areas and 100 tpy in the rest of the State. Consequently, all major stationary sources of NO_X within the State of New York are required to implement RACT no later than May 31, 1995. For detailed information on the CAA requirements for NO_X RACT see the Technical Support Document prepared for today's action.

IV. What Are New York's Regulatory Requirements for NO_X RACT?

A. EPA Approval of New York's NO_X RACT Regulation

On January 20, 1994, New York submitted to EPA for approval, as a revision to the SIP, 6 NYCRR Subpart 227–2, the State's NO_X RACT plan entitled ''Reasonably Available Control Technology For Oxides of Nitrogen (NO_X RACT)—Stationary Combustion Installations.'' Subpart 227–2 provides the NO_X RACT requirements for combustion sources in New York and it became effective 30-days after being adopted on January 19, 1994. On April 29, 1999, New York submitted amendments to Subpart 227–2 as part of the State's NO_X Budget Trading Program (Part 227–3) SIP revision. On April 28, 2000, the EPA final approval action on the two SIP revisions for Subpart 227–2 was published in the **Federal Register** (65 FR 24875).

On April 3, 2000, New York submitted to EPA for approval additional amendments to Subpart 227–2 as part of the State's NO_X Budget Trading Program SIP revision (Part 204). On May 22, 2001, the EPA final approval action on the April 2000 submittal was published in the **Federal Register** (66 FR 28059).

B. Case-by-Case NO_X RACT Determinations

Provisions within Subpart 227–2 establish a procedure for a case-by-case determination of what represents RACT for an item of equipment or source operation. This procedure is applicable in two situations: (1) If the major NO_X facility contains any source operation or item of equipment of a category not specifically regulated in Subpart 227–2, or (2) if the owner or operator of a source operation or item of equipment of a category that is regulated in Subpart 227–2 seeks approval of an alternative maximum allowable emission limit.

Subpart 227–2 requires the owners and/or operators of the affected facility to submit either a RACT proposal if they are not covered by specific emission limitations or a request for an alternative maximum allowable emission limit if they are covered by specific emission limitations. For each situation, the owners/operators must include a technical and economic feasibility analysis of the possible alternative control measures. RACT determinations for an alternative maximum allowable emission limit must consider alternative control strategies (*i.e.*, system wide averaging and fuel switching) in addition to considering control technologies (*e.g.*, low NO_X burners). In either case, Subpart 227–2 provides for New York to establish emission limits based upon a RACT determination specific to the facility. The resulting alternative maximum allowable emission limit must be submitted to EPA for approval as a SIP revision.

V. What Is EPA's Analysis of the State Submittal?

The source specific SIP revision that is the subject of this action was adopted by New York in August 1995 and February 1997, and found by EPA to be administratively and technically complete. The SIP revision was a request by New York for EPA approval of alternative emission limits in accordance with provisions of Subpart 227–2 for stationary combustion sources. Prior to adoption, New York published its proposed RACT determinations in the State's ''Environmental Notice Bulletin'' and provided 30 days for public comment and an opportunity to request a public hearing. There were no requests for public hearings and New York reviewed and responded to all comments made. New York determined that the alternative maximum allowable emission limits proposed by the owner conform with the applicable provisions of Subpart 227–2. New York has issued to the owner a revised permit to construct/certificate to operate and/or special permit conditions incorporating approved permit conditions which are fully enforceable by the State and which contain conditions consistent with Subpart 227–2. These permitted documents are identified in the ''Incorporation by reference'' section at the end of this rulemaking.

EPA has determined that the NO_X emission limits identified in New York's approved permits to construct/certificates to operate and/or special permit conditions represent RACT for each source identified in this action. The permit conditions include emission limits, work practice standards, testing, monitoring, and record keeping/reporting requirements. These permit conditions are consistent with the NO_X RACT requirements specified in Subpart 227–2 and conform to EPA's NO_X RACT guidance. Therefore, EPA is approving the source-specific SIP revision submitted by New York dated November 20, 1996, as supplemented on February 24, 1997.

EPA's evaluation of the RACT submittal is detailed in a document entitled ''Technical Support Document-NO_X RACT Source Specific SIP Revisions-State of New York.'' A copy of that document is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

VI. What Is EPA's Conclusion?

The EPA is approving the source-specific compliance plans described above as RACT for the control of NO_X emissions from the eighteen sources located at three facilities identified in the this source-specific SIP revision. Please note that if EPA receives an adverse comment on an amendment, paragraph, or specific source addressed in this direct final rule and if the provision that relates to the adverse comment may be severed from the remainder of the rule, EPA may sever the provision and adopt as final those provisions of the rule that are not the subject of the adverse comment.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the same source-specific SIP revision should adverse comments be filed. This final rule will be effective September 19, 2003 without further notice unless the Agency receives relevant adverse comments by August 20, 2003.

If the EPA receives adverse comments, then EPA will publish a notice withdrawing the final rule or the portion to be severed from the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 19, 2003 and no further action will be taken on the proposed rule.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Submission to Congress and the Comptroller General

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 the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 17, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart HH—New York

■ 2. Section 52.1670 is amended by adding new paragraph (c)(102) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

* * * * *

(102) Revisions to the State Implementation Plan submitted by the New York State Department of Environmental Conservation on November 20, 1996 as supplemented on February 24, 1997.

(i) Incorporation by reference:

(A) Permits to Construct/Certificates to Operate: The following facilities have been issued permits to construct/ certificates to operate and/or special permit conditions by New York State and such permits and/or certificates are incorporated for the purpose of establishing NO_X emission limits consistent with Subpart 227–2:

(*1*) Tenneco Gas Corporation's (also known as Tenneco Gas Pipeline Company and Tennessee Gas Pipeline Company) eighteen gas-fired reciprocating internal combustion engines, Erie, Columbia, and Herkimer Counties; Compressor Station #229 at Eden, NY: permits to construct and certificates to operate dated August 22, 1995 for emission points 0001A through 0006A; Compressor Station #254 at Chatham, NY: permits to construct and certificates to operate dated October 4, 1995 with attached Special Conditions dated September 15, 1995 for emission points 00001 through 00006; Compressor Station #245 at West Winfield, NY: Special (Permit) Conditions attached to New York State's letter dated February 24, 1997 for emission points 00001 through 00006.

(*2*) [Reserved]

(ii) Additional information—Documentation and information to support NO_X RACT alternative emission limits in two letters addressed to EPA from New York State Department of Environmental Conservation and dated as follows:

(*1*) November 20, 1996 letter to Ms. Kathleen C. Callahan, Director of the Division of Environmental Planning and Protection from Deputy Commissioner David Sterman providing a SIP revision for Tenneco Gas Pipeline Company.

(*2*) February 24, 1997 letter to Ronald Borsellino, Chief of the Air Programs Branch from Donald H. Spencer, P.E., providing supplemental information for Tenneco Gas Pipeline Company's Compressor Station #245.

[FR Doc. 03–18301 Filed 7–18–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 22, 24, 27, 73, 80, 90, 95 and 101

[WT Docket No. 97–82; FCC 03–98]

Competitive Bidding Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission addresses five petitions for reconsideration filed in response to the Commission's Part 1 *Order on Reconsideration of the Third Report and Order, and Fifth Report and Order.* The Commission also adopts several minor modifications and revisions to certain part 1 general competitive bidding rules to provide specific guidance to auction participants and to streamline the competitive bidding regulations.

DATES: Effective September 19, 2003.

FOR FURTHER INFORMATION CONTACT: Regina Martin, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order*, adopted on April 22, 2003 and released on May 8, 2003. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

I. Overview

1. In the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order*, the Commission addresses five petitions for reconsideration filed in response to the Commission's *Order on Reconsideration of the Part 1 Third Report and Order*, 65 FR 52401 (August 29, 2000), and *Fifth Report and Order*, 65 FR 52323 (August 29, 2000), which clarified and amended the general competitive bidding rules for all auctionable services.

2. Specifically, in the *Order on Reconsideration of the Part 1 Fifth Report and Order*, the Commission:

- Clarifies that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant. To the extent that the officers and directors of the applicant are controlling interest holders of other entities, the Commission will attribute the gross revenues of those entities to the applicant.
- Establishes a narrow exemption for the officers and directors of a rural telephone cooperative so that the gross revenues of the affiliates of a rural telephone cooperative's officers and directors need not be attributed to the applicant. Specifically, the gross revenues of the affiliates of an applicant's officers and directors will not be attributed if either the applicant or a controlling interest, as the case may be, meets *all* of the following conditions: (i) The applicant (or the controlling interest) is validly organized as a cooperative pursuant to state law; (ii) the applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act; and (iii) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. However, the exemption will not apply if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant.
- Declines to revise the controlling interest standard to exclude entities operating under control group structures.
- Modifies the Commission's part 1 default payment rule, § 1.2104(g)(2), to incorporate the combinatorial bidding default rule adopted in the *700 MHz Second Memorandum Opinion and Order*.
- Revises the part 1 rules to make certain conforming edits in the following areas: (i) License default; (ii) definition of consortium; (iii) women- and minority-owned businesses; (iv) clarification of the attribution rule; (v) ownership disclosure requirements; and (vi) short-form disclosure requirements for small or very small business consortiums. Additionally, technical edits are made to Commission rules that refer to service-specific competitive bidding rules that have been removed, revised, or modified.

3. In the *Second Order on Reconsideration of the Part 1 Third Report and Order*, the Commission:

- Dismisses a repetitive challenge to modifications to the installment payment rules adopted in the *Part 1 Third Report and Order*, 63 FR 770 (January 7, 1998) and the *Order on Reconsideration of the Part 1 Third Report and Order*.
- Reorganizes § 1.2112(a) to move the requirement that each application fully disclose all ''real party or parties in interest'' into § 1.2112(a)(1). The Commission also conforms § 1.2112(a)(1) to the disclosure requirements as set forth in § 1.919(e) to ensure a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant.

II. Order on Reconsideration of the Part 1 Fifth Report and Order

A. Controlling Interest Standard

4. In the *Part 1 Fifth Report and Order*, 65 FR 52323 (August 29, 2000), the Commission adopted as its general attribution rule a controlling interest standard, § 1.2110(c)(2), to be used for determining which applicants are eligible for small business status. The attribution rule is significant because, among other things, it is used to determine which applicants qualify as small businesses and therefore, may apply for bidding credits if they are available in a particular service.

5. Under the controlling interest standard, the Commission attributes to the applicant the gross revenues of the applicant, its controlling interests, the applicant's affiliates, and the affiliates of the applicant's controlling interests, in assessing whether the applicant is eligible for the Commission's small business provisions. Section 1.2110(c)(2)(i) defines a controlling interest as including ''individuals or entities with either *de jure* or *de facto* control.'' Thus, there may be more than one ''controlling interest'' whose gross revenues must be counted. The premise

of this rule is that all parties that control an applicant or have the power to control an applicant, and such parties' affiliates, will have their gross revenues counted and attributed to the applicant in determining the applicant's eligibility for small business status or for any other size-based status using a gross revenue threshold.

Attribution of Officers and Directors

Personal Net Worth of Officers and Directors.

6. Generally, the Commission has excluded personal net worth, including personal income and assets, from attribution for purposes of eligibility for small business provisions. In making this determination, the Commission has stated that attribution of personal net worth was not necessary because most wealthy individuals are likely to have their wealth tied to the ownership of other businesses. The Commission finds this rationale equally applicable here. Accordingly, for purposes of the controlling interest standard, the Commission clarifies that in calculating an applicant's gross revenues under § 1.2110, the personal net worth, including personal income and assets, of its officers and directors will *not* be attributed to the applicant. This clarification is consistent with the Commission's decisions in several service-specific rulemakings. For instance, in using the controlling interest standard to determine the eligibility of applicants in the 929–931 MHz Paging Service (''Auction No. 26'') for small business bidding credits, the Commission made clear that the personal net worth, including personal income, of controlling interests was not attributable to the applicant.

7. Personal income of officers and directors, however, is distinguishable from the gross revenues received by any business entities such individuals may control. For example, if an officer or director were to operate a separate business, the gross revenues derived from that separate business would be attributed to the applicant, although any personal income from such separate business would not be attributed. Further, if an officer or director of an applicant were an affiliate of another entity through any ownership interest or other means of affiliation, the gross revenues of such entity would be attributed to the applicant, whereas any income derived directly by an officer or director from that entity would be considered personal income and not attributed to the applicant. Finally, applicants are reminded that by operation of the Commission's rules all affiliates of controlling interests are attributable to the applicant. Thus, although the Commission does not attribute to the applicant the personal income of its officers and directors, to the extent that the officers and directors are controlling interest holders of other entities, the Commission attributes the gross revenues of those entities to the applicant.

Application of Attribution Rule to the Officers and Directors of a Rural Telephone Cooperative.

8. The Commission grants Rural Telecommunications Group's (''RTG'') request to exclude from attribution the gross revenues of entities controlled by a rural telephone cooperative's officers and directors, by providing a narrow exemption only available where the gross revenues of the affiliates of a rural telephone cooperative's officers and directors would otherwise be attributable based solely on their status as officers and directors of the rural telephone cooperative applicant or as officers and directors of a rural telephone cooperative that controls the applicant. However, if an officer or director of a rural telephone cooperative is considered a controlling interest of the applicant under another section of the controlling interest attribution rule, this exemption does not apply. For example, if an officer or director of the rural telephone cooperative manages its operations pursuant to a management agreement and either has authority to make certain decisions regarding the services offered by the applicant, or significantly influences such decisions, the gross revenues of other entities controlled by the officer or director would be attributed to the rural telephone cooperative. The Commission denies Neoworld's suggestion to broadly exempt officers and directors from the controlling interest standard where an applicant institutes a contractual mechanism in an effort to insulate officers and directors from involvement in an applicant's telecommunications activities.

Limited Exemption for Rural Telephone Cooperatives.

9. In light of the unique nature of rural telephone cooperatives, an exemption from the requirement that the gross revenues of entities controlled by a rural telephone cooperative's officers and directors are attributed to the applicant would not undermine the purpose of the controlling interest attribution rule. The attribution rules are intended to eliminate incentives for entities to create small business ''fronts'' that would enable large firms to secure a benefit to which they are not entitled, *i.e.*, small business bidding credits. The Commission agrees with the commenters' explanation that the key differences between rural cooperatives and other structures make it highly unlikely that rural telephone cooperatives would be able to participate in the types of sham transactions the rule is designed to protect against. For example, ownership and control of the cooperative remain in the hands of patrons of the cooperative (*i.e.*, telephone subscribers), rather than in non-patron equity investors as is often the case with traditional corporations or other business forms. Additionally, unlike traditional corporations or other business forms, the outside business interests of individual officers and directors of rural telephone cooperatives are not financial and management resources available to the cooperative. Further, because of the democratic structure of cooperatives, the patrons of each cooperative control the cooperative. Finally, members contribute equity to, and control, the capital of the cooperative, as opposed to outside investors. In light of these factors, grant of RTG's petition does not undermine the purpose of the controlling interest attribution rule.

10. Accordingly, based upon the comments received, the Commission adopts a narrow exemption for the officers and directors of a rural telephone cooperative so that the gross revenues of the affiliates of a rural telephone cooperative's officers and directors need not be attributed to the applicant. In the Commission's experience, rural telephone cooperatives frequently create wholly owned subsidiaries, or similar entities, to participate in Commission auctions. Accordingly, this exemption for the applicant's officers and directors would also extend to situations where the applicant is not a rural telephone cooperative but is controlled by an eligible rural telephone cooperative. For example, X is a rural telephone cooperative that satisfies all the elements of the exemption. X creates a subsidiary Y. Y's officers and directors are controlling interests solely based upon their status as officers and directors—*i.e.*, solely pursuant to § 1.2110(c)(2)(ii)(F). Y has no other controlling interests. Then, for purposes of determining eligibility for small business provisions, the gross revenues of the affiliates of X's officers and directors and affiliates of Y's officers and directors are not attributed to Y. If, however, Y has another controlling interest (other than Y's officers and directors and X's officers and directors) that is not an eligible rural telephone cooperative or controlled by an eligible

rural telephone cooperative, then the exemption does not apply to Y's officers and directors or such controlling interest's officers or directors. However, the gross revenues of the affiliates of X's officers and directors would not be attributed to Y. Specifically, the gross revenues of the affiliates of an applicant's officers and directors will not be attributed if either the applicant or a controlling interest, as the case may be, meets all of the following conditions: (i) The applicant (or the controlling interest) is validly organized as a cooperative pursuant to state law;[1] (ii) the applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act;[2] and (iii) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. 26 U.S.C. 1381(a)(2)(C); 26 U.S.C.A. 501(c)(12). However, the exemption will not apply if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant. Further, the mere presence of an eligible rural telephone cooperative as a controlling interest will not ensure that the exemption is wholly applicable to the applicant. Thus, where an applicant is not an eligible rural telephone cooperative, if the applicant has a controlling interest (other than the applicant's officers and directors or the eligible rural telephone cooperative's officers and directors) that is not an eligible rural telephone cooperative, or controlled by an eligible rural telephone cooperative, the exemption will not apply to the applicant's officers and directors or such controlling interest's officers and directors. However, in that situation, the gross revenues of the affiliates of the eligible rural telephone cooperative's officers and directors would not be attributed to the applicant. The exemption the Commission creates is appropriate because where the eligible rural cooperative ultimately controls the applicant, the gating criterion of the cooperative structure precludes the applicant from being a sham entity.

11. The exemption the Commission adopts is tailored to the factual assertions and policy arguments provided by commenters. The test the Commission adopts will ensure that the Commission's general assumptions regarding cooperatives hold true with respect to each applicant seeking to avail itself of this exemption. Thus, for example, the Commission is limiting this exemption only to those rural telephone cooperatives that are eligible for Federal tax-exempt status (*i.e.*, those that derive 85% or more of their income from subscribers). Adopting such an objective factor, as well as the other objective factors, will ensure that such exemption would be used only by *bona fide* community-based cooperatives, not sham entities. The Commission believes that this action will increase the number of rural telephone cooperatives that are eligible for small business status (and the corresponding bidding credits). Such a result will enhance the ability of rural telephone cooperatives to participate in spectrum auctions. This, in turn, will promote the deployment of advanced telecommunications services in rural areas as Congress mandated in section 309(j).

12. Accordingly, the Commission incorporates this exemption into the controlling interest standard contained in § 1.2110. If an applicant uses this exemption, its certification on its short-form application (FCC Form 175) that it ''is qualified as a designated entity under § 1.2110'' constitutes a certification that it is eligible for this narrow exemption. In addition, in the long-form application (FCC Form 601) and in the application for assignment or transfer of control (FCC Form 603), applicants seeking to use this exemption will be required to establish eligibility for this exemption based on the factors listed.

13. Consistent with the policy objectives underlying the Commission's decision, the Commission grants three pending waiver requests filed by rural telephone cooperative applicants in Auction No. 44. Specifically, three winning bidders that are rural telephone cooperatives (or wholly-owned by rural telephone cooperatives) filed substantively identical requests for waiver of § 1.2110(c)(2)(ii)(F). *See* Applications to Participate in an FCC Auction (FCC 175) of Cable and Communications Corporation, Northeast Nebraska Telephone Company, and Poka Lambro Telecommunications, Ltd. (initially filed May 8, 2002) (respectively, the ''C&C Application, Northeast Application, and Poka Lambro Application''). Short form applications for Auction No. 44, including the instant applications, may be viewed on the Commission's auctions Web site. *See https://auctionfiling.fcc.gov/form175/index.htm.* In connection with their demonstrations of eligibility for designated entity bidding credits, these applicants argued that the gross revenues of the affiliates of the cooperative's officers and directors should not be attributed to the cooperative. They note that the outside business interests of the cooperative's officers and directors ''have no impact on the cooperative's ability to raise capital or compete for FCC licenses'' due to the cooperative structure under which they are organized. The Commission believes that waiver of the requirement that the gross revenues of entities controlled by a rural telephone cooperative's officers and directors are to be attributed to the applicant would be consistent with its decision to adopt an exemption for rural telephone cooperatives and would promote the development of additional wireless services in their particular rural communities. Accordingly, consistent with the Commission's decision, it grants these waivers conditioned upon the submission to the Commission of information demonstrating the applicant's compliance with the factors adopted herein.

14. The Commission denies Neoworld's suggestion to broadly exempt officers and directors from the controlling interest standard where an applicant institutes a contractual mechanism to insulate officers and directors from involvement in an applicant's telecommunications activities. Generally, § 1.2110(c)(2)(ii)(F) reflects the corporate reality that business decisions and corporate policy

[1] A cooperative is defined pursuant to state law not federal law. Accordingly, the Commission requires that a rural telephone cooperative be validly organized as a cooperative under state law. *See e.g.*, New Mexico Cooperation Act, N.M. Stat. Ann. § 53–4–1 (Michie 1978); Colo. Rev. Stat. Ann. § 7–56–103 (West 2002).

[2] 47 U.S.C. 153(37). The term ''rural telephone company'' is defined in 47 U.S.C. 153(37) and in 47 CFR 1.2110(c)(4) and 51.5. Since passage of the Telecommunications Act of 1996, the Commission generally has used the statutory definition to determine which local exchange carriers can be classified as rural telephone companies. The statutory definition uses a range of standards, including the population of a jurisdiction and the number of access lines serving communities of various sizes. Specifically, section 153(37) states:

The term ''rural telephone company'' means a local exchange carrier operating entity to the extent that such entity—

(A) provides common carrier service to any local exchange carrier study area that does not include either—

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996. 47 U.S.C. 153(37).

are established by a corporation's board of directors and officers. Providing a broad exemption for officers and directors of an applicant would ultimately underestimate the role of officers and directors in an organization; thereby potentially providing large businesses with a significant monetary benefit reserved only for eligible small businesses. Such a result is contrary to the Commission's intent when adopting the controlling interest rule. As the Commission noted in the *Part 1 Fifth Report and Order*, the Commission adopted the attribution rules to ensure that small business bidding credits are extended only to *bona fide* small businesses. Further, adoption of Neoworld's drastic revision to the Commission's rules would essentially require the Commission to conduct a case-by-case review of the specific insulating mechanism employed to ensure that the arrangements are legitimate and are not sham transactions. In contrast, the exemption the Commission adopts for rural telephone cooperatives does not require such a case-by-case analysis. The cooperative's structure coupled with the factors identified serves as gating criteria obviating a need for such a case-by-case analysis.

Application of Controlling Interest Standard to Control Group Structures.

15. TeleCorp, Tritel, Poplar, and Summit (''Petitioners'') request that the Commission revise the controlling interest standard to exclude entities operating under the Commission's previously adopted control group structure. Petitioners state that they are concerned that the controlling interest standard could be interpreted to provide that officers and directors are always considered to have a controlling interest even under a control group structure. Petitioners argue that a literal reading of the rule could be used to expand the definition of affiliates so that greater gross revenues and assets would be attributed on that basis alone. Specifically, Petitioners request that newly established affiliates of existing restricted C/F block licensees that were structured so as to establish their eligibility under a control group attribution rule be able to utilize the same structure used by the existing restricted C/F block licensee to establish their eligibility. The Petitioners did not indicate the context of their request, *i.e.*, whether they sought to use the control group attribution rule solely to determine eligibility to hold a restricted C/F block license, or also to determine if an unjust enrichment payment would be owed upon transfer of control or assignment of such a license.

16. To the extent Petitioners are seeking a modification to the Commission's rule, the Commission denies their petitions for reconsideration and affirms the Commission's decision in the *Part 1 Fifth Report and Order* to consider officers and directors as controlling interests in a licensee or applicant. However, to avoid similar questions in the future, the Commission restates the application of the attribution rules with respect to eligibility to hold restricted C/F block licenses. Generally, if an applicant does not hold a restricted C/F block license under the former control group rules it must use the controlling interest attribution rule to determine eligibility to hold restricted C/F block licenses, whether through auctions or through assignment or transfer of control. However, with respect to the acquisition of restricted C/F block licenses through assignment or transfer of control, wholly-owned subsidiaries and commonly controlled affiliates (whether newly formed or in existence prior to the adoption of the controlling interest attribution rule) that establish their eligibility directly through an existing restricted C/F block licensee, will be eligible to hold a C/F block restricted license to the same extent as the existing restricted C/F block licensees. Thus, in the context of an application to assign or transfer a restricted C/F block license, the eligibility of an existing restricted C/F block licensee (that obtained its license under the former control group rules) and its wholly owned subsidiaries and commonly controlled affiliates to hold such licenses (as opposed to eligibility for small business provisions such as bidding credits) may be determined without application of the controlling interest attribution rule. For example, X creates a wholly-owned subsidiary Y. X also has a commonly controlled affiliate Z. X obtained its restricted C/F block licenses under the former control group rules. W, an unrelated party, also obtained its restricted C/F block licenses under the former control group rules. W seeks to assign its restricted C/F block licenses to Y and Z. Because X, Y, and Z are commonly controlled, Y and Z may establish their eligibility to hold restricted C/F block licenses through X without application of the controlling interest attribution standard. Further, X, Y, and Z will continue to be eligible to hold restricted C/F block licenses provided they comply with the requirements of § 24.709. *See TeleCorp Order,* 16 FCC Rcd at 3725–26, ¶¶ 23–41. Significantly, X, Y, and Z can only exceed the total assets test by permissible growth pursuant to § 24.709(a)(2). *Id.* at ¶ 29. This explanation does not alter the determination that, as stated in the *Part 1 Fifth Report and Order*, for all future C/F block auctions, all applicants will be subject to the attribution rules in effect at the time of filing their short-form applications.

17. For purposes of determining an assignee's or transferee's eligibility for benefits offered to small businesses, such as bidding credits and installment financing, and the application of the unjust enrichment provisions, all applicants will be subject to the attribution rules in effect at the time of filing their applications for assignment or transfer of control. The Commission has previously determined that the fact that an existing restricted C/F block licensee may choose to retain a control group structure does not exempt it from attributing the gross revenues of its affiliates, including the gross revenues of other entities controlled by its officers and directors, to the licensee for purposes of determining eligibility for small business provisions, such as bidding credits and installment financing.

B. Calculation of Default Payments in Combinatorial Bidding

18. The Commission incorporates into the part 1 general competitive bidding rules the combinatorial bidding default rule adopted in the *700 MHz Second Memorandum Opinion and Order*, 66 FR 10374 (February 15, 2001). The Commission adopts this provision because the effects of default in a combinatorial bidding auction are so detrimental to the integrity of the auctions system that they require a strong deterrent against insincere bidding and strategic default. As a commenter noted, in response to the *Auction No. 31 Combinatorial Bidding Comment Public Notice,* 65 FR 35636 (June 5, 2000), ''[d]efault in a combinatorial auction has more far reaching consequences than does default in an auction of single items. In particular, a default in a combinatorial auction could affect the award of many other licenses and [could] be used strategically to do so.'' Comments of Alekansdar Pekec and Michael H. Rothkopf, ''Making the FCC's First Combinatorial Auction Work Well'' (filed June 9, 2000) at section 6. Thus, the rule as adopted in the *700 MHz Second Memorandum Opinion and Order* is necessary to adequately discourage defaults, deter frivolous or insincere bidding, and generally protect the integrity of the auction process. The rule will be used to calculate default

payments for all auctions where a combinatorial bidding design is employed. Although the Commission adopts a new combinatorial bidding default rule, the competitive bidding rules are otherwise applicable. Thus, for example, the winning bid for a package creates the same obligation for the whole package as does a winning bid for a single license in the context of simultaneous multiple round auction without combinatorial bidding.

19. For convenience sake, the Commission provides the following explanation of the application of the rule. This substantially reiterates the explanation provided in the 700 MHz *Second Memorandum Opinion and Order*.

(i) Where a defaulting bidder held winning bids on individual licenses (*i.e.*, not as part of a package), and in a subsequent auction the licenses are also won individually, the deficiency portion will be calculated by subtracting the subsequent winning bid from the defaulted bid. 47 CFR 1.2104(g)(3)(i)(a) as adopted herein. The deficiency portion for such bids will be calculated on a license-by-license basis (*i.e.*, in the event of defaults on multiple bids, the differences between the amounts originally bid and the amounts subsequently bid will not be aggregated to determine a net amount owed). *Id.* For example, if a bidder defaults on two bids, one for License A for $100 and one for License B for $150, and in a subsequent auction, the licenses are won as License A for $150 and License B for $120, the default payment would be calculated separately for License A (by comparing the original bid ($100) to the amounts subsequently bid ($150), yielding no deficiency but an additional 25% payment)) and License B (by comparing the original bid ($150) to the amount subsequently bid for License B ($120), yielding a deficiency of $30, plus an additional 25% payment)). If the subsequent winning bid(s) exceed the defaulted bid(s), no deficiency portion will be assessed. Even in the absence of a deficiency portion, however, an additional 25% payment will be due. *Id.*

(ii) Where a defaulting bidder won licenses in package(s), and in a subsequent auction the licenses are won either (a) in the same package(s), or (b) in smaller packages or as individual licenses that correlate to the defaulted package(s), the deficiency portion will be determined on a package-by-package basis. 47 CFR 1.2104(g)(3)(i)(b) as adopted herein. In the event a defaulting bidder defaults on more than one such bid, the differences between the amount originally bid and the amounts(s) subsequently bid will not be aggregated to determine a net amount owed. *Id.* For example, if a bidder defaults on Package ABC (*i.e.*, a package consisting of Licenses A, B and C) with a bid of $900 and Package DE with a bid of $600, and in a subsequent auction, the licenses are won as License A for $200, Package BC for $600, and Package DE for $700, the default payment would be calculated separately for Package ABC (by comparing the original bid ($900) to the amounts subsequently bid for License A and Package BC ($200 and $600, which equals $800, yielding a $100 deficiency plus the additional payment)) and Package DE (by comparing the original bid ($600) to the amount subsequently bid for Package DE ($700, yielding no deficiency, but an additional 25% payment)). Thus, in this situation, the deficiency portion will be calculated in a manner analogous to where the licenses are sold individually. However, with regard to each individual package, where the licenses are subsequently sold individually or as part of smaller packages, the amounts received in the subsequent auction will be aggregated in order to determine any deficiency.

(iii) Where a defaulting bidder or bidders won licenses either individually or as part of packages, and in a subsequent auction the licenses are won as larger packages or different packages (not including the situation described in preceding paragraph), the deficiency portion will be calculated by subtracting the aggregate amount originally bid for the licenses from the aggregate amount bid in the subsequent auction for the licenses. 47 CFR 1.2104(g)(3)(i)(c) as adopted herein. For example, if a bidder defaults on Package AB with a bid of $200 and Package CD with a bid of $300, and in a subsequent auction the licenses are sold as Package AC for $250 and Package BD for $250, the default payment would be calculated by aggregating the amounts originally bid ($200 plus $300 equals $500) to the amounts subsequently bid ($250 plus $250 equals $500) to determine the deficiency amount ($500 less $500 equals $0); the additional payment would be based on either the original aggregate amount or the subsequent aggregate amount, whichever is less (in this case, they are the same, $500). Thus, in this situation, the deficiency portion will not be calculated on a bid-by-bid basis.

(iv) If, in a situation requiring that bids be aggregated in order to determine the deficiency portion of the default payments for bids, there are multiple defaulting bidders, the default payment (both the deficiency portion and the additional 25% payment portion) will be allocated to the defaulting bidders in proportion to the their share of the aggregated default bids. 47 CFR 1.2104(g)(3)(i)(d) as adopted herein. For example, if Bidder 1 defaults on Package ABC for $200, and Bidder 2 defaults on Package DE for $400, and in a subsequent auction the licenses are won in Package AB for $150 and Package CDE for $350, Bidder 1 would be liable for 1/3 of the default payment and Bidder 2 would be responsible for 2/3. The total default payment would be equal to the difference between the total of the original bids ($600) and the total of the subsequent amounts bid ($500) plus an additional amount of 25% of the total of the subsequent amounts bid. The total default payment therefore would equal $100 ($600–$500) plus 25 percent of $500 ($125), for a total default payment of $225.

(v) In the event that a bidding credit applies to any applicable bids(s), the deficiency portion of the default payment will be assessed using the lesser of the difference between gross bids and the difference between net bids. 47 CFR 1.2104(g)(3) as adopted herein. (In the event that a bidder does not have a bidding credit, the bidder's gross bid and net bid are the same). In other words, the Commission will compare (i) the sum of the gross defaulted bid(s) minus the gross subsequent winning bid(s) and (ii) the sum of the net defaulted bid(s) minus the net subsequent winning bid(s). The Commission will use the lesser of (i) and (ii) to calculate the deficiency portion of the default payment.

(vi) The default payment consists of the deficiency portion and an additional 25% payment. *Id.* The additional payment will be 25% of the lesser of the subsequent winning bids(s) and the defaulted bid(s). 47 CFR 1.2104(g)(3)(ii) as adopted herein. The Commission will use the same gross or net bid(s) that were used to calculate the deficiency portion when assessing the additional 25% payment. *Id.* That is, the Commission will compare the defaulted and subsequent bid(s) according to the methods described for calculation of the deficiency portion of the default payment when determining whether the defaulted bid(s) or the subsequent winning bid(s) is the lesser amount. *Id.* Should there be no difference between the gross or net bid(s) for purposes of assessing the deficiency portion, the Commission will assess the additional 25% payment using the lesser of the gross or net bid(s).

20. Finally, the Commission will maintain its practice of assessing an interim default payment with a slight modification. Specifically, in the case of combinatorial bidding defaults, the

Commission will assess a 25% interim default payment pending assessment of the final default payment after a subsequent auction. This procedure is appropriate because even under the most favorable set of circumstances for the defaulting bidder, *i.e.*, where the bid price for the package at the subsequent auction exceeds defaulted bid, the final default payment would be 25% of the defaulted bid.

C. Licenses Subject to Auction After Default in Combinatorial Bidding Auctions

21. When the Commission adopted the default rules, it stated, as a general rule, that in the event of default by a winning bidder, the best course of action would be to offer licenses for the spectrum in a subsequent auction. Currently, under the Commission's part 1 auction rules, if a bidder defaults on a bid (or bids), the Commission may offer the license(s) for the spectrum in a new auction or it may also offer the license(s) to the other highest bidders. In the *700 MHz Second Memorandum Opinion and Order*, the Commission determined that for combinatorial bidding in the Upper 700 MHz band if a bidder defaults on a package bid, the Commission would auction the licenses making up the package on which the party defaulted, and only those licenses. This would occur even if, under the combinatorial bidding procedures, a different set of packages would have won had the defaulting bidder not bid. As the Commission explained in that *700 MHz Second Memorandum Opinion and Order*, any other result would be extremely problematic in the context of combinatorial bidding. The Commission sees no reason to change this decision now. Accordingly, in all future combinatorial bidding auctions, the Commission will not offer the package or licenses to the next highest bidder and will instead auction the license(s) for the spectrum in a new auction.

D. Conforming Edits to Competitive Bidding Rules

22. The Commission revises or removes service-specific and/or part 1 competitive bidding rules in the following areas: (i) License default; (ii) definition of consortium; (iii) women- and minority-owned businesses; (iv) clarification of the attribution rule; (v) ownership disclosure requirements; and (vi) short-form disclosure requirements for small or very small business consortiums. Also, technical edits are made to Commission rules that refer to service-specific competitive bidding rules that have been removed, revised, or modified.

23. *License default.* Section 1.2109, among other things, provides the conditions upon which a winning bidder will be deemed to have defaulted. Specifically, § 1.2109(b) states, in pertinent part, that ''[i]f a winning bidder withdraws its bid * * * the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in § 1.2104(g)(2).'' However, § 1.2109(c) states, in pertinent part, that ''[a] winning bidder who is found unqualified to be a licensee * * * will be deemed to have defaulted and will be liable for the payment set forth in § 1.2104(g)(2).'' The language regarding the dismissal of an application was inadvertently omitted from § 1.2109(c). Thus, the Commission revises § 1.2109(c) to add dismissal language to conform to § 1.2109(b).

24. *Definition of consortium.* The Commission's service-specific competitive bidding rules for several services define the terms ''small business consortium'' and ''very small business consortium.'' However, neither of these terms are defined in the Commission's part 1 rules. To streamline the Commission's rules and eliminate redundancies, the Commission incorporates a definition of the term ''consortium'' into the part 1 rules. This definition is taken almost verbatim from the service-specific definitions. Accordingly, the Commission deletes the definitions of small and very small business consortium in the service-specific competitive bidding rules.

25. Further, the Commission has generally defined a ''small or very small business consortium'' as a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition of a small or very small business as defined on a service-specific basis. In the *Part 1 Third Report and Order*, the Commission, in clarifying the part 1 definition of affiliate, determined that a ''consortium'' for purposes of determining status as a designated entity will not be treated as a ''joint venture'' under the Commission's attribution standards. In that Order, however, the Commission failed to also revise the part 1 definition of a ''small or very small business consortium.'' Thus, the Commission revises the part 1 rules to exclude the term ''joint venture'' from the definition of ''consortium.''

26. *Clarification of the attribution rules:* In the *Part 1 Fifth Report and Order*, the Commission established a controlling interest standard for attributing to an applicant the gross revenues of the applicant, its affiliates, its controlling interest, and the affiliates of the applicant's controlling interests in determining which applicants qualify as small businesses. In doing so the Commission amended the part 1 competitive bidding rules to incorporate new rules adopting the controlling interest standard. Specifically, § 1.2110(c)(2)(ii)(F) provides, in pertinent part, that ''[o]fficers and directors of an entity shall be considered to have a controlling interest in the entity.'' Under the controlling interest standard, however, a controlling interest includes individuals or entities, or groups of individuals or entities, that have control of the applicant under the principles of either *de jure* or *de facto* control. Therefore, the Commission revises § 1.2110(c)(ii)(F) to read, in pertinent part, that ''[o]fficers and directors of an applicant shall be considered to have a controlling interest in the applicant.''

27. Additionally, the Commission makes slight modifications to § 1.2110(b)(1)(i) to provide further guidance to applicants. Specifically, the term ''their affiliates'' in § 1.2110(b)(1)(i) includes both affiliates of the applicant and affiliates of the applicant's controlling interests.

28. *Disclosure requirements for small businesses.* Section 1.2112(a) of the Commission's rules formerly required all applications to participate in competitive bidding or for a license, authorization, assignment, or transfer of control to disclose certain information pertaining to controlling interests including ''a list of names, addresses, and citizenship of all controlling interests of the applicants, as set forth in § 1.2110.'' In the *Part 1 Fifth Report and Order*, the Commission determined that only applicants claiming small business status would be required to disclose controlling interest information under § 1.2112. Accordingly, the controlling interest disclosure requirements from § 1.2112(a) were moved to § 1.2112(b) which applies to entities claiming eligibility for small business provisions. At the same time, § 1.2112(b) was divided into two parts: Paragraph (b)(1), applying to short-form applications; and paragraph (b)(2), applying to long-form applications. The controlling interest language from § 1.2112(a), however, was inadvertently only carried over to paragraph (b)(1) instead of in both paragraphs (b)(1) and (b)(2). In addition, in dividing § 1.2112(b) into two sections, the Commission failed to specifically mention applications for an assignment

or transfer of control. Accordingly, the Commission makes conforming edits to § 1.2112(b) to correct these inadvertent errors to fully implement its intent that all applicants claiming small business status, including those filing applications for a license, authorization, assignment, or transfer of control as well as those filing short-form applications, are required to disclose the controlling interest information.

29. Section 1.2112(b)(1)(i) requires an applicant to list, as part of the disclosure obligations, the ''names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant.'' However, in addition to these disclosures, certain service-specific rules also require the applicant to disclose the same information for affiliates and small and very small business consortium. Section 1.2112(b)(1)(i) does not require the applicant to disclose this additional information. The Commission removes the service-specific short-form disclosure requirements and revises subsection 1.2112(b)(1)(i) to add affiliate and small or very small business consortium language as part of the short-form disclosure obligations.

30. Additionally, the Commission revises § 1.2112(b)(1)(ii) to comport with the Commission's previous correction made to § 1.2112(a)(6) in the *Part 1 Erratum*. Specifically, the Commission revises § 1.2112(b)(1)(ii) to require applicants claiming eligibility for small business provisions to list any *FCC-regulated entity* (instead of the current requirement to list any FCC-licensed entity) or applicant for an FCC license in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This revision is consistent with the Commission's intent, as stated in the *Part 1 Fifth Report and Order*, to require that FCC-regulated entities be reported when there is a connection between such entity and the applicant at issue through a common owner.

31. *Women- and minority-owned businesses*. The Commission's rules set forth certain provisions applicable to designated entities—small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies. In particular, § 1.2110(c)(3) of the part 1 general competitive bidding rules defines and provides the eligibility criteria for businesses owned by members of minority groups and/or women. However, § 24.720 (c), (d), and (i)(2) also define women- and minority-owned businesses and qualifying minority and/or woman investor. In light of the Commission's ongoing efforts to eliminate from the Code of Federal Regulations service-specific competitive bidding rules that are either repetitive with or have been superseded by the part 1 general competitive bidding rules, the Commission removes § 24.720 (c), (d), and (i)(2). The Commission's action is technical in nature and does not substantively affect the status of women- and minority-owed businesses.

III. Second Order on Reconsideration of the Third Report and Order

A. Installment Grace Periods and Imposition of Late Payment Fees

32. NextWave urges the Commission to restore the original installment payment rules as adopted in the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994). This Order does not address the petitions for reconsideration challenging the Commission's statement that § 1.2104(g)(2) does not apply to licensees who default on their installment payments, *see Order on Reconsideration of the Part 1 Third Report and Order*, 66 FR 51594 (October 10, 2001). The Commission received three petitions for reconsideration on this point. NextWave Petition, TeleCorp/Tritel/Poplar/Summit Petition, and MetroPCS Petition. The Commission will address this point in a subsequent order. In its petition, NextWave again relies upon the arguments that the modifications to the rules constitute impermissible retroactive rulemaking, that the changes were unreasonable and not consistent with commercial practices, and that contract-based theories precluded the Commission from modifying the installment payment rules. These arguments were previously the subject of reconsideration and fully considered and rejected in the *Order on Reconsideration of the Part 1 Third Report and Order. Part 1 Fifth Report and Order; Compare* NextWave Petition, filed September 28, 2000, in response to the *Order on Reconsideration of the Part 1 Third Report and Order* with NextWave Petition, filed February 17, 1998, in response to the *Part 1 Third Report and Order*. Additionally, as also noted, the Court of Appeals for the District of Columbia Circuit has substantially addressed and rejected these arguments in the context of a challenge to the application of the revised installment payment rules to the 218–219 MHz Service licensees. In light of these circumstances, the Commission declines to grant reconsideration.

33. The Commission does not grant reconsideration for the purpose of allowing a petitioner to reiterate arguments already presented. This is particularly true where a petitioner advances arguments that the Commission previously considered and rejected in a prior order on reconsideration. If this were not the case, the Commission would be involved in a never-ending process of review that would frustrate the Commission's ability to conduct business in an orderly fashion. However, the Commission will entertain a petition for reconsideration if it is based on new evidence or changed circumstances or if the reconsideration is in the public interest. In this instance, NextWave's arguments were previously raised and fully addressed in the *Order on Reconsideration of the Part 1 Third Report and Order*. NextWave did not plead or otherwise establish new facts, changed circumstances, or new public interest considerations that would merit review of its request for reconsideration. Thus, the Commission dismisses NextWave's arguments here as repetitious.

B. Ownership Disclosure Requirements

34. The Commission reorders § 1.2112 to move the requirement that each application for competitive bidding, or for a license, authorization, assignment or transfer for control fully disclose all ''real party or parties in interest'' from § 1.2112(a) to § 1.2112(a)(1). At the same time, the Commission conforms § 1.2112(a)(1) to the disclosure requirements as set forth in § 1.919(e) to ensure that applicants include a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant. The Commission also reminds applicants that, if the information disclosed pursuant to § 1.2112(a) changes while the application is pending, § 1.65 of the Commission's rules requires that additional or corrected information be submitted. These rule revisions are consistent with the Commission's efforts to provide specific guidance to applicants, to provide transparency at all stages in the competitive bidding and licensing process; and, finally to ensure that the Commission, the public, and interested parties, are aware of the real party or parties in interest before the Commission acts on a pending application.

IV. Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Analysis

35. As required by the Regulatory Flexibility Act, 5 U.S.C. 604, the Commission prepared a Supplemental Final Regulatory Flexibility Analysis for the *Order on Reconsideration of the Part 1 Fifth Report and Order*. The Commission also prepared a second Supplemental Final Regulatory Flexibility Analysis for the *Second Order on Reconsideration of the Part 1 Third Report and Order*.

B. Paperwork Reduction Act Analysis

36. This *Second Order on Reconsideration of the Part 1 Third Report and Order, and Order on Reconsideration of the Part 1 Fifth Report and Order* contains new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It was submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public and other Federal agencies are invited to comment on the new or modified collection(s) contained in this proceeding.

V. Supplemental Final Regulatory Flexibility Analysis (Order on Reconsideration of the Part 1 Fifth Report and Order)

37. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), a Final Regulatory Flexibility Analysis (FRFA) was incorporated into the report and order section of the *Part 1 Fifth Report and Order* in WT Docket No. 97–82. The Commission received four petitions for reconsideration, two comments, two reply comments, and *ex parte* filings from three parties in response to the *Part 1 Fifth Report and Order*. This present supplemental FRFA (SFRA) conforms to the RFA.

A. Need for, and Objectives of, the Order on Reconsideration of the Part 1 Fifth Report and Order

38. In August 2000, the Commission released the most recent comprehensive order in the part 1 proceeding, the *Order on Reconsideration of the Part 1 Third Report and Order, Part 1 Fifth Report and Order, and Part 1 Fourth Further Notice of Proposed Rule Making*, which clarified and amended the general competitive bidding rules for all auctionable services. Most significantly, in the *Part 1 Fifth Report and Order*, the Commission adopted, as its general attribution rule, a controlling interest standard to be used for determining which applicants are eligible for small business status.

39. The Commission received petitions for reconsideration from several parties in response to the *Part 1 Fifth Report and Order*. Petitioners request reconsideration of certain aspects of the new controlling interest standard, § 1.2110(c)(2), by which the Commission attributes to the applicant the gross revenues of the applicant, its controlling interests, the applicant's affiliates, and the affiliates of the applicant's controlling interests, in assessing whether the applicant is eligible for the Commission's small business provisions. Specifically, petitioners request reconsideration of the attribution of the personal net worth of an applicant's officers and directors to the applicant, application of the controlling interest attribution rule as applied to the officers and directors of rural telephone cooperatives, and application of the controlling interest standard to entities operating under the former control group rules. In the *Order on Reconsideration of the Part 1 Fifth Report and Order* the Commission resolves the petitions for reconsideration filed in response to the *Part 1 Fifth Report and Order*.

40. First, the Commission clarifies that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income and assets, of its officers and directors will not be attributed to the applicant. To the extent that the officers and directors of the applicant are controlling interest holders of other entities, the Commission will attribute the gross revenues of those entities to the applicant. Second, based upon the comments received, the Commission adopts a narrow exemption for the officers and directors of a rural telephone cooperative so that the gross revenues of the affiliates of a rural telephone cooperative's officers and directors need not be attributed to the applicant. Specifically, the gross revenues of the affiliates of an applicant's officers and directors will not be attributed if either the applicant or a controlling interest, as the case may be, meets *all* of the following conditions: (i) The applicant (or the controlling interest) is validly organized as a cooperative pursuant to state law; (ii) the applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act; and (iii) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. However, the exemption will not apply if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant. Third, the Commission declines to revise the controlling interest standard to exclude entities operating under control group structures. At the same time, the Commission restates the application of the attribution rules with respect to eligibility to hold restricted C/F block licenses.

41. Lastly, on its own motion, the Commission also modifies the part 1 default payment rule, § 1.2104(g)(2), to incorporate the combinatorial bidding default rule adopted in the *700 MHz Second Memorandum Opinion and Order*. The Commission also makes certain ministerial conforming amendments and rule revisions to the part 1 general competitive bidding rules, and portions of the service-specific competitive bidding rules, to conform to the new rule revisions in part 1 in the following areas: (i) License default; (ii) definition of consortium; (iii) women- and minority-owned businesses; (iv) clarification of the attribution rule; (v) ownership disclosure requirements; and (vi) short-form disclosure requirements for small or very small business consortiums. Finally, technical edits are made to Commission rules that refer to service-specific competitive bidding rules that have been removed or revised.

B. Summary of Significant Issues Raised by Public Comments in Response to the FRFA Contained in the Order on Reconsideration of the Part 1 Third Report and Order

42. No petitions for reconsideration or comments were filed directly in response to the FRFA. However, the Commission did receive petitions for reconsideration and comments on issues affecting small businesses. As previously noted, in this SFRFA, petitioners request reconsideration of certain aspects of the new controlling interest standard, to be used for determining which applicants are eligible for small business status. Most notably, under the controlling interest standard, officers and directors of any applicant will be considered to have a controlling interest in the applicant. Thus, in calculating an applicant's gross revenues, the gross revenues of other entities controlled by such officers and directors must be included. Specifically, RTG seeks an exemption for rural telephone cooperatives from the requirement that the gross revenues of entities controlled by a rural telephone cooperative's officers and directors are to be attributed to the applicant. NTCA

and PVT reiterate points made by RTG. However, Neoworld seeks to extend RTG's proposal. In particular, Neoworld proposes that the Commission adopt a test under which an officer or director would not be considered to be a controlling interest if the applicant can demonstrate that it has developed insulating mechanisms to prevent such a director from being materially involved directly or indirectly in the management or telecommunications activities of the licensee.

43. Furthermore, TeleCorp, Tritel, Poplar, and Summit (''Petitioners'') request that the Commission revise the controlling interest standard to exclude entities operating under the Commission's previously adopted control group structure. Petitioners are concerned that a literal reading of the rule could be used to expand the definition of affiliates so that greater gross revenues and assets would be attributed to an applicant on that basis alone. Specifically, Petitioners request that newly established affiliates of existing restricted C/F block licensees that were structured so as to establish their eligibility under a control group attribution rule be able to utilize the same structure used by the existing restricted C/F block licensee to establish their eligibility. Additionally, Petitioners request that the Commission clarify that the controlling interest standard excludes from attribution the personal assets and revenues of individuals.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

44. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small organization,'' ''small business,'' and ''small governmental jurisdiction.'' The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the SBA.

45. The rule modifications and clarifications adopted in the *Order on Reconsideration of the Part 1 Fifth Report and Order* are of general applicability to all services and do not apply on a service-specific basis. Therefore, this SFRFA provides a general analysis of the impact of the revised part 1 rule on small businesses rather than a service by service analysis. Accordingly, the revised rules will apply to all entities that apply to participate in Commission auctions, including both small and large entities. The number of entities that may apply to participate in future Commission auctions is unknown. The number of small businesses that have participated in prior auctions has varied. In all of the Commission's auctions held to date except for the auctions for broadcast licenses, 1,752 out of a total of 2,235 qualified bidders have been small businesses as that term has been defined under rules adopted by the Commission for specific services. Given these statistics, the Commission expects that, in the future, a large percentage of participants in its auctions program generally will continue to be small businesses; although there may not be a large percentage in every auction.

D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. All license applicants, as contemplated by the actions the Commission takes in the *Order on Reconsideration of the Part 1 Fifth Report and Order,* are subject to the reporting and recordkeeping requirements of the competitive bidding rules. These requirements apply in the same way to both large and small entities. Furthermore, applicants are required to apply for spectrum auctions by filing a short-form application (FCC Form 175) prior to the auction. Applicants are also required to file a long-form application (FCC Form 601) at the conclusion of the auction. Specifically, entities seeking status as a small business must disclose on their FCC Form 175s, FCC Form 601s, and on their application for assignment or transfer of control (FCC Form 603), separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests for each of the previous three years.

47. As a result of the actions taken in the *Order on Reconsideration of the Part 1 Fifth Report and Order,* for purposes of the controlling interest standard, in calculating the gross revenues of any applicant under § 1.2110, the personal net worth of its officers and directors will not be attributed to the applicant. However, auction applicants will be required to disclose the gross revenues received by any business entities such individuals may control. All affiliates of controlling interests are attributable to the applicant. Additionally, in the FCC Form 601, rural telephone cooperative auction applicants, or those controlled by rural telephone cooperatives, seeking an exemption from the requirement that the gross revenues of entities controlled by an applicant's officers and directors are attributed to the applicant must establish eligibility for this exemption based upon the four factors listed.

E. Steps Taken To Minimize the Economic Impact on Small Entities, and Significant Alternatives Considered

48. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule or any part thereof for small entities. The Commission has considered the economic impact on small entities of the following modifications and clarifications adopted in the *Order on Reconsideration of the Part 1 Fifth Report and Order* and has taken steps to minimize the burdens on small entities.

49. *Personal net worth of officers and directors.* The Commission clarifies that, for purposes of the controlling interest standard, in calculating an applicant's gross revenues under § 1.2110, the controlling interest standard, the personal net worth, including personal income and assets, of its officers and directors will not be attributed to the applicant. The Commission concludes that attribution of personal net worth is not necessary because most wealthy individuals are likely to have their wealth tied to the ownership of other businesses. Although the Commission does not attribute to the applicant the personal net worth of its officers and directors, to the extent that the officers and directors are affiliates of other entities, the Commission attributes the gross revenues of those entities to the applicant. Therefore, this will ensure that small business bidding credits are extended only to *bona fide* small businesses despite the personal net worth of wealthy individuals. An alternative action that would eliminate consideration of the gross revenues of such affiliates would provide an opportunity for large businesses to receive a significant monetary benefit

reserved only for eligible small businesses.

50. *Application of attribution rule to rural telephone cooperatives.* The Commission adopts a narrow exemption for the officers and directors of a rural telephone cooperative so that the gross revenues of the affiliates of a rural telephone cooperative's officers and directors need not be attributed to the applicant. This exemption for the applicant's officers and directors extends to situations where the applicant is not a rural telephone cooperative but is controlled by an eligible rural telephone cooperative. Specifically, the gross revenues of the affiliates of an applicant's officers and directors will not be attributed if either the applicant or a controlling interest, as the case may be, meets *all* of the following conditions: (i) The applicant (or the controlling interest) is validly organized as a cooperative pursuant to state law; (ii) the applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act; and (iii) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. However, the exemption will not apply if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant.

51. The Commission limits this exemption to only those rural telephone cooperatives that are eligible for Federal tax-exempt status, which will ensure that such exemption would be used only by *bona fide* community-based cooperatives, not sham entities. The Commission believes that this action will increase the number of rural telephone cooperatives that are eligible for small business status (and the corresponding bidding credits). Such a result will enhance the ability of rural telephone cooperatives to participate in spectrum auctions. This, in turn, will promote the deployment of advanced telecommunications services in rural areas as Congress mandated in section 309(j). At the same time, the Commission concludes that an across-the-board change to § 1.2110(c)(2)(ii)(F), as proposed as an alternative by Neoworld, to broadly exempt officers and directors from the controlling interest standard where an applicant institutes a contractual mechanism to insulate officers and directors from involvement in an applicant's telecommunications activities, is not warranted. Such a drastic revision to the Commission's rules would require additional scrutiny on the Commission's part to ensure that such contractual arrangements are legitimate and are not sham transactions that could undercut the basis of the attribution rule.

52. *Application of controlling interest standard to control group structures.* The Commission affirms its decision in the *Part 1 Fifth Report and Order* to consider officers and directors as controlling interests in a licensee or applicant. However, to avoid similar questions in the future, the Commission takes this opportunity, in the *Order on Reconsideration of the Part 1 Fifth Report and Order,* to clarify the application of the attribution rules with respect to eligibility to hold restricted C/F block licenses. Generally, if an applicant does not hold a restricted C/F block license under the former control group rules it must use the controlling interest attribution rule to determine eligibility to hold restricted C/F block licenses, whether through auctions or through assignment or transfer of control.

53. However, with respect to the acquisition of restricted C/F block licenses through assignment or transfer of control, wholly-owned subsidiaries and commonly controlled affiliates (whether newly formed or in existence prior to the adoption of the controlling interest attribution rule) that establish their eligibility directly through an existing restricted C/F block licensee, will be eligible to hold a C/F block restricted license to the same extent as the existing restricted C/F block licensees. Thus, in the context of an application to assign or transfer a restricted C/F block license, the eligibility of an existing restricted C/F block licensee (that obtained its license under the former control group rules) and its wholly owned subsidiaries and commonly controlled affiliates to hold such licenses (as opposed to eligibility for small business provisions) may be determined without application of the controlling interest attribution rule. For all future C/F block auctions, however, pursuant to the Commission's determination in the *Part 1 Fifth Report and Order,* all applicants will be subject to the attribution rules in effect at the time of filing their short-form applications. This decision will prevent large firms from illegitimately seeking small business status. A less restrictive alternative would frustrate the Commission's achievement of its goal of preventing large firms from gaining benefits only reserved for smaller entities.

54. *Conforming edits to the Part 1 competitive bidding rules.* The Commission, on its own motion, makes certain ministerial conforming amendments and rule revisions to the part 1 general competitive bidding rules and portions of the service-specific competitive bidding rules to conform to the new rule revisions in part 1. These rule revisions are consistent with the Commission's efforts to provide specific guidance to future auction participants and to streamline the competitive bidding regulations by eliminating certain service-specific rules.

F. Report to Congress

55. The Commission will send a copy of the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order,* including this SFRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order,* including this SFRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Second Supplemental Final Regulatory Flexibility Analysis (Second Order on Reconsideration of the Part 1 Third Report and Order)

56. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), a Supplementary Final Regulatory Flexibility Analysis (SFRFA) was incorporated into the report and order section of the *Order on Reconsideration of the Part 1 Third Report and Order* in WT Docket No. 97–82. The Commission received three petitions for reconsideration and one reply comment in response to the *Order on Reconsideration of the Part 1 Third Report and Order.* This present second SFRFA conforms to the RFA.

A. Need for, and Objectives of, the Order on Reconsideration of the Part 1 Fifth Report and Order

57. In August 2000, the Commission released the most recent comprehensive order in the Part 1 proceeding, the *Order on Reconsideration of the Part 1 Third Report and Order, Part 1 Fifth Report and Order, and Part 1 Fourth Further Notice of Proposed Rule Making,* which clarified and amended the general competitive bidding rules for all auctionable services. The Commission received petitions for reconsideration from several parties in response to the *Order on Reconsideration of the Part 1 Third Report and Order.* Specifically, the Commission received a petition for reconsideration, filed by NextWave, of the Commission's installment payment rules. In this *Second Order on*

Reconsideration of the Part 1 Third Report and Order, the Commission dismisses as repetitive NextWave's second challenge to modifications to the installment payment rules adopted in the 1997 *Part 1 Third Report and Order.* In addition, the Commission, on its own motion, makes certain conforming rule revisions to the part 1 general competitive bidding rules to clarify the requirement that applicants fully disclose the real party or parties in interest.

B. Summary of Significant Issues Raised by Public Comments in Response to the FRFA Contained in the Order on Reconsideration of the Part 1 Third Report and Order

58. No petitions for reconsideration or comments were filed directly in response to the FRFA or on issues affecting small businesses.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

59. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small organization,'' ''small business,'' and ''small governmental jurisdiction.'' The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (i) is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the SBA.

60. The rule revision adopted in this *Second Order on Reconsideration of the Part 1 Third Report and Order* rule is of general applicability to all services and does not apply on a service-specific basis. Therefore, this SFRFA provides a general analysis of the impact of the revised part 1 rule on small businesses rather than a service by service analysis. Accordingly, this rule revision will apply to all entities that apply to participate in Commission auctions, including both large and small entities. The number of entities that may apply to participate in future Commission auctions is unknown. The number of small businesses that have participated in prior auctions has varied. In all of the Commission's auctions held to date except for the auctions for broadcast licenses, 1,752 out of a total of 2,235 qualified bidders have been small businesses as that term has been defined under rules adopted by the Commission for specific services. Given these statistics, the Commission expects that, in the future, a large percentage of participants in its auctions program generally will continue to be small businesses; although there may not be a large percentage in every auction.

D. Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements

61. All license applicants, as contemplated by the actions the Commission takes take in this *Second Order on Reconsideration of the Part 1 Third Report and Order,* are subject to the reporting and record-keeping requirements of the competitive bidding rules. These requirements apply in the same way to both large and small entities. Applicants are required to apply for spectrum auctions by filing a short-form application (FCC Form 175) prior to the auction. Applicants are also required to file a long-form application (FCC Form 601) at the conclusion of the auction. Specifically, entities seeking status as a small business must disclose on their FCC Form 175s, FCC Form 601s, and on their application for assignment or transfer of control (FCC Form 603), separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests for each of the previous three years.

62. As a result of the actions taken in the *Second Order on Reconsideration of the Part 1 Third Report and Order,* all applicants, as part of the Commission's ownership disclosure requirements, are required to fully disclose all ''real party or parties in interest'' including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant.

E. Steps Taken To Minimize the Economic Impact on Small Entities, and Significant Alternatives Considered

63. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule or any part thereof for small entities.

64. The Commission has considered the economic impact on small entities of the reorganizing § 1.2112(a) and making other conforming revisions to this rule as adopted in this *Second Order on Reconsideration of the Part 1 Third Report and Order* and has taken steps to minimize the burdens on small entities.

65. *Ownership disclosure requirements.* In the *Order on Reconsideration of the Part 1 Third Report and Order,* the Commission revised § 1.2112(a) which requires each application for competitive bidding (*i.e.*, short-form application), or for a license, authorization, assignment or transfer for control to disclose fully the real party or parties in interest. Specifically, the Commission deleted unnecessary language, clarified certain sections, and reordered the disclosure requirements in order to provide applicants with a clearer understanding of the information that must be disclosed. Although the reorganization has generally resulted in greater clarity for applicants, the Commission is concerned that the current structure of the rule may be construed by some applicants as allowing them to provide less than a full disclosure of all the real parties in interest.

66. Accordingly, the Commission reorders § 1.2112 to move the requirement that an applicant to fully disclose all ''real party or parties in interest'' in the applicant or application from § 1.2112(a) to § 1.2112(a)(1). At the same time, the Commission conforms § 1.2112(a)(1) to the disclosure requirements as set forth in § 1.919(e) to ensure that applicants include a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant to a section of the rule. This rule revision is preferred over a revision that would require disclosure of less information, because it is decidedly more consistent with the Commission's efforts to provide specific guidance to applicants, to provide transparency at all stages in the competitive bidding and licensing process; and, finally to ensure that the Commission, the public, and interested parties, are aware of the real party or parties in interest before the Commission acts on an application.

F. Report to Congress

67. The Commission will send a copy of the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order,* including this second SFRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the

Commission will send a copy of the *Second Order on Reconsideration of the Third Report and Order, and Order on Reconsideration of the Fifth Report and Order,* including this second SFRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Ordering Clauses

68. It is ordered that, pursuant to the authority granted in sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), 155(c)(1), 303(r), and 309(j), the *Second Order on Recon* are hereby adopted and parts 1, 21, 22, 24, 27, 73, 80, 90, 95 and 101 of the Commission's rules are amended as set forth, and become effective September 19, 2003.

69. It is further ordered that the Consumer Information Bureau, Reference Information Center, shall send a copy of the *Second Order on Recon,* including the Supplemental Final Regulatory Flexibility Analyses to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Parts 1, 21, 22, 24 and 27

Communications common carriers.

47 CFR Parts 73, 80, 90, 95 and 101

Communications equipment.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1, 21, 22, 24, 27, 73, 80, 90, 95 and 101 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

■ 2. Amend § 1.913 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 1.913 Application forms; electronic and manual filing.

(a) * * *

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(2) *FCC Form 602, Wireless Radio Services Ownership Form.* FCC Form 602 is used by applicants and licensees in auctionable services to provide and update ownership information as required by §§ 1.919, 1.948, 1.2112, and any other section that requires the submission of such information.

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(b) * * *

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(2) Any associated documents (*see* § 1.2112) submitted with an application must be uploaded as attachments to the application whenever possible. The attachment should be uploaded via ULS in Adobe Acrobat Portable Document Format (PDF) whenever possible.

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■ 3. Amend § 1.919 by revising paragraphs (a), (b) introductory text, and (e) to read as follows:

§ 1.919 Ownership information.

(a) Applicants or licensees in Wireless Radio Services that are subject to the ownership reporting requirements of § 1.2112 shall use FCC Form 602 to provide all ownership information required by the chapter.

(b) Any applicant or licensee that is subject to the ownership reporting requirements of § 1.2112 shall file an FCC Form 602, or file an updated form if the ownership information on a previously filed FCC Form 602 is not current, at the time it submits:

* * * * *

(e) Applicants or licensees in Wireless Radio Services that are not subject to the ownership reporting requirements of § 1.2112 are not required to file FCC Form 602. However, such applicants and licensees may be required by the rules applicable to such services to disclose the real party (or parties) in interest to the application, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant or licensee.

■ 4. Amend § 1.948 by revising paragraph (c) introductory text to read as follows:

§ 1.948 Assignment of authorization or transfer of control, notification of consummation.

* * * * *

(c) *Application required.* In the case of an assignment of authorization or transfer of control, the assignor must file an application for approval of the assignment on FCC Form 603. If the assignee or transferee is subject to the ownership reporting requirements of § 1.2112, the assignee or transferee must also file an updated FCC Form 602 or certify that a current FCC Form 602 is on file.

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■ 5. Amend § 1.2103 by revising paragraph (a)(4) to read as follows:

§ 1.2103 Competitive bidding design options.

(a) * * *

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(4) Combinatorial (package) bidding auctions.

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■ 6. Amend § 1.2104 by adding paragraph (g)(3) to read as follows:

§ 1.2104 Competitive bidding mechanisms.

* * * * *

(g) * * *

(3) *Default or disqualification in combinatorial bidding auctions after close of auction.* A bidder assumes a binding obligation to pay its full bid amount upon acceptance of the high bid at the close of an auction. When the Commission conducts a combinatorial bidding auction pursuant to § 1.2103 (a)(4), if a high bidder defaults or is disqualified after close of a combinatorial bidding auction, the defaulting bidder will be subject to a default payment. The default payment consists of a deficiency portion and an additional payment. The deficiency portion of the default payment shall be calculated as set forth in § 1.2104(g)(3)(i). The additional payment shall be calculated as set forth in § 1.2104(g)(3)(ii).

(i) *Deficiency payment.* The deficiency portion of the default payment shall be calculated as set forth. In the case that any of the relevant bids are subject to bidding credits, the default payment will be adjusted in an analogous manner to that used in § 1.2104(g)(1).

(A) Where a defaulting bidder won licenses individually (*i.e.*, not as part of a package), and in a subsequent auction the licenses are also won individually, the deficiency portion will be calculated on a license-by-license basis (*i.e.*, the differences between the amounts originally bid and the amounts subsequently bid will not be aggregated to determine a net amount owed). If the subsequent winning bid(s) exceed the defaulted bid(s), no deficiency portion will be assessed. Even in the absence of a deficiency portion, however, an additional 25% payment will be due.

(B) Where a defaulting bidder won licenses in a package(s), and in a subsequent auction the licenses are won either in the same package(s), or in smaller packages or as individual licenses that correlate to the defaulted package(s), the deficiency portion will be determined on a package-by-package basis, and the differences between the amount originally bid and the amount(s) subsequently bid will not be aggregated to determine a net amount owed. Thus,

in this situation, the deficiency portion will be calculated in an analogous manner to that used in § 1.2104(g)(2). However, with regard to each individual package, where the licenses are subsequently sold individually or as part of smaller packages, the amounts received in the subsequent auction will be aggregated in order to determine any deficiency.

(C) Where a defaulting bidder or bidders won licenses either individually or as part of packages, and in a subsequent auction the licenses are won as larger packages or different packages (not including the situation described in paragraph (b) of this section), the deficiency portion will be calculated by subtracting the aggregate amount originally bid for the licenses from the aggregate amount bid in the subsequent auction for the licenses.

(D) When in the situation described in paragraph (c) of this section, there are multiple defaulting bidders, the default payment (both the deficiency portion and the additional amount portion) will be allocated to the defaulting bidders in proportion to the amount they originally bid.

Example: Bidder 1 defaults on Package ABC for $200, and Bidder 2 defaults on Package DE for $400, and in a subsequent auction the licenses are won in Package AB for $150 and Package CDE for $350, Bidder 1 would be liable for ⅓ of the default payment and Bidder 2 would be responsible for ⅔. The total default payment would be equal to the difference between the total of the original bids ($600) and the total of the subsequent amounts bid ($500) plus an additional amount of 25 percent of the total of the subsequent amounts bid. The total default payment therefore would equal $100 ($600-$500) plus 25 percent of $500 ($125), for a total default payment of $225.

(ii) *Additional payment.* If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(3)(i) of this section plus an additional payment equal to 25 percent of the subsequent winning bid(s) or the defaulting bid(s), whichever is less. In the case that either the subsequent winning bid(s) or the defaulting bid(s) is subject to bidding credits, the additional payment will be calculated in an analogous manner to that used in § 1.2104(g)(2). In calculating the additional payment to determine whether the defaulted bid(s) or the subsequent winning bid(s) is the lesser amount, the defaulted and subsequent bid(s) will be compared according to the rules set forth in paragraphs (g)(3)(i)(A) through (g)(3)(i)(D) of this section for calculation of the deficiency portion of the default payment.

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■ 7. Amend § 1.2109 by revising paragraphs (b) and (c) to read as follows:

§ 1.2109 License grant, denial, default, and disqualification.

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(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission, at its discretion, may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. If the license(s) is offered to the other highest bidders (in descending order), the down payment obligations set forth in § 1.2107(b) will apply. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

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■ 8. Amend § 1.2110 by revising paragraphs (b)(1)(i), (b)(1)(ii), (b)(3)(i) and (c)(2)(ii)(F), and adding new paragraphs (b)(3)(iii) and (c)(6) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) * * *

(1) * * *

(i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of the applicant's controlling interests shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of the applicant's controlling interests for each of the previous three years.

(ii) If applicable, pursuant to § 24.709 of this chapter, the total assets of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as an entrepreneur. An applicant seeking status as an entrepreneur must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests for each of the previous two years.

* * * * *

(3) * * *

(i) *Consortium.* Where an applicant (or licensee) is a consortium of small businesses, very small businesses, or entrepreneurs, as those terms are defined in the service-specific rules, the gross revenues of each consortium member shall not be aggregated. Each consortium member must constitute a separate and distinct legal entity to qualify.

* * * * *

(iii) *Rural telephone cooperatives.* (A) An applicant will be exempt from § 1.2110(c)(2)(ii)(F) for the purpose of attribution in § 1.2110(b)(1), if the applicant or a controlling interest in the applicant, as the case may be, meets all of the following conditions:

(*1*) the applicant (or the controlling interest) is organized as a cooperative pursuant to state law;

(*2*) the applicant (or the controlling interest) is a ''rural telephone company'' as defined by the Communications Act; and

(*3*) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. The applicant will not be exempt from § 1.2110(c)(2)(ii)(F) for the purpose of

attribution in § 1.2110(b)(1) if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant.

(B) However, if the applicant is not an eligible rural telephone cooperative under paragraph (a) of this section, and the applicant has a controlling interest other than the applicant's officers and directors or an eligible rural telephone cooperative's officers and directors, paragraph (a) of this section applies with respect to the applicant's officers and directors and such controlling interest's officers and directors only when such controlling interest is either:

(*1*) An eligible rural telephone cooperative under paragraph (a) of this section or

(*2*) controlled by an eligible rural telephone cooperative under paragraph (a) of this section.

(c) * * *

* * * * *

(2) * * *

(ii) * * *

(F) Officers and directors of the applicant shall be considered to have a controlling interest in the applicant. The officers and directors of an entity that controls a licensee or applicant shall be considered to have a controlling interest in the licensee or applicant. The personal net worth, including personal income of the officers and directors of an applicant, is not attributed to the applicant. To the extent that the officers and directors of an applicant are affiliates of other entities, the gross revenues of the other entities are attributed to the applicant.

* * * * *

(6) *Consortium.* A consortium of small businesses, very small businesses, or entrepreneurs is a conglomerate organization composed of two or more entities, each of which individually satisfies the definition of a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. Each individual member must constitute a separate and distinct legal entity to qualify.

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■ 9. Revise § 1.2112 to read as follows:

§ 1.2112 Ownership disclosure requirements for applications.

(a) Each application to participate in competitive bidding (*i.e.*, short-form application (*see* 47 CFR 1.2105)), or for a license, authorization, assignment, or transfer of control shall fully disclose the following:

(1) List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;

(3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses);

(4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater;

(6) List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest; and

(7) List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (a)(5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (*e.g.*, Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).

(b) *Designated entity status.* In addition to the information required under paragraph (a) of this section, each applicant claiming eligibility for small business provisions shall disclose the following:

(1) On its application to participate in competitive bidding (*i.e.*, short-form application (see 47 CFR 1.2105)):

(i) List the names, addresses, and citizenship of all officers, directors, affiliates, and other controlling interests of the applicant, as described in § 1.2110, and, if a consortium of small businesses or consortium of very small businesses, the members of the conglomerate organization;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant; and

(iii) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: The applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium.

(2) As an exhibit to its application for a license, authorization, assignment, or transfer of control:

(i) List the names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant, as described in § 1.2110;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant;

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* or *de jure* control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written;

(iv) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees;

(v) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium; and

(vi) List and summarize, if seeking the exemption for rural telephone cooperatives pursuant to § 1.2110, all documentation to establish eligibility pursuant to the four factors listed under § 1.2110(b)(3)(iii).

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

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

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

■ 11. Amend § 21.930 by revising paragraph (d)(2)(i) to read as follows:

§ 21.930 Five-year build-out requirements.

* * * * *

(d) * * *

(2) * * *

(i) The competitive bidding procedures set forth in §§ 21.950 through 21.960 shall be followed by applicants seeking authority to provide MDS service to the unserved partitioned area.

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■ 12. Revise § 21.954 to read as follows:

§ 21.954 Submission of upfront payments.

Applicants who are small businesses eligible for reduced upfront payments will be required to submit an upfront payment amount in accordance with § 21.960(d).

■ 13. Amend § 21.956 by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 21.956 Filing of long-from applications or statements of intention.

* * * * *

(b) * * *

(2) An exhibit detailing the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement the winning bidder had entered into relating to the competitive bidding process prior to the time bidding was completed (*see* 47 CFR 1.2107(d) of this chapter);

(3) An exhibit complying with §§ 1.2110(j) of this chapter and 21.960(f), if the winning bidder submitting the long-form application or statement of intention claims status as a designated entity.

* * * * *

■ 14. Amend § 21.960 by redesignating paragraphs (a), (b), (c), (d), (e), and (f) as paragraphs (b), (c), (d), (e), (f), and (g), and adding new paragraph (a) to read as follows:

§ 21.960 Designated entity provisions for MDS.

(a) *Eligibility for small business provisions.* A small business is an entity that together with its affiliates has average annual gross revenues that are not more than $40 million for the preceding three calendar years.

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§ 21.961 [Removed and Reserved]

■ 15. Remove and reserve § 21.961.

PART 22—PUBLIC MOBILE SERVICES

■ 16. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

■ 17. Revise § 22.217 to read as follows:

§ 22.217 Bidding credit for small businesses.

A winning bidder that qualifies as a small business, as defined in § 22.223(b)(1), or a consortium of small businesses may use a bidding credit of thirty-five (35) percent to lower the cost of its winning bid. A winning bidder that qualifies as a small business, as defined in § 22.223(b)(2), or consortium of small businesses may use a bidding credit of twenty-five (25) percent to lower the cost of its winning bid.

■ 18. Revise § 22.223 to read as follows:

§ 22.223 Designated entities.

(a) *Scope.* The definitions in this section apply to §§ 22.201 through 22.227, unless otherwise specified in those sections.

(b) A small business is an entity that either:

(1) Together with its affiliates and controlling interests has average gross revenues that are not more than $3 million for the preceding three years; or

(2) Together with its affiliates and controlling interests has average gross revenues that are not more than $15 million for the preceding three years.

■ 19. Amend § 22.225 by removing paragraph (a), redesignating paragraphs (b) and (c) as paragraphs (a) and (b), and revising newly redesignated paragraph (b) to read as follows:

§ 22.225 Records maintenance and definitions.

* * * * *

(b) *Definition.* The term small business used in this section is defined in § 22.223.

■ 20. Amend § 22.229 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 22.229 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

PART 24—PERSONAL COMMUNICATIONS SERVICES

■ 21. The authority citation continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 302, 303, 309, and 332.

■ 22. Amend § 24.321 by removing paragraph (a)(3) and revising paragraphs (b) and (c) to read as follows:

§ 24.321 Designated entities.

* * * * *

(b) *Bidding credits.* After August 7, 2000, a winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter.

(c) *Installment payments.* Small businesses that are winning bidders on any regional license prior to August 7, 2000 will be eligible to pay the full amount of their winning bids in installments over the term of the license pursuant to the terms set forth in § 1.2110(g) of this chapter.

■ 23. Amend § 24.709 by removing pargraph (c)(1)(ii)(B), redesignating paragraphs (c)(1)(ii)(C), (c)(1)(ii)(D), (c)(1)(ii)(E) and (c)(1)(ii)(F) as (c)(1)(ii)(B), (c)(1)(ii)(C), (c)(1)(ii)(D) and (c)(1)(ii)(E), and revising paragraphs

(b)(1)(v)(A)(*3*) introductory text, (b)(1)(v)(A)(*3*)(*iv*), (b)(1)(vi)(A)(*3*) introductory text, (b)(1)(vi)(A)(*3*)(*iv*), newly redesignated paragraphs (c)(1)(ii)(C), (c)(1)(ii)(E)(1), (c)(*1*)(ii)(E)(*2*) and paragraphs (c)(3) and (d) to read as follows:

§ 24.709 Eligibility for licenses for frequency Blocks C or F.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(A) * * *

(*3*) The remaining 10 percent of the applicant's (or licensee's) total equity may be owned, either unconditionally or in the form of stock options, by any of the following entities, which may not comply with § 24.720(g)(1):

* * * * *

(*iv*) Qualifying investors, as specified in § 24.720(g)(3).

* * * * *

(vi) * * *

(A) * * *

(*3*) The remaining 20.1 percent of the applicant's (or licensee's) total equity may be owned by qualifying investors, either unconditionally or in the form of stock options not subject to the restrictions of paragraph (b)(1)(vi)(A)(*1*) of this section, or by any of the following entities which may not comply with § 24.720(g)(1):

* * * * *

(*iv*) Qualifying investors, as specified in § 24.720(g)(3).

* * * * *

(c) * * *

(1) * * *

(ii) * *

(C) The identity of each affiliate of the applicant and each affiliate of individuals or entities identified pursuant to paragraphs (C)(1)(ii)(A) and (c)(1)(ii)(B) of this section;

* * * * *

(E) * * *

(*1*) A certified statement that such applicant complies with the requirements of the definition of publicly traded corporation with widely disbursed voting power set forth in § 24.720(f);

(*2*) The identity of each *affiliate* of the applicant.

* * * * *

(3) *Records maintenance.* All applicants, including those that are winning bidders, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including those documents referenced in paragraphs (c)(2)(ii) and (c)(2)(iii) of this section and any other documents necessary to establish eligibility under this section and any other documents necessary to establish eligibility under this section or under the definition of small business. Licensees (and their successors in interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (Form 175), whichever is earlier.

(d) *Definitions.* The terms control group, existing investor, institutional investor, nonattributable equity, preexisting entity, publicly traded corporation with widely dispersed voting power, qualifying investor, and small business used in this section are defined in § 24.720.

§ 24.711 [Amended]

■ 24. Amend § 24.711 by replacing the reference to ''section 1.2110(o)'' in paragraph (a) with ''section 1.2110(n)''.

■ 25. Amend § 24.712 by revising paragraphs (a) and (b) to read as follows:

§ 24.712 Bidding credits for licenses won for frequency Block C.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business, as defined in § 24.720(b)(1), or a consortium of small businesses may use a bidding credit of fifteen percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business, as defined in § 24.720(b)(2), or a consortium of very small businesses may use a bidding credit of twenty-five percent as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid.

* * * * *

§ 24.714 [Amended]

■ 26. Amend § 24.714 by replacing the reference to ''The Bureau'' in paragraph (c)(2)(iii) with ''The Commission''.

§ 24.716 [Amended]

■ 27. Amend § 24.716 by replacing all references to ''section 1.2110(o)'' in paragraphs (a) and (b) with ''section 1.2110(n)''.

■ 28. Revise § 24.717 to read as follows:

§ 24.717 Bidding credits for licenses for frequency Block F.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business, as defined in § 24.720(b)(1), or a consortium of small businesses may use a bidding credit of fifteen percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business, as defined in § 24.720(b)(2), or a consortium of very small businesses may use a bidding credit of twenty-five percent as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid.

■ 29. Amend § 24.720 by removing paragraphs (b)(3) and (b)(4), redesignating paragraphs (e), (f), (g), (h), (i), and (j) as paragraphs (c), (d), (e), (f), (g), and (h), redesignating the Note to Paragraph (j) as the Note to Paragraph (h) and revising paragraph (b) introductory text and newly redesignated paragraph (g) to read as follows:

§ 24.720 Definitions.

* * * * *

(b) *Small and very small business.* * * *

* * * * *

(g) *Qualifying investor.* (1) A qualifying investor is a person who is (or holds an interest in) a member of the applicant's (or licensee's) control group and whose gross revenues and total assets, when aggregated with those of all other attributable investors and affiliates, do not exceed the gross revenues and total assets limits specified in § 24.709(a), or, in the case of an applicant (or licensee) that is a small business, do not exceed the gross revenues limit specified in paragraph (b) of this section.

(2) For purposes of assessing compliance with the minimum equity requirements of § 24.709(b)(1)(v) and (b)(1)(vi), where such equity interests are not held directly in the applicant, interests held by qualifying investors shall be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain.

(3) For purposes of § 24.709(b)(1)(v)(A)(3) and (b)(1)(vi)(A)(3), a qualifying investor is a person who is (or holds an interest in) a member of the applicant's (or licensee's) control group and whose gross revenues and total assets do not exceed the gross revenues and total assets limits specified in § 24.709(a).

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PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 30. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 31. Amend § 27.210 by revising paragraph (b) to read as follows:

§ 27.210 Definitions.

* * * * *

(b) *Small and very small business.* (1) A *small business* is an entity that, together with its affiliates and controlling interests, has average annual gross revenues that are not more than $40 million for the preceding three years.

(2) *A very small business* is an entity that, together with its affiliates and controlling interests, has average annual gross revenues that are not more than $15 million for the preceding three years.

■ 32. Revise § 27.501 to read as follows:

§ 27.501 746–764 MHz and 776–794 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 746–764 MHz and 776–794 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

§ 27.502 [Amended]

■ 33. Amend § 27.502 by removing paragraph (c).

■ 34. Amend § 27.702 by removing paragraph (a)(4) and revising paragraph (b) to read as follows:

§ 27.702 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

■ 35. Amend § 27.807 by removing paragraphs (a)(3) and (a)(4) and revising paragraph (b) to read as follows:

§ 27.807 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

36. Amend § 27.906 by removing paragraphs (a)(3) and (a)(4), and revising paragraph (b) to read as follows:

§ 27.906 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

37. Amend § 27.1006 by removing paragraphs (a)(3) and (a)(4), and revising paragraph (b) to read as follows:

§ 27.1006 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

■ 39. Amend § 73.5005 by revising paragraph (a) to read as follows:

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, FCC Form 349 or FCC Form 330) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by § 1.2107(d) of this chapter (concerning any bidding consortia or joint bidding arrangements); § 1.2110(j) of this chapter (concerning designated entity status, if applicable); and § 1.2112 of this chapter (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).

* * * * *

■ 40. Amend § 73.5009 by revising paragraph (b) to read as follows:

§ 73.5009 Assignment or transfer of control.

* * * * *

(b) The ownership disclosure requirements found at § 1.2112(a) of this chapter shall not apply to an applicant seeking consent to assign or transfer control of a broadcast construction permit or license awarded by competitive bidding.

PART 80—STATIONS IN THE MARITIME SERVICES

■ 41. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 42. Amend § 80.1252 by removing paragraph (b)(3) and revising paragraphs (a) and (c) to read as follows:

§ 80.1252 Designated entities.

(a) This section addresses certain issues concerning designated entities in maritime communications services subject to competitive bidding.

* * * * *

(c) A winning bidder that qualifies as a small business, as defined in § 80.1252(b)(1), or consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business, as defined in § 80.1252(b(2), or consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

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

■ 44. Revise § 90.810 to read as follows:

§ 90.810 Bidding credits for small businesses.

A winning bidder that qualifies as a small business, as defined in § 90.814(b)(1), or a consortium of small businesses may use a bidding credit of 15 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), Table 4B. A winning bidder that qualifies as a small business, as defined in § 90.814(b)(2), or a consortium of small businesses may use a bidding credit of 10 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), Table 4B.

§ 90.813 [Amended]

■ 45. Amend § 90.813 by replacing the reference to ''The Bureau'' in paragraph (c)(2)(ii) with ''The Commission.''

■ 46. Amend § 90.814 by revising paragraph (b) to read as follows:

§ 90.814 Definitions.

(b) A small business is an entity that either:

(1) Together with its affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than $3 million for the preceding three years; or

(2) Together with its affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than $15 million for the preceding three years.

■ 47. Revise § 90.815 to read as follows:

§ 90.815 Records maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any documents necessary to establish eligibility as a small business, pursuant to § 90.814, and/or a consortium of small businesses. Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) *Definitions.* The term *small business* used in this section is defined in § 90.814.

■ 48. Amend § 90.901 by revising the section heading to read as follows:

§ 90.901 800 MHz SMR spectrum subject to competitive bidding.

* * * * *

■ 49. Revise § 90.910 to read as follows:

§ 90.910 Bidding credits.

A winning bidder that qualifies as a very small business, as defined in § 90.912(b)(2), or a consortium of very small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid on Spectrum Blocks A through V. A winning bidder that qualifies as a small business, as defined in § 90.912(b)(1), or a consortium of small businesses may use a bidding credit of 25 percent to lower the cost of its winning bid on Spectrum Blocks A through V.

■ 50. Amend § 90.912 by removing paragraphs (b)(3) and (b)(4), and revising paragraph (b) introductory text to read as follows:

§ 90.912 Definitions.

* * * * *

(b) *Small and very small businesses.* * * *

* * * * *

■ 51. Revise § 90.913 to read as follows:

§ 90.913 Record maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small or very small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any document necessary to establish eligibility as a small or very small business, as defined in § 90.912, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) *Definitions.* The terms *small and very small business* used in this section are defined in § 90.912.

■ 52. Revise § 90.1017 to read as follows:

§ 90.1017 Bidding credits for small businesses and very small businesses.

A winning bidder that qualifies as a small business, as defined in § 90.1021(b)(1), or a consortium of small businesses may use a bidding credit of 25 percent to lower the cost of its winning bid. A winning bidder that qualifies as a very small business, as defined in § 90.1021(b)(2), or a consortium of very small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.

■ 53. Amend § 90.1021 by removing paragraph (b)(3) and revising (b) introductory text to read as follows:

§ 90.1021 Definitions concerning competitive bidding process.

* * * * *

(b) *Small and very small business.* * * *

* * * * *

■ 54. Revise § 90.1023 to read as follows:

§ 90.1023 Records maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small or very small businesses shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any documents necessary to establish eligibility as a small business or very small business, as defined in § 90.1021, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (FCC Form 175), whichever is earlier.

(b) *Definitions.* The terms small and very small business used in this section are defined in § 90.1021.

■ 55. Amend § 90.1103 by removing paragraphs (b)(3) and revising paragraphs (a) and (c) to read as follows:

§ 90.1103 Designated entities.

(a) This section addresses certain issues concerning designated entities in the Location and Monitoring Service (LMS) subject to competitive bidding.

* * * * *

(c) A winning bidder that qualifies as a small business, as defined in paragraph (b)(1) of this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small businesses, as defined in paragraph (b)(2) of this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter.

PART 95—PERSONAL RADIO SERVICE

■ 56. The authority citation for part 95 continues to read as follows:

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

■ 57. Amend § 95.816 by removing paragraph (c)(3) and revising paragraph (d) to read as follows:

§ 95.816 Competitive bidding proceedings.

* * * * *

(d) *Bidding credits.* A winning bidder that qualifies as a small business, as defined in this subsection, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very

small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in accordance with § 1.2110(f)(2)(i) of this chapter.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

■ 58. The authority citation for part 101 continues to read as follows:

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

■ 59. Amend § 101.538 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 101.538 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

■ 60. Revise § 101.1107 to read as follows:

§ 101.1107 Bidding credits for very small businesses, small businesses and entrepreneurs.

(a) A winning bidder that qualifies as a very small business, as defined in § 101.1112, or a consortium of very small businesses may use a bidding credit of 45 percent to lower the cost of its winning bid.

(b) A winning bidder that qualifies as a small business, as defined in § 101.1112, or a consortium of small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.

(c) A winning bidder that qualifies as an entrepreneur, as defined in § 101.1112, or a consortium of entrepreneurs may use a bidding credit of 25 percent to lower the cost of its winning bid.

(d) The bidding credits referenced in paragraphs (a), (b) and (c) of this section are not cumulative.

■ 61. Revise § 101.1109 to read as follows:

§ 101.1109 Records maintenance.

All winning bidders qualifying as very small businesses, small businesses or entrepreneurs shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any document necessary to establish eligibility as a very small business, small business or entrepreneur. Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (FCC Form 175), whichever is earlier.

§ 101.1112 [Amended]

■ 62. Amend § 101.1112 by removing paragraphs (e) and (f).

■ 63. Amend § 101.1209 by revising paragraph (b) to read as follows:

§ 101.1209 Definitions.

* * * * *

(b) *Small business and very small business.* (1) A small business is an entity that together with its affiliates and persons or entities that hold attributable interests in such entity and their affiliates, has average gross revenues that are not more than $40 million for the preceding three years.

(2) A very small business is an entity that together with its affiliates and persons or entities that hold attributable interests in such entity and their affiliates, has average gross revenues that are not more than $15 million for the preceding three years.

■ 64. Amend § 101.1429 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 101.1429 Designated entities.

* * * * *

(b) *Bidding credits.* A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

[FR Doc. 03–18430 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[WT Docket No. 03–66; RM–10586; WT Docket No. 03–67; MM Docket No. 97–217; WT Docket No. 02–68; RM–9718; FCC 03–169]

Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule; reinstatement.

SUMMARY: This item modifies a Final rule to delete the request for comment on how the Commission should handle pending applications for extension of time to construct Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) stations. In light of representations that many entities have developed plans in the near future to deploy high-speed wireless broadband systems under our existing rules, the Commission now believes that acting on applications for extension of time to construct will facilitate continued deployment of broadband services and promote innovation and investment. This item also reinstates the Commission's rules and clarifies that MDS Basic Trading Area authorization holders need not comply with the build out requirements contained in the Commission's rules pending publication of a *Report and Order* in this proceeding.

DATES: Effective July 21, 2003, § 21.930 which was suspended on June 10, 2003 (68 FR 34560) is reinstated.

FOR FURTHER INFORMATION CONTACT: Charles Oliver and John J. Schauble, Chief, Policy and Rules Branch, Public Safety and Private Wireless Division at (202) 418–0680, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Order, FCC 03–169, adopted on July 10, 2003, and released on July 10, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://*

www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. On April 2, 2003, the Commission released a *Memorandum Opinion and Order (MO&O),* 68 FR 34547, June 10, 2003, in this proceeding. Pursuant to § 1.108 of the Commission's rules, on our own motion, we issue this limited reconsideration of the *MO&O* by (1) replacing paragraph 201 (which addresses applications for extension of time to construct) with the language set forth herein, and (2) clarifying our action with respect to § 21.930 of the Commission's rules, which sets forth the build-out requirements for Multipoint Distribution Service (MDS) Basic Trading Authorization (BTA) holders.

2. *Pending Applications for Extension of Time to Construct.* With respect to pending applications for extensions of time to construct, we take this action in light of information that has come to our attention since the adoption and release of the *MO&O.* Specifically, in connection with petitions for reconsideration of our decision to impose a freeze on the filing of applications for new MDS and Instructional Television Fixed Service (ITFS) stations, as well as major changes to such stations, entities have represented to us that they have developed plans in the near future to deploy high-speed wireless broadband systems under our existing rules. For example, WCA estimates that approximately thirty wireless broadband operators plan to deploy systems in approximately eighty markets in the next twelve months. In light of this information, we are concerned that our decision to seek comment on how to treat pending applications for extensions of time to construct MDS and ITFS stations may hinder the deployment of MDS and ITFS systems aimed at providing broadband services. As noted in the *NPRM/MO&O,* one of our primary goals in this proceeding is to ''present a significant opportunity to provide alternatives for the provision of broadband services to consumers in urban, suburban and rural areas and to improve opportunities for distance learning and telemedicine services.'' Under those circumstances, we believe that it would be in the public interest to be able to act on those pending applications for extension of time to construct prior to the completion of this proceeding. We believe that acting on such applications will facilitate continued deployment of broadband services and promote innovation and investment therein. As a result, we are no longer seeking comment in the *MO&O* on the treatment of pending applications for extensions of time to construct MDS and ITFS stations.

3. Accordingly, we delete paragraph 201 of the *MO&O* and replace it with the following language:

4. *Extension/Suspension of current performance requirements for site-based licensees.* Moreover, we also believe that it is in the public interest to suspend the construction deadline for ITFS and MDS site-based licensees and permittees that have unexpired licenses or permits that have not expired as of the release date of the *MO&O* and that have made a timely filed extension request. We emphasize that the suspension of this construction deadline for site-based licensees does not affect the requirement for such licensees to timely file a renewal application. We stress that all site-based licensees are required to timely file renewal applications or face cancellation of their licenses regardless of the pendency of this proceeding.

5. We note that we are not modifying our decision to hold in abeyance the construction build-out requirements for site-based incumbents that have licenses or permits that had not expired as of the release date of the *MO&O.* Furthermore, we continue to seek comment on whether we should change criteria for granting extension of time requests prospectively.

6. *MDS BTA Build-Out Rule.* In the *MO&O,* we ''suspended'' the August 16, 2003 construction deadline for MDS BTA authorization holders contained in § 21.930 of the Commission's Rules. Upon further reflection, we believe that our use of the term ''suspend'' did not accurately reflect our intent in this matter. Our intent was to relieve MDS BTA authorization holders of the obligation to meet the build out deadline contained in § 21.930 pending the release of a *Report and Order* in this proceeding. In order to more accurately reflect our intention, we are reinstating § 21.930 of the Commission's Rules, but stating that MDS BTA authorization holders do not have to meet the build out obligations contained in that rule pending the release of a *Report and Order* in this proceeding. We continue to seek comment on how much additional time MDS BTA authorization holders should receive to meet their build out obligations after a *Report and Order* is issued in this proceeding.

7. The actions contained herein have not changed our Initial Regulatory Flexibility Analysis (IRFA), which was set forth in the *MO&O.* Thus, no supplemental IRFA is necessary. In addition, the action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose no new or modified reporting and/or recordkeeping requirements or burdens on the public.

8. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 1.108 of the Commission's Rules, 47 CFR 1.108, that the *Memorandum Opinion and Order,* FCC 03–56, is modified as set forth herein.

9. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), that § 21.930 of the Commission's Rules, 47 CFR 21.930, is reinstated.

10. Pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 21.930 of the Commission's Rules, 47 CFR 21.930, that MDS BTA authorization holders need not comply with the build out requirements contained in § 21.930 of the Commission's rules pending the publishing of a *Report and Order* in this proceeding.

List of Subjects in 47 CFR Part 21

Communications common carriers, Communications equipment, Radio and Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–18429 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Dockets 99–200, 96–98 and 95–116; FCC 03–126]

Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission continues efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are used. The Commission addresses issues on which we sought comment in *Numbering Resource Optimization Third Order on Reconsideration.* These actions will further promote our competition policies, promote the efficient and effective use of finite numbering resources and increase the

effectiveness of our numbering resource optimization measures.

DATES: Effective August 20, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7705.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Report and Order in CC Docket No. 99–200 and CC Docket No. 95–116, released on June 18, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC, 20554.

I. Introduction

1. In this order, the Commission continues efforts to maximize the efficiency with which numbering resources in the NANP are used. The Commission addresses the issues on which it sought comment in *Numbering Resource Optimization Third Order on Reconsideration,* 67 FR 16347 (April 5, 2002). Specifically, the Commission reaffirms that carriers need only deploy LNP in switches within the 100 largest MSAs for which another carrier has made a specific request for the provision of LNP. The Commission also delegates authority to the state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. The Commission also concludes that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP, including covered commercial mobile radio service (CMRS) providers that are not required to deploy LNP until November 24, 2003. The Commission specifically exempts rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP from the pooling requirement. The Commission also exempts from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Regarding MSAs, the Commission reaffirms its findings that the 100 largest MSAs include those MSAs identified in the 1990 U.S. Census reports as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs. Although the Commission declines to expand the list of the 100 largest MSAs to include areas in Consolidated Metropolitan Statistical Areas (CMSAs) that would not otherwise be included in the 100 largest MSAs, the Commission delegates to state commissions the authority to determine whether to require carriers to participate in pooling in such areas. The Commission also finds AT&T's petition for reconsideration of the Commission's decision to permit incumbent local exchange carriers (LECs) to recover the extraordinary costs of thousands-block number pooling through access charges to be untimely and without merit. These actions will further promote our competition policies, promote the efficient and effective use of finite numbering resources and increase the effectiveness of our numbering resource optimization measures.

II. Discussion

2. *Number Portability.* The Commission reaffirms the Commission's decision in the *Number Portability First Order on Reconsideration,* 62 FR 18280 (April 15, 1997), that all local exchange carriers and covered CMRS carriers in the 100 largest MSAs are required to provide LNP upon receipt of a specific request for the provision of LNP by another carrier.

3. The Commission reemphasizes its view that LNP is still an important tool for enhancing competition, promoting numbering resource optimization, and giving consumers greater choices. The Commission believes, however, that the current requirements are sufficient to meet these important statutory goals. The Commission finds these requirements to be reasonable and efficient because they allow carriers to target their resources where the greatest need for number portability exists. They also limit expenditures in areas where there are relatively few competing service providers. The Commission finds that maintaining the current LNP requirement appropriately balances the policies and rationale supporting LNP without requiring expenditure of significant resources to deploy LNP in areas where competitors have not requested portability. Furthermore, maintaining the current requirement will not impose new burdens on small carriers operating in the 100 largest MSAs.

4. If it is true, as WorldCom's comments anticipate, that there will be new demand for LNP created by the implementation of LNP by covered CMRS providers, even where wireline competitive LECs have not yet entered the market, potential competitors can make the appropriate requests for LNP in areas they intend to serve. Carriers, including covered CMRS providers by November 24, 2003, are required to make number portability available within specified time-frames after a specific request by another telecommunication carriers in the areas in which the requesting carrier is operating or plans to operate. Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability to port prospective customers.

5. The implementation of pooling was one of the primary considerations for extending LNP to all carriers operating in the 100 largest MSAs. Initially, the Commission linked the pooling requirement to LNP because it was widely accepted that carriers without LNP capability could not participate in pooling. The Commission has since found, and the industry has confirmed, that full LNP capability is not necessary for participation in pooling. Rather, the underlying architecture, Location Routing Number (LRN), is necessary for such participation. Upon reexamination, the Commission remains convinced that it is reasonable to require LNP only in areas where competition dictates its demand, especially since the Commission now knows that pooling can be implemented without full LNP capability. Thus, the Commission finds that requiring LNP capability for all carriers in the 100 largest MSAs only when there has been a specific request will not have any significant negative effects on pooling.

6. The Commission also delegates authority to the state commissions to require carriers to provide LNP under certain circumstances and on a case-by-case basis. Thus, states may require carriers operating within the largest 100 MSAs to provide LNP, even if such carriers have not received a specific request for LNP from another carrier, if doing so would be in the public interest because there is evidence of meaningful consumer demand for LNP. Although the Commission finds that it is not necessary to expand the LNP requirement to all carriers in the 100 largest MSAs regardless of whether they have received a request for LNP, the Commission agrees with the California Commission that state commissions should have the discretion, under certain circumstances, to extend the LNP requirements to carriers in the 100 largest MSAs that would not otherwise be required to implement LNP. This delegation will allow the state commissions the flexibility to accommodate specific demand for LNP

by consumers in a manner that promotes our numbering resource optimization goals, competition, and the public interest.

7. State commissions exercising this delegated authority must find that LNP would serve the public interest because there is actual, meaningful consumer demand, as evidenced by consumer requests, for LNP in specified areas within the largest 100 MSAs. State commissions also must find that consumer demand and numbering resource optimization considerations justify the cost of providing LNP in the specified areas, including impacts on small and rural telephone companies. Because there is little incentive for states to require LNP in areas where there is little or no consumer demand, and requiring LNP in such cases would be costly for the carriers and, in turn, costly, for the consumers, the Commission is confident that the state commissions will carefully consider the consumer demand for LNP when utilizing this delegated authority.

8. *Thousands-Block Number Pooling.* The Commission adopts its tentative conclusion that all carriers, including covered CMRS providers, should be required to participate in thousands-block number pooling, regardless of whether they are required to provide number portability, in accordance with the national rollout schedule. Because carriers can participate in pooling once they deploy the LRN architecture, thousands-block number pooling need not be linked to a carrier's ability to provide number portability. The Commission, therefore, required all carriers operating within the 100 largest MSAs, except those specifically exempted, to participate in pooling in areas where pooling has been or will be implemented in accordance with the national rollout schedule. In addition, the Commission directs the NANPA to cease assignment of NXX codes to carriers after they are required to participate in pooling. Carriers required to participate in pooling must request and receive numbering resources from the national Pooling Administrator (PA).

9. Pooling is essential to extending the life of the NANP by making the assignment and use of central office codes more efficient. As previously found, delaying the implementation of national pooling until all carriers are required to be LNP capable would needlessly prolong the inefficiencies resulting from the NXX number allocation system. The Commission continues to believe that thousands-block number pooling will provide the greatest benefits when participation is maximized. In addition, the Commission continues to believe that the industry and consumers are best served by national numbering resource optimization standards implemented consistently and in a competitively neutral manner across the nation. Expanding pooling to all carriers in the 100 largest MSAs furthers the Commission's numbering resource optimization goals by allowing telephone numbers to be assigned to carriers in smaller blocks in areas where the demand for numbering resources have proven to be the greatest.

10. Generally, the Commission believes that the inclusion of rural and other small carriers operating within the largest 100 MSAs in the pooling requirement is very important to furthering its goals of slowing the pace of area code and NANP exhaust. Because most, if not all, of these carriers have a small customer base, thousands-block number pooling allows these carriers to obtain numbering resources in quantities that better reflect their actual needs; *i.e.*, 1,000 blocks rather than 10,000 blocks. This results in fewer stranded numbers and thus better utilization rates. Nevertheless, the Commission recognizes that the costs associated with implementing thousands-block number pooling without having first implemented LNP can be particularly burdensome to rural and small carriers. Several commenters therefore suggest it is necessary to create an exemption from pooling for these carriers.

11. Several commenters state that many rural carriers do not operate in competitive markets. The Commission knows that pooling is most effective in areas where competition exists, because it allows multiple service providers to more effectively share limited resources. Where there is less competition, and therefore fewer carriers requiring numbering resources, pooling has less impact on numbering resource exhaust. Because many rural and other small carriers operate in areas where they are the only or one of a few service providers, they are less likely to require multiple NXX codes or blocks of numbers in a manner that will drive premature area code exhaust. The Commission therefore finds that a limited exemption for these carriers is warranted.

12. The Commission is also mindful of the concerns raised by some commenters regarding the costs to rural and small carriers associated with the implementation of thousands-block number pooling. Although the specific costs of implementing pooling for rural carriers are unknown at this time, the Commission knows that these costs may ultimately result in increased customer costs. The Commission believes, therefore, that the added benefits to be gained by requiring certain carriers that have not received a request for LNP to participate in pooling do not outweigh the potential burden, specifically the cost associated with pooling, on such carriers. The Commission therefore exempts from the pooling requirement rural telephone companies, as defined in the Communications Act of 1934, as amended, that have not received a request to provide LNP. The Commission also exempts Tier III wireless carriers, as defined in the *E911 Stay Order,* that have not received a request to deploy LNP. Once an exempted rural telephone company or Tier III wireless carrier has received a request to provide LNP, however, that carrier must participate in pooling. State commissions may petition the Commission for authority to require these exempted carriers to implement pooling in areas within the largest 100 MSAs if they can demonstrate that participation in pooling will further its numbering resource optimization goals.

13. In addition, because the Commission finds that pooling has less impact on numbering resource exhaust where there is no competition, the Commission declines to impose pooling costs on carriers that are not required to provide LNP operating in areas where there are no competing service providers. The Commission therefore exempts carriers operating in rate centers within the largest 100 MSAs, where they are the only service provider receiving numbering resources, from the pooling requirement in those rate centers. Once such a carrier receives a request to provide LNP, however, the carrier must then also participate in pooling in areas where it is deployed.

14. *100 Largest MSAs.* The Commission reaffirms its finding that the 100 largest MSAs include those MSAs identified in the 1990 U.S. Census reports and all subsequent U.S. Census updates of the 100 largest MSAs. The Commission declines, however, to expand the list of the 100 largest MSAs to include areas in CMSAs that would not otherwise be included on the list of the 100 largest MSAs. Nevertheless, the Commission delegates to the state commissions the authority to determine whether pooling should be extended to areas included in CMSAs that otherwise would not be included as one of the 100 largest MSAs. In doing so, the Commission aims to focus pooling efforts on the nation's most densely populated areas so as to slow the further proliferation of area codes.

15. The Commission has focused on pooling efforts in the largest MSAs because those are the areas most likely to have competitive markets that would benefit from pooling. Conversely, the Commission has not required carriers to participate in pooling in less populous areas because the full benefits of pooling are less likely to be realized in areas without sufficient competition. Several commenters point out, however, that many nearby or adjoining areas within a CMSA have similar demographics to the original MSA and believe it appropriate to include CMSAs in the MSA list regardless of whether they would otherwise be included on the list of the 100 largest MSAs. The Commission finds insufficient evidence in the record to determine if these expanded areas have sufficient competition to justify extension of the MSA list, and therefore decline to determine which, if any, of these localities should be included on the MSA list. Rather, the Commission finds that the state commissions are better positioned to assess local conditions and determine whether to extend pooling to these areas. In making this determination, states should consider such factors as the number of competing service providers in the extended areas, whether the inclusion of such areas would further the Commission's competition and numbering resource optimization goals, population trends in the extended areas, and customer use patterns and volumes. Accordingly, the Commission delegates to state commissions the authority to determine whether to extend pooling to areas within CMSAs that otherwise would not be included on the list of the largest 100 MSAs. State commissions may not, however, require exempted carriers to participate in pooling in these extended areas.

16. *Untimely Petition for Reconsideration and Motions.* On May 6, 2002, AT&T filed a petition for reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration,* requesting that the Commission reconsider its decision to permit incumbent LECs to recover the extraordinary costs of thousands-block number pooling through access charges. The Commission denies AT&T's petition as untimely filed. The Commissions nevertheless briefly discusses the merits of AT&T's petition on its own motion. Because the Commission finds that no new issues have been raised that were not addressed in the *Numbering Resource Optimization Third Report and Order,* the Commission declines to reconsider its prior findings regarding pooling cost recovery.

17. A petition for reconsideration in a rulemaking proceeding must be filed within 30 days after public notice of the Commission's action. The Commission's rules provide that public notice in a rulemaking proceeding occurs upon publication of the document, or a summary thereof, in the **Federal Register**. In the *Numbering Resource Optimization Third Report and Order,* the Commission established the appropriate cost recovery mechanism for thousands-block number pooling, and that issue was not reopened in the *Numbering Resource Optimization Third Order on Reconsideration. The Numbering Resource Optimization Third Report and Order* was published in the **Federal Register** on February 12, 2002, 67 FR 6431; and, therefore, petitions for reconsideration were due by March 14, 2002. As noted, AT&T did not file its petition until May 6, 2002. The Commission therefore finds that AT&T's petition for reconsideration was untimely filed, and dismisses it accordingly.

18. Acknowledging that its petition may be untimely, AT&T also argues that the effect of the *Numbering Resource Optimization Third Report and Order* was not readily apparent at the reconsideration deadline for that order and asks the Commission to reconsider its decision on its own motion. Notwithstanding its dismissal of AT&T's petition as untimely, the Commission briefly addresses the merits of AT&T's arguments and concludes that no change in pooling cost recovery should be made.

19. In the *Numbering Resource Optimization Third Report and Order,* the Commission determined that incumbent LECs subject to rate of return or price cap regulation may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling implementation through existing cost recovery mechanisms. The Commission concluded that, because thousands-block number pooling had been mandated as a national numbering resource optimization strategy, permitting recovery of the extraordinary costs of number pooling in access charges is appropriate.

20. AT&T argues that carriers should bear their own carrier-specific pooling costs, and that allowing recovery of pooling costs through access charges inappropriately allows incumbent LECs to shift their costs to interexchange carriers (IXCs). In the *Numbering Resource Optimization Third Report and Order,* the Commission considered this argument and found that numbering administration is inherently access-related, explaining that without numbers, the provision of which is a basic telephone network function, IXCs would be unable to route subscriber calls. Pooling is an enhancement of ordinary numbering administration, and access charges are the means by which access customers share in the costs of operating and maintaining the telephone network. Accordingly, the Commission concluded that it is appropriate for IXCs and other access customers to share in the costs of thousands-block number pooling. AT&T also argues that permitting incumbent LECs to recover pooling costs in access charges is an impermissible subsidy in violation of section 254(e) of the Act. In the *Numbering Resource Optimization Third Report and Order,* the Commission addressed this claim by finding that, because access charges are intended to recover a portion of telephone network costs, permitting recovery of the extraordinary costs of number pooling in access charges is neither an implicit or explicit subsidy.

21. AT&T further argues that this pooling cost recovery mechanism is not competitively neutral, in violation of section 251(e) of the Act. To the contrary, the Commission concluded in the *Numbering Resource Optimization Third Report and Order* that pooling, as a numbering resource optimization strategy, is a part of numbering administration, and that access charges are intended to recover a portion of telephone network costs, which include number administration costs. Thus, permitting recovery of the extraordinary costs of thousands-block number pooling through access charges is consistent with the statutory mandate of competitive neutrality. AT&T also suggests that the Commission's decision to permit thousands-block number pooling cost recovery through access charges is inconsistent with the *Numbering Resource Optimization First Report and Order* and with the Commission's decision not to allow recovery of LNP costs through access charges. The Commission finds that the decision to allow recovery of thousands-block number pooling costs through access charges is fully consistent with the Commission's decisions in prior orders. In the *Numbering Resource Optimization First Report and Order,* the Commission adopted the same competitively neutral cost recovery framework for thousands-block number pooling that it adopted for LNP, but it also found that the determination of the appropriate cost recovery mechanism

(*i.e.*, recovery through access or, alternatively, end-user charge) would be decided in a future order after further comment. In the *Numbering Resource Optimization Third Report and Order,* the Commission followed the reasoning of the *LNP Third Report and Order* to conclude that unlike LNP, thousands-block number pooling is access related, and thus recovery of pooling costs through access charges is competitively neutral. AT&T otherwise raises no new evidence or arguments not already considered by the Commission. Accordingly, the Commission declines to reconsider its prior order.

22. Finally, the Commission grants the motion of the California PUC to accept its late filed comments. On its own motion, the Commission also accepts the late filed reply comments of the Texas PUC.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Third Order on Reconsideration in CC Docket No. 99–200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95–116 (Further Notice). The Commission sought written public comment on the proposals in the Further Notice, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Fourth Report and Order

24. In the Further Notice, we sought public comment on whether we should again extend the local number portability (LNP) requirements to all carriers in the 100 largest Metropolitan Statistical Areas (MSAs), regardless of whether they receive a request to provide LNP. We also sought comment on whether all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are required to be LNP capable. Finally, we sought comment on whether all MSAs included in the consolidated metropolitan statistical areas (CMSAs) should be included on the Commission's list of the 100 largest MSAs.

25. With this Fourth Report and Order in CC Docket No. 99–200 and Fourth Report and Order in CC Docket No. 95–116, we continue efforts to maximize the efficiency with which numbering resources in the North American Numbering Plan (NANP) are used. We also attempt to continue the implementation of telephone number portability and thousands-block number pooling with the minimum regulatory and administrative burden on telecommunications carriers. In particular, we reaffirm that carriers need only deploy LNP in switches within the 100 largest MSAs for which another carrier has made a specific request for the provision of LNP. We also delegate authority to the state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. We also conclude that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP including covered commercial mobile radio service (CMRS) providers that are not required to deploy LNP until November 24, 2003. We specifically exempt rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP from the pooling requirement. We also exempt from the pooling requirement carriers that are the only service provider receiving numbering resources in the rate center. We also find AT&T's petition for reconsideration of the Commission's decision to permit incumbent local exchange carriers (LECs) to recover the extraordinary costs of thousands-block number pooling through access charges to be untimely and without merit.

2. Summary of Significant Issues Raised by Public Comments in Response to the IFRA

26. No comments specifically addressed the IFRA. Commenters, however, responded to several issues addressed in the *Further Notice of Proposed Rulemaking* that concern small entities. Generally, commenters from the state commissions support extending the LNP requirement to all carriers in the 100 largest MSAs, regardless of whether there has been a request. Most commenters agree that all carriers in the 100 largest MSAs should be required to participate in thousands-block number pooling regardless of whether they are LNP capable. Several of these commenters suggest that thousands-block number pooling should be as expansive as possible in order to promote efficient and effective numbering resource optimization. Other commenters suggested that an exemption should be established for small carriers.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

27. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

28. The most reliable source of information regarding the total number of certain common carriers and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes bi-annually in its Trends in Telephone Service Report. According to data in the most recent report, there are 5,679 interstate carriers. These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

29. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

30. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which

consists of all such companies having 1500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 wired telecommunications carriers that had 1,500 or fewer employees. Of this total, 2,201 firms had 999 or fewer employees, and 24 firms had employment of 1,000 employees or more. Thus, we estimate that no more than 2,225 wired telecommunication carriers are small businesses that may be affected by the regulations.

31. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition specifically for small LECs. The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. According to the Trends in Telephone Service data, 1,329 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,329 companies, an estimated 1,024 have 1,500 or fewer employees and an estimated 305 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 1,024 providers of local exchange service are small businesses that may be affected by the regulations.

32. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for Wired Telecommunications Carriers. According to the Trends in Telephone Service data, 229 carriers reported that they were engaged in the provision of interexchange services. Of these 229 companies, 181 have 1,500 or fewer employees and 48 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 181 small entity IXCs may be affected by the regulations.

33. Competitive Access Providers (CAPs). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to CAPs. The closest applicable definition under the SBA rules is for Wired Telecommunications Carrier. According to the Trends in Telephone Service data, 532 CAPs and competitive LECs and 55 other LECs reported that they were engaged in the provision of competitive local exchange services. Of these 587 companies, 411 CAPs and competitive LECs and 53 other LECs have 1,500 or fewer employees and 121 CAPs and competitive LECs and 2 other LECs have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 411 small entity CAPs and 53 other LECs may be affected by the regulations.

34. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is for Wired Telecommunications Carriers. According to the Trends in Telephone Service data, 576 toll resellers and 134 local resellers reported that they were engaged in the resale of telephone service. Of these 710 companies, 669 have 1,500 or fewer employees and 41 have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 669 small entity resellers may be affected by the regulations.

35. Wireless Telephony including Cellular, Personal Communications Service (PCS) and Specialized Mobile Radio (SMR) Telephony Carriers. Wireless telephony includes cellular, PCS or SMR service providers. The SBA has developed a definition of small entities applicable to cellular licensees that consists of all such companies having 1,500 or fewer employees. According to the Trends in Telephone Service data, 858 carriers reported that they were engaged in the provision of wireless telephony. Of these 858 companies, 291 wireless telephony providers have 1,500 or fewer employees and 567 wireless telephony providers have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 291 small carriers providing wireless telephony services may be affected by the regulations.

36. Paging Service. The SBA has developed a definition of small entities applicable to providers of paging services that consists of all such companies having 1,500 or fewer employees. According to the Trends in Telephone Service data, 576 companies reported that they were engaged in the provision of paging service. Of these 1,434 companies, 557 paging companies have 1,500 or fewer employees and 19 paging companies have more than 1,500 employees (alone or in combination with affiliates). Consequently, we estimate that no more than 291 small carriers providing paging services may be affected by the regulations.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

37. The requirements discussed herein should not require additional reporting, recordkeeping or compliance requirements for service providers. In this *Report and Order,* we are not mandating new recordkeeping and compliance requirements. Rather, we are affirming, clarifying or reducing requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

39. In this *Fourth Report and Order,* we decline to extend local number portability requirements to carriers operating in the 100 largest MSAs that have not yet received a request to deploy local number portability from a competing carrier. By maintaining our current local number portability requirement, we will not impose new burdens on small carriers operating in the 100 largest MSAs. We believe that the costs associated with the alternative of requiring all carriers, including small entities, to deploy local number portability in the absence of a request would outweigh any number optimization benefit.

40. In addition, we exempt rural telephone companies and Tier III CMRS carriers from the pooling requirement until they are required to implement LNP. We also exempt from the pooling requirement carriers operating in rate centers where they are the only service provider receiving numbering resources. Once such a carrier receives a request to provide LNP, the carrier must then also participate in pooling in areas where it is deployed. If, however, a state believes that a carrier that qualifies for this exemption should participate in pooling to further our numbering resource optimization goals, the state commission may petition the Commission for authority to require such carriers to implement pooling.

41. Report to Congress: The Commission will send a copy of this *Fourth Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this *Fourth Report and*

Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this *Fourth Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

IV. Ordering Clauses

42. Pursuant to the authority contained in sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251, this *Fourth Report and Order* is hereby adopted and part 52 of the Commission's rules are amended and adopted as set forth in Appendix A of the *Fourth Report and Order.*

43. Pursuant to the authority contained in sections 1, 2, 3, 4, 251(e), 254(e), and 405 of the Communications Act of 1934, as amended, 47 U.S.C 151, 152, 153, 154, 251(e), 254(e), and 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the petition for reconsideration filed by AT&T on May 6, 2002 is denied.

44. Pursuant to the authority contained in Sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251, this fourth further notice of proposed rulemaking is hereby adopted.

45. The amendments to §§ 52.20 through 52.31 of the Commission's rules as set forth in the rule changes are adopted, effective August 20, 2003. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and/or recordkeeping requirements or burdens on the public.

46. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Fourth Report and Order in CC Docket No. 99–200 and CC Docket No. 95–116, and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 99–200, including the Final Regulatory Flexibility Analysis and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reason discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

PART 52—NUMBERING

■ 1. The authority citation for part 52 continues to read as follows:

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–205, 207–09, 218, 225–7, 251–2, 271 and 332 unless otherwise noted.

■ 2. Section 52.20 is amended by revising paragraph (b) to read as follows:

§ 52.20 Thousands-block number pooling.

* * * * *

(b) *General requirements.* Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers, except those exempted by the Commission, must participate in thousands-block number pooling where it is implemented and in accordance with the national thousands-block number pooling framework and implementation schedule established by the Commission.

* * * * *

■ 3. Section 52.21 is amended by removing paragraph (r), redesignating paragraphs (a) through (q) as paragraphs (b) through (r), and by adding a new paragraph (a) to read as follows:

§ 52.21 Definitions.

* * * * *

(a) The term *100 largest MSAs* includes the 100 largest MSAs as identified in the 1990 U.S. Census reports, as set forth in the Appendix to this part, as well as those areas identified as one of the largest 100 MSAs on subsequent updates to the U.S. Census reports.

* * * * *

■ 4. Section 52.23 is amended by revising paragraph (b)(1) to read as follows:

§ 52.23 Deployment of long-term database methods for number portability by LECs.

* * * * *

(b)(1) All LECs must provide a long-term database method for number portability in the 100 largest Metropolitan Statistical Areas (MSAs), as defined in § 52.21(k), in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (b)(2) of this section.

* * * * *

■ 5. Section 52.31 is amended by revising paragraphs (a) introductory text, (a)(1)(ii), and (a)(1)(iv) introductory text to read as follows:

§ 52.31 Deployment of long-term database methods for number portability by CMRS providers.

(a) By November 24, 2003, all covered CMRS providers must provide a long-term database method for number portability, including the ability to support roaming, in the 100 largest MSAs, as defined in § 52.21(k), in compliance with the performance criteria set forth in section 52.23(a) of this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (a)(1) of this section. A licensee may have more than one CMRS system, but only the systems that satisfy the definition of covered CMRS are required to provide number portability.

(1) * * *

(ii) Carries requesting deployment in the 100 largest MSAs by November 24, 2003 must submit requests by February 24, 2003.

* * * * *

(iv) After November 24, 2003, a covered CMRS provider must deploy number portability in additional switches serving the 100 largest MSAs upon request within the following time frames:

* * * * *

[FR Doc. 03–18366 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95–116; FCC 97–74]

Telephone Numbering Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On March 11, 1997, the Commission released a First Memorandum Opinion and Order on Reconsideration in CC Docket No. 95–116; FCC 97–74 (Order). In that Order the Commission concludes that Query on Release (QOR) is not an acceptable long-term number portability method. Second, the Commission extends the completion deadlines in the implementation schedule for wireline carriers by three months for Phase I and by 45 days for Phase II. A summary of the Order was published in the **Federal Register.** In that summary, the Commission stated that the modified rules would become effective May 15, 1997. Information collections, however, which are subject to approval by the

Office of Management and Budget (OMB), shall become effective upon approval by OMB, but no sooner than September 12, 1997. A document announcing the information collections approval by OMB will be published in the **Federal Register** at a later date. This document announces the effective date of the amendments to our rules for numbering that contained information collection requirements.

DATES: Sections 52.23 and 52.31 and the Appendix to Part 52, published at 62 FR 18280, April 15, 1997, were approved by the Office of Management and Budget (OMB) on August 9, 1997. The OMB approval of the information collection requirements contained in these rules was announced in the **Federal Register** on August 28, 1997. OMB approved the collections on August 9, 1997, however, the rules that contained information collections should not have become effective no sooner than September 12, 1997. Therefore, the rules became effective on September 12, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: On March 11, 1997, the Commission released a First Memorandum Opinion and Order on Reconsideration in CC Docket No. 95–116; FCC 97–74 (Order). In that Order the Commission concludes, first, that Query on Release (QOR) is not an acceptable long-term number portability method. Second, the Commission extends the completion deadlines in the implementation schedule for wireline carriers by three months for Phase I and by 45 days for Phase II, clarifies the requirements imposed there under, concludes that LECs need only provide number portability within the 100 largest MSAs in switches for which another carrier has made a specific request for portability, and addresses issues raised by rural LECs and certain other parties. Finally, the Commission affirms and clarifies its implementation schedule for wireless carriers. A summary of the Order was published in the **Federal Register.** See 62 FR 18280, April 15, 1997. In that summary, the Commission stated that the modified rules would become effective May 15, 1997. Information collections, however, which are subject to approval by the Office of Management and Budget (OMB), shall become effective upon approval by OMB, but no sooner than September 12, 1997. A document announcing the information collections approval by OMB will be published in the **Federal Register** at a later date. On August 9, 1997, OMB approved the information collections. See OMB No. 3060–0742. The rule amendments adopted by the Commission in the Order took effect May 15, 1997. The OMB approval of the information collection requirements was announced in the **Federal Register** on August 28, 1997, however, the effected rules took effect on September 12, 1997.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–18365 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; FCC 03–42]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers.

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's rules regarding unauthorized changes of consumers' preferred telecommunications service providers. Certain sections of the rules contained information collection requirements that required the approval of the Office of Management and Budget (''OMB'') before they could become effective. Those sections have been approved by OMB.

DATES: The amendments to 47 CFR sections 64.1120(c)(3)(iii), 64.1130(j), 64.1150(b), 64.1160(g), 64.1170(g), 64.1180, to the requirements concerning local exchange carrier verification of in-bound carrier changes, and to certifications to exempt carriers from the drop-off requirement, released by the Commission on March 17, 2003, and a summary of which was published at 68 FR 19152, April 18, 2003, will become effective on July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Perlesta Hollingsworth of the Policy Division, Consumer & Governmental Affairs Bureau at (202) 418–7383, TTY (202) 202 418–7365 (tty).

SUPPLEMENTARY INFORMATION: On March 17, 2003, the Commission released the Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order). The Order revised and clarified certain rules to implement section 258 of the Communications Act. The rules and requirements implementing section 258 can be found primarily at 47 CFR Part 64. The modifications and additions adopted in the Order will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. The Commission released the Order on March 17, 2003. In addition, a summary of the Order was published in the **Federal Register** at 68 FR 19152, April 18, 2003. On July 1, 2003, the Commission received approval for the information collection requirements, Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, OMB Control Number 3060–0787, contained in the Order pursuant to the ''emergency processing'' provisions of the Paperwork Reduction Act of 1995 (5 CFR 1320.13). Questions concerning OMB control numbers and expiration dates should be directed to Les Smith, Federal Communications Commission, (202) 418–0217 or via the Internet to *leslie.smith@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–18428 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20, 21, and 92

RIN 1018–AI84

Migratory Bird Subsistence Harvest in Alaska; Spring/Summer Subsistence Harvest Regulations for Migratory Birds in Alaska During the 2003 Subsistence Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing spring/summer migratory bird subsistence harvest regulations in

Alaska for the 2003 subsistence season. This rule establishes regulations that prescribe frameworks, or outer limits, for dates when harvesting of birds may occur, species that can be taken, and methods and means excluded from use. These regulations were developed under a new co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. They are not intended to be a complete, all-inclusive set of regulations, but are intended to provide an initial framework to legalize customary and traditional subsistence uses of migratory birds in Alaska. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual public review. Certain provisions in this rulemaking expire on August 31, 2003, for the spring/summer subsistence harvest of migratory birds in Alaska. In subsequent years, seasons will open after April 1 and will close prior to September 1.

DATES: This rule is effective July 21, 2003, except for §§ 92.31 through 92.33, which are effective July 21, 2003 until August 31, 2003.

ADDRESSES: The administrative record for this rule may be viewed at the office of the Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, (907) 786–3887 or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

What Events Led to This Action?

In 1916, the United States and Great Britain (on behalf of Canada) signed the Convention for the Protection of Migratory Birds in Canada and the United States (Canada Treaty). The treaty prohibited commercial hunting for, and specified a closed season on the taking of, migratory game birds between March 10 and September 1 of each year. In 1936, the United States and Mexico signed the Convention for the Protection of Migratory Birds and Game Mammals (Mexico Treaty). The Mexico treaty prohibited the taking of wild ducks between March 10 and September 1. Neither treaty allowed adequately for the traditional harvest of migratory birds by northern peoples during the spring and summer months. This harvest, which had occurred for centuries, was necessary to the subsistence way of life in the north and thus continued despite the closed season.

The Canada treaty and the Mexico treaty, as well as migratory bird treaties with Japan (1972) and Russia (1976), have been implemented in the United States through the Migratory Bird Treaty Act (MBTA). The courts have ruled that the MBTA prohibits the Federal Government from permitting any harvest of migratory birds that is inconsistent with the terms of any of the migratory bird treaties. The more restrictive terms of the Canada and Mexico treaties thus prevented the Federal Government from permitting the traditional subsistence harvest of migratory birds during spring and summer in Alaska. To remedy this situation, the United States negotiated Protocols amending both the Canada and Mexico treaties to allow for spring/summer subsistence harvest of migratory birds by indigenous inhabitants of identified subsistence harvest areas in Alaska. The U.S. Senate approved the amendments to both treaties in 1997.

What Will the Amended Treaty Accomplish?

The major goals of the amended treaty with Canada are to allow for traditional subsistence harvest and to improve conservation of migratory birds by allowing effective regulation of this harvest. The amended treaty with Canada allows permanent residents of villages within subsistence harvest areas, regardless of race, to continue harvesting migratory birds between March 10 and September 1 as they have done for thousands of years. The Letter of Submittal of May 20, 1996, from the Department of State to the White House that officially accompanied the treaty protocol explains that lands north and west of the Alaska Range and within the Alaska Peninsula, Kodiak Archipelago, and the Aleutian Islands generally qualify as subsistence harvest areas. Treaty language provides for further refinement of this determination by management bodies.

The Letter of Submittal places limitations on who is eligible to harvest and where they can harvest migratory birds. Anchorage, the Matanuska-Susitna and Fairbanks North Star Boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska generally do not qualify as subsistence harvest areas. Limited exceptions may be made so that some individual communities within these excluded areas may qualify for designation as subsistence harvest areas for specific purposes. For example, future regulations could allow some villages in Southeast Alaska to collect gull eggs.

The amended treaty with Canada calls for creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. Together they will develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies will involve village councils to the maximum extent possible in all aspects of management.

The management bodies will submit relevant recommendations to the Service and to the Flyway Councils. Restrictions in harvest levels for the purpose of conservation will be shared equitably by users in Alaska and users in other States, taking into account nutritional needs of subsistence users in Alaska. The treaty amendments are not intended to cause significant increases in the take of migratory birds relative to their continental population sizes. In addition, the amendments are not intended to create a preference in favor of any group of users in the United States or to modify any preference that may exist, nor do they create any private rights of action under U.S. law.

What Has the Service Accomplished Since Ratification of the Amended Treaty?

In 1998, we began a public involvement process to determine how to structure management bodies in order to provide the most effective and efficient involvement for subsistence users. We began by publishing a notice in the September 17, 1998, **Federal Register** (63 FR 49707) stating that we intended to establish management bodies to implement the spring and summer subsistence harvest. The Service, the Alaska Department of Fish and Game, and the Native Migratory Bird Working Group held public forums to provide information regarding the amended treaties and to listen to the needs of subsistence users. The Native Migratory Bird Working Group was a consortium of Alaska Natives formed by the Rural Alaska Community Action Program to represent Alaska Native subsistence hunters of migratory birds during the treaty negotiations. We held forums in Nome, Kotzebue, Fort Yukon, Allakaket, Naknek, Bethel, Dillingham, Barrow, and Copper Center. We led additional briefings and discussions at

the annual meeting of the Association of Village Council Presidents in Hooper Bay and for the Central Council of Tlingit & Haida Indian Tribes in Juneau. Staff members from National Wildlife Refuges in Alaska also conducted public meetings in the villages within their refuge areas and discussed the amended treaties at those meetings.

On July 1, 1999, we published in the **Federal Register** (64 FR 35674) a notice of availability of an options document, entitled ''Forming management bodies to implement legal spring and summer migratory bird subsistence hunting in Alaska.'' This document described four possible models for establishing management bodies and was released to the public for review and comment. We mailed copies of the document to approximately 1,350 individuals and organizations, including all tribal councils and municipal governments in Alaska, Native regional corporations and their associated nonprofit organizations, the Alaska Department of Fish and Game, Federal land management agencies, representatives of the four Flyway Councils, conservation and other affected organizations, and interested businesses and individuals. We distributed an additional 600 copies at public meetings held in Alaska to discuss the four models. We also made the document available on the Service web page.

During the public comment period, we received 60 written comments addressing the formation of management bodies. Of those 60 comments, 26 were from tribal governments, 20 from individuals, 10 from nongovernmental organizations, 2 from the Federal Government, 1 from the State of Alaska, and 1 from the Native Migratory Bird Working Group. In addition to the 60 written comments, 9 of the 10 Federal Subsistence Regional Advisory Councils passed resolutions regarding the four models presented.

On March 28, 2000, we published in the **Federal Register** (65 FR 16405) the Notice of Decision, ''Establishment of Management Bodies in Alaska To Develop Recommendations Related to the Spring/Summer Subsistence Harvest of Migratory Birds.'' This notice described the establishment and organization of management bodies.

Based on the wide range of views expressed on the options document, the decision incorporated key aspects of two of the models. The decision established one statewide management body consisting of 1 Federal member, 1 State member, and 7–12 Alaska Native members, with each component serving as equals. Decisions and recommendations of this management body will be by consensus wherever possible; however, if a vote becomes necessary, each component, Federal, State, and Native, will have one vote. This body will set a framework for annual regulations for spring and summer subsistence harvest of migratory birds.

The Alaska Regional Director of the Service divided Alaska into 12 geographic regions based on common subsistence resource use patterns and the 12 Alaska Native Regional Corporation boundaries under the Alaska Native Claims Settlement Act. Despite using the Alaska Native Regional Corporation boundaries, we are not working directly with the Regional Corporations in this program, and are instead working with the Alaska Native nonprofit groups and local governments in those corresponding regions. Eleven regional bodies have elected to participate in the statewide management body at this time. Out of all of the regions represented in the statewide management body, only eight regions actually represent included areas (50 CFR 92.5). These eight eligible regions submitted proposals to open harvest in 2003.

In April 2000, we met with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group to discuss bylaws for the statewide management body. At that meeting, participants decided to name the statewide management body the ''Alaska Migratory Bird Co-management Council.'' On October 30, 2000, the Co-management Council convened for the first time to establish organizational guidelines and to begin development of recommendations for regulations. On December 17, 2001, the Co-management Council met to refine organizational procedures and to discuss Alaska Frameworks/Guidelines for development of regulations for the first harvest season.

Over the winter of 2001–02, the regional management bodies submitted recommendations for regulating the harvest within their regions. Recommendations were received only from the eight regions with communities included in the 2003 proposed harvest. The other four regions did not send in recommendations. On May 14, 2002, the Co-management Council met to make final recommendations on harvest dates and methods and means of harvest for the 2003 season as necessary to protect the migratory bird resource. The Co-management Council sent recommendations to the four Flyway Councils for comments, and presentations were made at July 2002 meetings of the Pacific and Central Flyway Councils. The Co-management Council's harvest recommendations were initially presented to the Service Regulations Committee (SRC) on August 31, 2002, with final SRC action on October 24, 2002.

On April 8, 2002, we published in the **Federal Register** (67 FR 16709) a proposed rule to establish procedures for implementing a spring/summer migratory bird subsistence harvest in Alaska. The proposed rule provided for a public comment period of 46 days. We mailed copies of the proposed rule to more than 1,200 individuals and organizations that were on the project mailing list. We conducted two public meetings in Anchorage where people could ask questions or provide formal comment.

By the close of the public comment period on May 24, 2002, we had received written responses from 11 entities. Four of the responses were from individuals, five from organizations, one from the Alaska Legislature, and one from the Alaska Department of Fish and Game. On August 16, 2002, we published in the **Federal Register** (67 FR 53511) a final rule at 50 CFR part 92, which established procedures for incorporating subsistence management into the continental migratory bird management program. These procedural regulations establish an annual procedure to develop harvest guidelines for implementation of a spring/summer migratory bird subsistence harvest.

On February 10, 2003, we published a proposed rule in the **Federal Register** (68 FR 6697) to establish annual spring/summer subsistence migratory bird harvest regulations for Alaska, starting with the 2003 season. By the close of the public comment period on March 12, 2003, we had received written responses from 30 entities. Seven of the responses were from individuals, 20 from organizations, 2 from regional Flyway Councils and 1 from the Alaska Department of Fish and Game.

This is the first year that we are prescribing annual frameworks, or outer limits, for dates when subsistence harvest of birds may occur, the list of species that may be taken, methods and means excluded from use, etc. These frameworks are not intended to be a complete, all-inclusive set of regulations, but are intended to provide an initial framework to legalize customary and traditional subsistence uses of migratory birds in Alaska during the spring and summer. This rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are

subject to annual establishment and public review and because the season is closed unless opened. This rule establishes regulations for reorganization of the regional areas, harvest seasons, a list of subsistence species, emergency closure authority, and methods and means related to taking of migratory birds for subsistence uses in Alaska during the spring/summer of 2003. We have also made nonsubstantive changes to 50 CFR parts 20 and 21 that were necessitated by the creation of 50 CFR part 92.

How Did the Service Meet the International Aspects of the Migratory Bird Treaties?

The Service's authority arises from the four international treaties implemented by the Migratory Bird Treaty Act. Formerly, the 1916 Convention between the United States and Great Britain on behalf of Canada and the 1936 treaty with the United Mexican States contained language that precluded most spring/summer subsistence harvest of migratory birds in Alaska. Both of these treaties have now been amended to allow the U.S. government to implement subsistence harvests during the closed season by indigenous inhabitants of identified subsistence harvest areas in Alaska. Specifically, the Protocol with Canada, Article II of the Treaty was revised to allow migratory birds and their eggs to be harvested by the indigenous inhabitants of the State of Alaska, regardless of the closed season provisions in Article II.

Although the Protocol with the United Mexican States was amended to allow for the taking of wild ducks by indigenous inhabitants of Alaska, the hunting season limitation specified in Article II Part C was not altered. Therefore, the length of the Alaskan spring/summer subsistence harvest of migratory birds cannot exceed the period specified within the Mexican convention, which is 4 months. Historically, we have interpreted this restriction as 124 days. Therefore, to be consistent with the Mexican Treaty, subsistence harvest between March 11 and September 1 must be limited to 124 days. The above interpretation of season length came late in this initial regulatory process. The Co-management Council had developed season recommendations without being aware of a 124-day season limitation; therefore, the Service has elected to open the season as soon as this rule is published and allow the ''Closed Season Policy'' (53 FR 16877, May 12, 1988) to remain in effect until this rule takes effect. Under the ''Closed Season Policy,'' the emphasis is to protect those species for which there is greatest conservation concern. Following publication of this rule, the ''Closed Season Policy'' will no longer be in effect. Certain provisions in this final rule will govern the spring/summer subsistence harvest from the effective date of this rule through August 31, 2003. The regulations in 50 CFR part 20 will apply to all migratory bird harvests by all people in Alaska from September 1, 2003, to March 11, 2004.

The 1974 Migratory Bird Treaty with Japan provides for ''taking of migratory birds by Eskimos, Indians, and Indigenous peoples of the Trust Territory of the Pacific Islands for their own food and clothing.'' The Japan Treaty further stipulates that ''Open seasons for harvesting migratory birds may be decided by each Contracting Party respectively. Such harvesting seasons shall be set so as to avoid their principal nesting seasons and to maintain their populations in optimum numbers.'' In conformance with this provision, the Service developed a provision that would allow the traditional subsistence harvesting of eggs while also providing protection during the most critical part of the production period. Using ducks and geese as the initial model (with applications later considered for seabirds), a 30-day closed period targets the last 2 weeks of the incubation period and the first 2 weeks of the brood-rearing period. This concept still permits an opportunity for traditional egg harvesting during the early period after egg laying, but protects the later developing eggs and newly hatched young. To determine the best protective closure periods for their harvest regions based on mean nest initiation and egg laying dates, regional management bodies within the Co-management Council worked with the Service's Division of Migratory Bird Management in Anchorage, Alaska. Closures in some regions were geographically subdivided to provide the best protection, while other regions were provided separate closures for waterfowl and seabirds (primarily murres).

In this rule, the Yukon-Kuskokwim Delta region requested flexibility to set and announce the annual mid-season principal nesting closure period, based on local information, such as timing of snow melt and initiation of nesting. Thus, the closure period in the Yukon-Kuskokwim Delta region will be announced by the Alaska Regional Director or his or her designee, after consultation with biologists in the field, local subsistence users, and the region's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations and posted in village post offices and stores.

How Will the Service Ensure That This New Legalized Subsistence Harvest Will Not Raise Overall Migratory Bird Harvest?

The Preamble of the Protocol amending the Canada Treaty states one of its goals is to allow a traditional subsistence hunt while also improving conservation of migratory birds through effective regulation of this hunt. In addition, the Preamble notes that, by sanctioning a traditional subsistence hunt, the Parties do not intend to cause significant increases in the take of migratory birds, relative to their continental population sizes, compared to the take that is presently occurring. Any such increase in take as a result of the types of hunting provided for in the Protocol would be inconsistent with the Convention. If the new subsistence harvest regulations result in increased harvest, management strategies will be implemented to ensure maintenance of continental populations.

Eligibility to harvest under these new regulations is limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions open the initial spring/summer subsistence migratory bird harvest to only about 13% of Alaska residents. High-population areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs; the Kenai Peninsula roaded area; the Gulf of Alaska roaded area; and Southeast Alaska are currently excluded from the eligible subsistence harvest areas. The eligible subsistence harvest areas were determined by a history of customary and traditional use of migratory birds during the spring and summer as provided in the Protocol amending the Canada Treaty. Adoption of annual harvest regulations will legalize the spring/summer subsistence harvest, but is not intended to initiate or somehow increase it, since subsistence harvest has a long history of prior use in these regions. In addition, some regions, such as Bristol Bay and the Northwest Arctic, indicated that local interest in harvesting birds is declining due to increased commercial availability of alternative foods.

Alaska Natives have longstanding conservation ethics and traditions that are passed from generation to generation through the teachings of elders. These

customary and traditional teachings have provided for the perpetuation of migratory birds prior to the ratification of the Canada and Mexico treaty amendments and will continue to do so following the opening of the legal subsistence season. Ultimately it is these components of Native Alaskan culture, rather than regulations, that will provide the more restrictive limits on the harvest of migratory birds.

We have long recognized that a legal and equitable harvest opportunity should be provided during traditional harvesting periods within a regulated framework that ensures conservation of the resource. Without regulating this ongoing activity, populations of the most heavily harvested species, principally waterfowl, could experience declines, and the recovery of depressed populations would be more difficult. Legalizing the subsistence harvest could make any documentation of the take easier and any reporting more accurate. In addition, the regulations will become part of the comprehensive, continental system of migratory bird management, thus integrating subsistence uses with other uses for the first time. Further, the Alaska subsistence migratory bird harvest is presently thought to constitute only approximately 2–3% of the aggregate national migratory bird harvest.

Under the prior ''Closed Season Policy'' (53 FR 16877, May 12, 1988), it was the position of the Service to emphasize enforcement of restrictions on species of greatest conservation concern. Since its implementation, information on the ''Closed Season Policy'' has been broadly distributed in Alaska. We believe it is reasonable to assume that most subsistence users were aware of the policy and continued their traditional harvest of non-protected migratory bird species, so few new subsistence users should be attracted by legalizing their customary and traditional harvests. Indications are that subsistence harvests of migratory birds have, in the past, been generally underreported because of fear of prosecution. Legalization of the harvest could make people more comfortable about reporting take. This could lead to more accurate reporting and ultimately help in regulation setting and bird conservation.

Subsistence harvest has been monitored for the past 14 years through the use of annual household surveys in the most heavily used subsistence harvest areas (*e.g.,* Yukon-Kuskokwim Delta).

Continuation of this monitoring would enable tracking of any significant changes or trends in levels of harvest and user participation after legalization of the harvest. The harvest survey forms that we used to collect information previously were not approved by the Office of Management and Budget (OMB). In the March 3, 2003, **Federal Register** (68 FR 10024), we published a notice of intent to submit the Alaska Subsistence Household Survey information collection forms to OMB for approval under the Paperwork Reduction Act, with a subsequent 60-day public comment period. We will not conduct or sponsor these surveys until we obtain OMB approval of this information collection. If OMB approves the forms, we intend to begin a Statewide program to gather information that would provide a more comprehensive view of the overall subsistence harvest and more species-specific harvest data, especially on shorebirds.

How Did the Service Come Up With the Methods and Means Prohibitions?

The Co-Management Council in general adopted the existing methods and means prohibitions that occur in the Federal (50 CFR part 20) and Alaska (5AAC92.100) migratory bird hunting regulations. Some exceptions were made to allow the continuation of customary and traditional spring harvest methods. For example, an exception was made to allow use of live birds as decoys for the harvest of auklets on Diomede Island.

Why Are No Daily Harvest Limits Proposed Under These Subsistence Regulations?

The concept of harvest or bag limits is difficult to apply to the traditional subsistence harvest. A subsistence harvest involves opportunistic use of resources when they are available or abundant, usually for short periods such as bird migration stopovers. Also, subsistence hunting traditionally is often not for individual purposes, meaning hunters are taking birds to be shared within the community, among several families. Historically, local survival depended on sharing, which is a cultural value broadly taught and practiced both within and between communities. Often these designated village hunters are proficient in the techniques necessary to take specific species, for example, hunting murres from breeding areas along seacliff ledges. A restrictive daily limit for individual subsistence hunters would significantly constrain customary and traditional practices and limit opportunistic seasonal harvest opportunities within the Alaska subsistence communities.

The Co-management Council does recognize that setting harvest limits may become necessary, especially within local areas and individual species. However, we did not design these initial 2003 harvest regulations to be a complete, all-inclusive set of regulations, but intended for them to provide an initial framework to formally recognize and provide opportunities for the customary and traditional subsistence uses of migratory birds in Alaska. Within these initial frameworks, the first step in limiting the overall subsistence harvest was to establish a closed species list that included regional restrictions. Establishing a 30-day closed period during the breeding season also limited the harvest impacts. The eventual need to further adjust levels of harvest take, either regionally or overall, is recognized and will be dealt with by the Co-management Council on the basis of recommendations by the Council's Technical Committee on a species-by-species basis. These decisions will likely be based on bird population status and past subsistence harvest data. Concepts such as community harvest limits and/or designated hunters may be considered to accommodate customary and traditional subsistence harvest methods.

How Did the Service Come Up With the List of Birds Open to Harvest?

The Service believed that it was necessary to develop a list of bird species that would be open to subsistence harvest during the spring/summer season. The original list was compiled from subsistence harvest data, with several species added based on their presence in Alaska without written records of subsistence take. The original intent was for the list to be reviewed by the regional management bodies as a check list. The list was adopted by the Co-management Council as part of the guidelines for the 2003 season. Most of the regions adopted the list as written; however, two regions created their own lists. One regional representative explained that it would take much more time than was available for his region to reduce the list and that, once a bird was removed, returning it to the list would be more difficult later. Going with the original list was viewed as protecting hunters from prosecution for the rare take of an unlisted bird. To understand this rationale, one must be aware that subsistence hunting is generally opportunistic and does not usually target individual species. Native language names for birds often group closely related species, with no separate names for species within these groups.

Also, preferences for individual species differ greatly between villages and individual hunters. As a result, regions are hesitant to remove birds from the list until they are certain the species are not taken for subsistence use. The list therefore contains some species that are taken infrequently and opportunistically, but this is still part of the subsistence tradition. The Co-Management Council initially decided to call this list ''potentially harvested birds'' versus ''traditionally harvested birds'' because a detailed written documentation of the customary and traditional use patterns for the species listed had not yet been conducted. However, this terminology was leading to some confusion, so the Service renamed the list ''subsistence birds'' to cover the birds open to harvest in 2003.

The ''customary and traditional use'' of a wildlife species has been defined in Federal regulations (50 CFR 100.4) as a long-established, consistent pattern of use, incorporating beliefs and customs that have been transmitted from generation to generation. Much of the customary and traditional use information has not been documented in written form, but exists in the form of oral histories from elders, traditional stories, harvest methods taught to children, and traditional knowledge of the birds' natural history shared within a village or region. The only available empirical evidence of customary and traditional use of the harvested bird species comes from Alaska subsistence migratory bird harvest surveys, conducted by Service personnel and contractors and transferred to a computerized database. Because of difficulties in bird species identification, shorebird harvest information has been lumped into ''large shorebird'' and ''small shorebird'' categories. In reality, Alaska subsistence harvests are also conducted in this manner, generally with no targeting or even recognition of individual shorebird species in most cases. In addition, red-faced cormorants, trumpeter swans, Aleutian terns, whiskered auklets, short-eared owls, and others have not been targeted in subsistence harvest questionnaires, so little or no numerical harvest data exists. Available summaries of subsistence harvest data include Page and Wolf 1997; Trost and Drut 2001, 2002; Wentworth 1998; Wentworth and Wong 2001; and Wong and Wentworth 2001.

What Are Birds of Conservation Concern and How Do They Apply to Subsistence Harvest?

Birds of Conservation Concern (BCC) 2002 (FWS 2002) is the latest document in a continuing effort by the Service to assess and prioritize bird species for conservation purposes (FWS 1982, 1987, 1995; and U.S. Department of the Interior 1990) and was published in the February 6, 2003, **Federal Register** (68 FR 6179). It identifies bird species at risk because of inherently small populations or restricted ranges, severe population declines, or imminent threats, and thus in need of increased conservation attention to maintain or stabilize populations. The legal authority for this effort is the Fish and Wildlife Conservation Act (FWCA) of 1980, as amended. The 1988 amendment (Public Law 100–653, Title VIII) to the FWCA requires the Secretary of the Interior (16 U.S.C. 2901—2912), through the Service, to ''identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531—1543).''

In actuality, and fortunately, few of the species on the BCC lists are in such a precarious state that they will have to be considered for listing as endangered or threatened in the near future. Our goal is to implement preventive management measures that will serve to keep these species off the endangered species list. Proactive conservation clearly is more cost-effective than the extensive recovery efforts required once a species is federally listed under the ESA. The BCC lists are intended to stimulate coordinated and collaborative proactive conservation actions (including research, monitoring, and management) among Federal, State, and private partners. By focusing attention on these highest priority species, the Service hopes to promote greater study and protection of the habitats and ecological communities upon which these species depend, thereby ensuring the future of healthy avian populations and communities (for more detailed information on the exact criteria used to select species for consideration and inclusion on the BCC lists, *see* FWS 2002).

Of the 108 species for which the Service proposes to establish regulations allowing subsistence hunting in Alaska, 22 are on BCC lists at one or more scales (*e.g.*, National, FWS Regions, or Bird Conservation Regions-Alaska). The Service considers one additional species (Trumpeter Swan) to be ''sensitive'' because of its small population size and limited breeding distribution in Alaska. Of the 22 species on BCC lists, 14 are technically considered ''gamebirds'' (as defined by bilateral migratory bird conventions with Canada and Mexico), although frameworks allowing sport hunting seasons have never been established for any of them in the 85-year history of the Migratory Bird Treaty Act.

The following 23 species are birds of conservation concern or are considered sensitive for other reasons.

Family Gaviidae

Red-throated Loon (*Gavia stellata*).
Yellow-billed Loon (*Gavia adamsii*).

Family Phalacrocoracidae

Red-faced Cormorant (*Phalacrocorax urile*).

Family Anatidae

Trumpeter Swan (*Cygnus buccinator*).

Family Charadriidae

American Golden-Plover (*Pluvialis dominicus*).
Pacific Golden-Plover (*Pluvialis fulva*).

Family Haematopodidae

Black Oystercatcher (*Haematopus bachmani*).

Family Scolopacidae

Solitary Sandpiper (*Tringa solitaria*).
Upland Sandpiper (*Bartramia longicauda*).
Whimbrel (*Numenius phaeopus*).
Bristle-thighed Curlew (*Numenius tahitiensis*).
Hudsonian Godwit (*Limosa haemastica*).
Bar-tailed Godwit (*Limosa lapponica*).
Marbled Godwit (*Limosa fedoa*).
Black Turnstone (*Arenaria melanocephala*).
Red Knot (*Calidris canutus*).
Dunlin (*Calidris alpina*).
Buff-breasted Sandpiper (*Tryngites subruficollis*).

Family Laridae

Red-legged Kittiwake (*Rissa brevirostris*).
Arctic Tern (*Sterna paradisaea*).
Aleutian Tern (*Sterna aleutica*).

Family Alcidae

Whiskered Auklet (*Aethia pygmaea*).

Family Strigidae

Short-eared Owl (*Asio flammeus*).

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Summary of Public Involvement

On February 10, 2003, we published in the **Federal Register** (68 FR 6697) a proposed rule to establish spring/summer migratory bird subsistence harvest regulations in Alaska for the 2003 subsistence season. The proposed rule provided for a public comment period of 30 days. We mailed copies of the proposed rule to more than 60 individuals and organizations that were determined to be direct stakeholders in this process. We established an internet homepage posting the proposed rule and related historical documents. We issued a press release and radio public service announcement expressing the request for public comments and the pertinent deadlines for such comments, which was faxed to 26 members of the statewide media. We presented the proposed rule and related materials at public meetings conducted by Federal Subsistence Regional Advisory Councils in Kotzebue, Barrow, Kodiak, Dillingham, Unalakleet, Chevak, and Nenana, Alaska, requesting further written public comments. By the close of the public comment period on March 12, 2003, we had received written responses from 30 entities. Seven of the responses were from individuals, 20 from organizations, 2 from regional Flyway Councils, and 1 from the Alaska Department of Fish and Game.

Response to Public Comments

Most sections of the proposed rule were addressed by commenters. This discussion addresses comments section by section beginning with those of a general nature.

General Comments

Two respondents requested that groups other than government agencies and Native groups be represented on the Co-management Council, specifically mentioning Audubon and Ducks Unlimited.

Service Response: An extensive public process took place July 1999 through March 2000, during which the composition of the statewide management body, the Co-management Council, was decided. The Co-management Council's composition has been established by regulation (67 FR 53511) and is not being reconsidered in this rule. All Co-management Council meetings are public, and any interested parties can participate and testify.

Two respondents requested that the regulations in the proposed rule be cross-referenced with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) subsistence regulations, such as by adding the guidance ''* * * consistent with sound management principles, and the conservation of healthy populations of fish and wildlife * * *,'' adding emergency closure authority, and adding the words ''non-wasteful subsistence.''

Service Response: Development of the spring/summer subsistence migratory bird harvest regulations is guided solely by amendments to the international migratory bird treaties, and not by ANILCA legislation. Cross-referencing guiding principles and management objectives would only serve to further confuse the two very separate programs. However, in the final rule, we have added an emergency closure authority to ensure prompt corrective actions on conservation concerns, similar to that used in both part 20 and part 100.

One individual referenced the Administrative Procedure Act and how it is stated within the proposed rule ''The Department of the Interior's policy is, whenever practicable, to afford the public opportunity to participate in the rulemaking process'' and how this sounds like the Department is doing the public some kind of favor, when by law it is required. The individual further cites mandates within the Administrative Procedure Act and how it spells out public notice procedures.

Service Response: This language does not appear in the final rule, but we will take this into consideration when drafting other **Federal Register** documents. See the Public Involvement Section under Supplementary Information for a summary of the Service's efforts to seek public involvement under the Administrative Procedure Act.

One respondent stated that more funds are needed to adequately monitor spring and summer subsistence harvest of migratory birds as well as to promote the effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds through the participation in the Co-management Council and its related meetings.

Service Response: Funding levels to support the efforts of the Co-management Council, which include harvest monitoring and Native participation, are provided by Congress annually and are not dictated by Federal regulations.

One respondent brought up the issue of the Migratory Bird Hunting and Conservation Stamp Act and how it would require subsistence hunters to purchase a Federal Migratory Bird Hunting and Conservation Stamp. One of the major goals of the amended migratory bird treaty with Canada was to allow for traditional subsistence harvests, and acquiring a hunting license or duck stamp is not customary and traditional. This respondent expressed the need to modify the Duck Stamp Act to exempt subsistence hunters from the requirement.

Service Response: The only way to change the requirement to possess a Federal Migratory Bird Hunting and Conservation Stamp is if the Migratory Bird Hunting and Conservation Stamp Act is modified by Congress.

One individual requested that the introductory information be corrected to reflect that there is evidence that the needs of northern peoples to harvest migratory birds in the spring and summer were considered at the time of the original treaty with Canada. The individual noted the participation of E.W. Nelson, who helped establish the original Yukon Delta Reservation in 1909 and was the principal negotiator for the 1916 treaty.

Service Response: We have changed the introductory language to read: ''Neither treaty allowed adequately for the traditional harvest of migratory birds by northern peoples. . .''

Two commenters suggested that subsistence area migratory bird management plans should be required for each subsistence harvest region, complete with sustainable population and habitat protection goals, and a reporting requirement. The person further suggested using the Yukon-Kuskokwim Delta Goose Management Plan as a model.

Service Response: The Co-Management Council is tasked to develop management plans as needed and requested. No immediate plans exist to write management plans for each region. The Co-management Council has directed a working group to review and update, if necessary, the Emperor Goose Management Plan.

Two commenters suggested that the cooperation of Native subsistence hunting groups should be sought in establishing sanctuaries for migrating or nesting birds when concentrated or particularly vulnerable to disturbance or over-harvest.

Service Response: These subsistence harvest regulations do not dictate Federal or State land management practices such as designating sanctuaries; however, any concerning individual or party can petition to close a specific area to the spring/summer subsistence migratory bird harvest.

One individual stated that the proposed regulations are a ridiculous extension of the initial concept of legalizing a small traditional harvest for sustenance, primarily by Native people.

Service Response: The Federal Government is obligated to implement the amendments to the international migratory bird treaties. The executive branch does not have the authority to change the treaties; that responsibility lies with Congress and the treaty participants.

Two commenters suggested that the Service should be required to publish jointly with the Co-management Council an annual harvest report complete with details of what is working and not working and what corrective actions need to be taken.

Service Response: Subsistence harvest survey data is collected with reports published annually summarizing the data on a regional basis. This Alaska subsistence harvest data is also available in the annual Service's Pacific Flyway Data Book.

One individual complained that the statement ''Alaska Natives have longstanding conservation ethics'' is not substantiated or explained in the rule document. The individual stated that the complete elimination of the rich deltas' goose populations surrounding Kotzebue and Norton sounds and the historical lack of interest in restoration of nesting geese there does not suggest any form of good management either now or in the past.

Service Response: Although there have been declines in the populations of nesting geese in the deltas surrounding Kotzebue and Norton Sounds and subsistence is one source of goose mortality in these regions, it has not been identified as a major cause of the population declines. The Native communities of these regions are now actively participating in the Co-Management Council and recovery efforts. Development of this new subsistence harvest program has involved active participation by 11 regional Native organizations.

One individual commented that the statement of subsistence take constituting 2–3% of the national migratory bird take is misleading, and for some species groups such as seabirds and shorebirds, the subsistence take may equal 90–100% of the national harvest.

Service Response: We believe the 2–3% quoted is valid when the entire migratory bird harvest is considered, and did not see the need to break this down per species group, since it is well documented that harvests for some species groups do not exist outside Alaska.

Two commenters specifically supported the 30-day harvest closure for breeding birds.

Service Response: None needed.

Two commenters suggested that the Co-management Council should organize ''Migratory Bird Conservation Committees'' in each subsistence area that would include subsistence harvesters, government representatives, and the local conservation organizations. One of the functions of these committees would be to organize subsistence hunters in migratory bird population surveys and censuses in close cooperation with the Service.

Service Response: We would like to clarify that local migratory bird conservation committees already exist in the form of regional management bodies or partners, with 11 actively contributing to the Co-management Council.

Two commenters requested increased public education efforts and enforcement of harvest regulations, especially in communities shared by nonconsumptive users such as birdwatchers. One commenter cited a June 2002 incident in Barrow, in which a group that was watching pectoral sandpipers saw a truck with two individuals pull up and begin shooting at a bird with a high-powered rifle. The individuals from the truck had no means to retrieve the bird (no boots for wading). The group also watched the same individuals shooting at birds between the shore and pack ice.

Service Response: Once this initial phase of regulation development is completed, we plan to launch an extensive education and outreach campaign targeting the communities within the subsistence harvest areas. Outreach efforts will focus on educating all residents of the new regulations and emphasize regulatory protection of those migratory bird species of the greatest conservation concern.

Three respondents supported the proposed regulations for subsistence harvest in Alaska as permitted under the revised Migratory Bird Treaty. They commended the Service's efforts to improve frameworks for regulation of these harvests and for improving information on subsistence use of these resources.

Service Response: None needed.

One commenter complained that the 30-day public comment period was not sufficient time to collect harvest information for the 23 bird species on the Birds of Conservation Concern list. The commenter argued that rushing the process will further erode the existing credibility of the meaningful role indigenous inhabitants have in development of these regulations. The commenter requested that the Secretary of the Interior grant a 90-day extension on the public comment period for the proposed rule.

Service Response: We were not able to grant this requested extension, because we need to publish final regulations as close as possible to the requested April 2 start date of the 2003 harvest season. The future plan is to merge into the ''late season'' waterfowl regulatory cycle for Service Regulation Committee meetings and subsequent publication in the **Federal Register**. Under this cycle, we would publish the next Proposed

Rule late this coming fall, which should allow for a 60-day comment period.

Why Are No Daily Harvest Limits Proposed Under These Subsistence Regulations?

Three commenters questioned the assumption that no increase in subsistence harvest is anticipated following adoption of the spring-summer season regulations, since all rural residents, not just Alaska Natives, will be included in the harvests. The cumulative effect of adding these hunters who did not traditionally participate in the subsistence harvest has been underestimated. While another individual was concerned that, since harvest reporting will not be conducted this first year, no scientific evaluation of whether the harvest has increased or is having a detrimental effect, is possible. Also, the harvest reporting done on the Yukon-Kuskokwim Delta missed many other rural communities in interior Alaska.

Service Response: Upon OMB approval of the survey forms, we are planning to expand the harvest monitoring to a Statewide effort with a statistical model for stratifying the survey area. We hope that this effort will provide a means to monitor and report any significant increases in harvest activity. The regulations were intended to be a foundation for the spring/summer subsistence harvest of migratory birds in Alaska. If conservation concerns arise such that future harvest restrictions have to be imposed, the Co-management Council will act accordingly.

Four respondents expressed concern about the lack of harvest limits presented in these regulations. One individual recognized the difficulty in applying bag or harvest limits to traditional subsistence harvests, but stated that limits will be necessary to ensure that Statewide cumulative harvests of species are not excessive. The respondents also recognized that if bag limits are not incorporated in the 2003 regulations, the Co-management Council will need to move in this direction in the future. In addition, if species on the Birds of Conservation Concern list and/or Audubon Watchlist are included in the 2003 harvest, then small bag limits should be set immediately. Two commenters specifically mentioned sea ducks as an area of special concern with regard to lack of bag limits. Another commenter suggested using proxy hunting as administered by the State of Alaska as an example of formatting harvest limits to allow for sharing among communities.

Service Response: These initial 2003 harvest regulations are designed to provide an initial framework and the first steps taken to limit the subsistence harvest. These steps will include establishing a closed species list and a 30-day closed period during the breeding season. In the future, concepts such as community harvest limits, proxy hunting, and/or designated hunters will likely be considered to accommodate customary and traditional subsistence harvest methods, if further species-specific harvest limits are needed.

One commenter was supportive of there being no harvest limits, because they do not fit with customary and traditional practices. Frequently a person goes hunting and returns with food for extended families, so harvest or bag limits would not be suitable or appropriate for the North Slope region.

Service Response: The Co-management Council agrees with this assessment of the situation and is not recommending harvest limits to be set for this initial 2003 season, but may consider them when specifically requested or needed for a localized area or species of conservation concern.

How Did the Service Come Up With the List of Birds Open to Harvest?

One respondent suggested that some Native language names for birds, group closely related species, and there may or may not be separate names for species within these groups. In a 1958 UAF paper titled ''On the Naming of Birds by Eskimos,'' Lawrence Irving documents different Inupiaq names for all the locally-occurring species of loons, scoters, shorebirds, and even the two species of scaup. Thus, in this region, this degree of differentiation was reflected in the language.

Service Response: In developing the subsistence harvest survey collection forms, we have found that some confusion does exist concerning local Native names for specific bird species, just as it does when common names are used for international species. In some cases, neighboring local regions use different Native names for the same species. When at all possible, we have given all known extant Native names for a species in our education materials.

One commenter suggested that the existing wording referencing availability of empirical evidence is inaccurate. As stated, ''the only available empirical evidence of customary and traditional use of the harvested bird species comes from Alaska subsistence migratory bird surveys, conducted by Service personnel and contractors and transferred to a computerized database.'' The commenter noted that, to the contrary, there is ample information in the ethnographic literature documenting bird harvest and use practices from most regions of the State. There is a considerable amount of archaeological literature describing pre-contact harvest patterns, including species of birds harvested as well as implements used for bird harvest. Also, a large body of contemporary and traditional knowledge exists among subsistence users themselves.

Service Response: We agree that additional information is available from both contemporary and archaeological sources, yet we disagree that this available information is able to provide numerical summaries of bird harvest down to the species level.

One commenter expressed concern over the apparent absence of any internal review process by the Service's migratory bird specialists and urged that an intra-agency review process be involved in developing the Final Rule.

Service Response: The Co-management Council can only make recommendations to the Service as far as regulations development, with all final decisions made by the Service Regulations Committee. Prior to the Service Regulations Committee finalizing any new regulations, there is an extensive, two-part internal review process in which the Service's migratory bird management division and its biologists are extensively involved.

Section 20.22 Closed Seasons

One commenter stated that this amendment implies that subsistence hunting under part 92 occurs during closed seasons, when, in fact, part 92 establishes open seasons. The commenter suggested that the section should read: ''* * * during the closed season established in this part except as provided in * * * ''

Service Response: We concur and have made the recommended wording change.

Section 92.30 General Overview of Regulations

One respondent recommended revising text to read: ''The Co-management Council will review and, as necessary, recommend modifications to these regulations * * * working within the schedule of the Federal late season migratory game bird hunting regulations.''

Service Response: We concur and have made the recommended wording change.

Section 20.132 Subsistence Use in Alaska

One commenter suggested that removal of this section eliminates authorized fall and winter harvests of snowy owls and cormorants for food or clothing that have been in place for many years. The commenter did not believe there had been adequate public notice of this proposed action; it has not been substantively considered by the Co-management Council and was not part of the widely distributed package of recommended subsistence regulations. The commenter recommended that the Service retain § 20.132(b) until such time as fall and winter subsistence needs can be assessed and there is adequate involvement of the Alaska public and Co-management Council.

Service Response: The commenter has identified an oversight potentially restricting the winter subsistence harvest of snowy owls and cormorants in Alaska with this action. We modified the section to retain subsection (b) while making it effective only from September 1 through April 1 in the final rule.

Section 92.5 Who Is Eligible To Participate?

Five respondents, all representing separate Kodiak area organizations, expressed an urgent need to close the Kodiak road system starting in the 2003 season. The primary and most common concern expressed was the likelihood of overharvesting, primarily by user groups that do not demonstrate customary and traditional uses of migratory birds and will have easy access to this resource. Other concerns brought up were the potential conflicts between consumptive and nonconsumptive users that could negatively affect the local tourism industry, and subsistence harvesting posing a public safety concern in regard to hunting within a populated area.

Service Response: On the basis of public testimony and written comments received, we are closing to harvest a buffer zone around the Kodiak Island road system under § 92.33(e). The conservation concern is the nontraditional access posed by the road system in a region where the migratory bird hunting is traditionally done by boat in marine waters. Acts of civil disobedience with respect to other hunting regulations and road access have been documented. Closing the road system to the spring and summer subsistence migratory bird harvest will help ensure no local increases in harvest occur in implementation of the new regulations. Offshore islands and waters will remain open to harvest.

One commenter requested that all road systems, such as Kodiak and Nome, should be closed to subsistence harvests, with the primary concern being the conflicts between consumptive and nonconsumptive users along roads frequented by tourists, birdwatchers, and others. The issue of the Nome road system was only brought up by one commenter, and has not been supported by the regional management body, nor mentioned in any other public comments.

Service Response: We are taking no action on restricting harvest along the Nome road system for the 2003 regulations; however, the issue may be revisited by petition for a rule change in the future, should the need arise.

One respondent requested exclusion of the community of Tok, most of whose residents have no customary and traditional history of bird harvesting in the spring/summer. The respondent explained that legalizing the harvest will significantly increase the level of take of waterfowl and owls in the Upper Tanana Valley, especially if no harvest limits are imposed.

Service Response: There is a petition process to exclude a community from subsistence bird harvesting. Petitions are accepted annually and acted upon by the Co-management Council and subsequently by the Service Regulations Committee for the upcoming season. In addition, we added an emergency closure provision in § 92.21, so that if a significant increase is documented for waterfowl and owls in this or any other region, an emergency closure can be requested and implemented.

Five respondents questioned the definition of ''indigenous inhabitant'' used in the regulations. One of the commenters stated that the current definition is erroneous, immoral, and unjust and could result in an increased harvest of birds during the spring and summer. The second commenter stated that the regulations should only apply to residents of the proposed area whose families have a tradition of harvesting migratory birds in the area. The third commenter charged that this loophole, which includes populations of recent rural immigrants and their invited relatives, will cast suspicion on the whole program, and that the Native community should define the term ''indigenous.'' The commenter added that the Service should consider the impact of immigrants into the included villages when stating that it is not the intent of these regulations to increase the harvest. Also, the Native community itself is increasing, adding many new hunters to increase the take. Another individual commented that the phrase ''permanent inhabitants'' is not defined, thus allowing participation by anyone with a rural ZIP Code, regardless of cultural heritage, local tenure, annual income, or subsistence need. Still another commenter added that if hunting pressure needs to be limited, the harvest should be returned to its original intent.

Service Response: The term ''indigenous inhabitant'' was defined in Congress' ratification of the Treaty amendments, which are binding on the Service. Defining the term as the commenters requests would misconstrue Congress' explicit intent in ratifying the Treaty amendments.

One respondent expressed strong concern that the Secretary of the Interior lacks the legal authority to open the spring/summer hunt to non-Native village residents, despite Alaska's former U.S. Senator's desire for this to be accomplished through amendments to the Canada and Mexico Migratory Bird Treaties.

Service Response: Same as above.

Section 92.20 Methods and Means

Two commenters requested that subsistence hunters age 16 and younger should be required to be accompanied by an adult both in the interest of safety and to avoid abuse of the subsistence privilege. In addition, they suggested that young hunters should be encouraged to obtain a firearms safety certificate before being allowed to hunt.

Service Response: We intend to encourage participation in the State's hunter safety program by subsistence hunters of all ages through our program's long-term education and outreach efforts.

Two individuals expressed concern because rifles, especially .22 caliber, are not a currently prohibited method. One of the commenters explained that allowing these types of weapons creates a situation in which male youths with .22 caliber rifles can have an open season on all birds with little regard for salvage of edible meat. The commenter added that people lacking identification skills will likely shoot anything that flies, and that lack of identification and marksman skills could cause wounding losses from rifle use to be substantial.

Service Response: The issue of use of small caliber rifles was discussed by the Co-management Council, and it was recommended that we do not prohibit their use. It was also stated that small caliber rifles are traditional tools for subsistence use and that they are most commonly used to dispatch wounded or crippled birds. Outreach and educational efforts of the Co-management Council will be focusing

on improving the hunter identification of individual bird species at both long and short distances.

One respondent requested that we prohibit the use of air boats and personal watercraft (*e.g.* jet skis) for spring/summer migratory bird hunting on the Tetlin Refuge, at least in the Scotty/Desper drainage and other sensitive areas in the region. The respondent explained that use of air boats and jet skis is already established in the area, and that use during the fall sport season on lakes accessible from the Alaska Highway has been an increasing issue. The use of air boats or personal watercraft is extremely disturbing to nesting and brood rearing waterfowl and other species, and has the potential to alter and damage critical habitat. Abuses will occur and law enforcement will be extremely difficult. In addition, use of air boat or personal water craft is not customary and traditional for harvesting migratory birds in the spring and summer.

Service Response: We concur and have added a regional prohibition on the use of air boats and jet skis under § 92.20.

One commenter brought up the concern that it has not been made clear what licenses or permits are going to be required, and that education and outreach have not been allocated to inform the subsistence users about the new regulations. The commenter requested that the Secretary of the Interior initiate a discretionary enforcement policy to continue for 2 years after the Final Rule is published and provide adequate funding to the regions to coordinate outreach and education efforts.

Service Response: We concur that we did not make general hunter requirements explicit and have clarified that by modifying the Final Rule to make § 20.2 (a), (b), (c), and (d) applicable to persons hunting under part 92. Under separate Federal regulations (16 U.S.C. 718a), Federal migratory bird stamps are required for hunters 16 years of age and older for taking migratory bird waterfowl. We also concur that additional education and outreach are needed.

One commenter from the Yukon-Kuskokwim Delta explained that village residents should be allowed to take waterfowl from a boat under power, especially for waterfowl frequenting the river. Village residents should also be allowed to use a boat under power to hunt bay ducks like scaup and scoters, which are easier to take from a moving boat. The same commenter added that they assumed if something was not listed specifically as prohibited under this section, then it is allowed, such as traditional methods like use of bird nets or bolos.

Service Response: The current regulations do not prohibit hunting from a boat under power, but do prohibit using a boat to drive or concentrate birds. In addition, the use of bird nets or bolos are not prohibited harvest methods at this time.

One respondent requested that regulations be added to prohibit subsistence hunters from commercially guiding other subsistence hunters, especially in regard to sea ducks.

Service Response: Commercial guiding is governed by State regulations, so no action is being taken under these Federal regulations.

One commenter requested that it be made clear that the sale or trade of migratory birds and their parts taken under this Part is prohibited.

Service Response: We concur. This is already addressed under § 92.6 of the Procedural Regulations.

Section 92.32 Subsistence Migratory Bird Species

Because of the wide-ranging views and comments we received on this subject, we have responded to the concerns of the public at the end of this summary of public comments (§ 92.32).

Two commenters requested that any species appearing on the BCC list be removed from those open to subsistence harvest in 2003, because they may be threatened. One of these commenters further suggested that the harvest should be limited to bird species for which population levels and harvest levels are known and can be monitored, and that birds with little population information should be protected from harvest. The other commenter suggested allowing an incidental/accidental harvest (less than 1% of the population) of birds taken resulting from hunter misidentification. They also stated that if these BCC birds are allowed to be harvested, then a massive educational campaign should be launched to promote conservation of these species by redirecting harvest efforts to the more viable species.

Two commenters deferred to the expertise of the Service and the Co-management Council on evaluating the effects of the subsistence harvest on the 23 species in question.

One individual was alarmed and concerned over the number of nongame species included in this hunt, especially without written records of past subsistence harvest. They recommended that the following taxonomic families be removed from the harvest list: Gaviidae (loons), Podicipedidae (grebes), Charadriidae (plovers), Haematopodidae (oystercatchers), and Scolopacidae (sandpipers), as well as the following species: all terns, red-legged kittiwakes, ivory gulls, whiskered auklets, and all owls except snowy owls. The commenter further questioned why the Service would bother identifying species of conservation concern only to foster the hunting of the same species.

One commenter requested that 13 of the 23 species be deleted from the subsistence harvest list because of their presence on the Alaska Audubon Watchlist. These species include: red-throated and yellow-billed loons, red-faced cormorants, Pacific golden plovers, black oystercatchers, bristle-thighed curlews, Hudsonian and marbled godwits, black turnstones, buff-breasted sandpipers, red-legged kittiwakes, Aleutian terns, and whiskered auklets. The recommendation was for the Service to take a precautionary approach and protect these species from harvest until it can be demonstrated that a subsistence harvest would not jeopardize existing population levels.

Two individuals requested that all 23 species of conservation concern should be removed from harvest because all races of residents are allowed to hunt. One commenter added that allowing these species to be taken would be a breach of faith with generations of conservationists that have struggled to make a place for large edible birds in our world. The second commenter explained that any additional harvest for some populations that have undergone a decline over recent years, such as mid-continental white-fronted geese in northwest Alaska, should not be taken lightly. And that with virtually no constraints in place under the proposed regulations, both Natives and non-Natives will take full advantage of birds that congregate at open water during spring migration, regardless of actual need for sustenance.

One respondent expressed concern that a long list of migratory birds is being institutionalized into regulations in the absence of past population or harvest information. They also stated that no species of conservation concern should be allowed for harvest except under strict controls in special cases. Also, the Service should be required to publish such a list annually and seek Native involvement in recovery efforts.

One commenter from the Yukon-Kuskokwim Delta was against removing birds from the harvest list because the idea of limiting species hunted to what is considered game birds is contrary to the treaty that says the hunt will be customary and traditional. There have

been times that all hunters in a village died from influenza, diphtheria, small pox, and tuberculosis. During these times, it was necessary for women and children to take nongame birds. This led to a continued use as a way to remember the past. There is no large take of these birds. Only a few elders may take them these days and this will likely not expand to any level of concern. In most cases the birds listed are taken more often by gulls than by humans. The Native people of western Alaska have always hunted birds in the spring. ''When the ice is rotten and you can't go after sea mammals or fish, God has provided birds that fly to us.''

One respondent from the Seward Peninsula/Norton Sound area stated that they traditionally harvest 16 of the 23 species of concern; and that, they would not support removing any of these species from the harvest list until ample time is given to document evidence of traditional and current harvest.

Two commenters requested that all 22 species on the BCC list, as well as an additional 5 species (Aleutian Canada geese, common and king eiders, long-tailed ducks, and black scoters) should be removed from the subsistence harvest. These additional five species are on the Alaska Audubon Watchlist.

Two commenters requested that the lists of birds open to harvest should be smaller and more area specific, with a clear distinction between those species that can be hunted and those whose eggs may be gathered. The commenter recognized the importance of subsistence harvest traditions, and felt that those who have traditionally harvested are in the best position to identify the most important species and incorporate this information on a regional or local basis into the harvest species list.

One commenter mentioned that legalizing the take of birds on the BCC and overlapping Audubon Alaska Watchlist sets back years of conservation efforts. At least 19 of the BCC birds overlap with the Watchlist because they are undergoing population declines, have small breeding populations, and/or have a very limited breeding distribution. Special consideration should be given to these species, especially since subsistence-caused declines may lead to costly management actions, litigation, or other undesirable results.

One commenter from the Kotzebue region supports removal of the seabird species listed as birds of conservation concern. People don't hunt seabirds in this area, and the other species in question are only taken when there is no other food source, or if an elder asks for it. The BCC seabird species are not considered everyday food, but from time to time an elder craves certain foods, often associated with a particular season. The commenter expressed that the declines noted in these particular birds are more caused by natural predators such as jaegers (''wolves of the sky''), bears, and foxes. The commenter suggests that predator control would allow these species to increase.

One respondent was frustrated because the Service has belatedly introduced concerns for 23 of the species proposed for spring and summer hunting. Despite repeated requests over the past 2 years, the Service is only now explicitly identifying which species are of concern in this regulatory process. The Co-management Council was not accorded an opportunity to thoughtfully review these species and reasons for concern because the full list was not declared and no substantive briefing material was provided for most species. This precluded effective dialogue with subsistence users and regional co-management committees, and recommendations from the Co-management Council. An even more important problem, considering the current national review of these regulations, is the incomplete and inadequate information in the **Federal Register** or other documents on the basis for concerns about these 23 species. The Service especially solicits public opinions on whether they should be hunted. Presumably, the most valuable comments will come from agencies, public interest groups, and individuals that evaluate the status of bird populations in relation to current and future harvests. However, readers do not have access to available source documents that will provide information necessary to form sound opinions, raising concern that commenters will simply ''vote'' yes or no based on subjective assumptions or their dispositions on subsistence or hunting in general.

The same commenter further adds that in the Supplemental Information, it states that 22 of these species are on regional or national lists of Birds of Conservation Concern (BCC). The Service published the long-awaited ''Birds of Conservation Concern 2002'' in December. Essentially, this document only contains BCC lists by national and regional categories, a description of criteria that were used for listing, and references to some of the source documents on which listings were based. In some cases, there are no formal source documents—the listings were based on consultations with experts and regional staff. In other cases, the reader has to find and consult a wide array of documents, ranging from field survey reports and regional summaries to continental conservation plans by the major bird initiatives (Partners in Flight, U.S. Shorebird Conservation Plan, North American Waterbird Conservation Plan) and regional step-down plans. This referencing approach does not provide reasonable public access to salient information on the status of populations from which the public can assess potential effects of subsistence hunting. Given the disparate level of available information, data, and details associated with these species of concern, together with the insufficient compilation and synthesis of materials, the commenter strongly recommended that the Service develop a summary that includes an objective analysis of these species, along with the strengths and weaknesses of available supporting data. In the development of these comments, the respondent not only encountered difficulty finding status information on the 23 highlighted species, but also found that the quality of information was often poor and subjective. The Supplemental Information says that the 22 BCC species proposed for hunting were listed because they are ''at risk due to inherently small populations or restricted ranges, severe population declines, or imminent threats,'' yet the respondent found no estimates of population size or speculations on orders of magnitude; little or no reliable information on population trends; and poor information on size and changes in seasonal ranges. The descriptions of perceived threats to populations were particularly vague, subjective, and in some cases prejudicial (*e.g.*, degradation of winter habitat, exposure to contaminants, and seasonal occurrence in foreign countries). In most cases, there was little evidence that threats were imminent or substantial for the species. The respondent rarely found specific information from which to determine whether the population, range, or threat criteria for BCC species were met. While the respondent recognized that inadequate information could be reason enough for pursuing conservation actions, they preferred to have more definitive information with which to make this assessment. To this end, the respondent recommended that the Service develop strategies and timelines for obtaining information with which to make responsible decisions concerning subsistence harvests of species of concern.

Loons—Two commenters requested that all loon species be removed from

the subsistence harvest because of identification problems between red-throated and yellow-billed loons and common, Pacific, and arctic loons.

One commenter requested that all loons be removed from the harvest list because, even if there may not be a biological reason to do so now, in 20 years there will be, and by then the users will say ''we have done this for a long time'' so it is better for us to stop it now. The commenter added that most places are trying to save loons while the Service is allowing a certain few to harvest them.

Red-throated Loons—One commenter stated that a few people in the Aleutian/Pribilof Islands gather these eggs, but likely have little or no effect on the population of these species, and recommended that an accurate account of the harvest be made to support the stance that it is minor relative to the overall population.

One commenter supported red-throated loons' being left on the harvest list, citing that subsistence harvests on the North Slope are never large and loons figure prominently in several of their dances and legends. Aerial breeding pair surveys on the North Slope show that the red-throated loon population is increasing.

One commenter requested that red-throated loons be removed from harvest until their population is stabilized, citing a more than 50% decline in the last 20 years, according to the Audubon Alaska Watchlist.

Yellow-billed Loons—One commenter stated that a few people in the Aleutian/Pribilof Islands gather these eggs, but likely have little or no effect on the population of these species, and recommended that an accurate account of the harvest be made to support the stance that it is minor relative to the overall population.

One commenter supported yellow-billed loons' being left on the harvest list, citing that subsistence harvests on the North Slope are never large and loons figure prominently in several Native dances and legends. Aerial breeding pair surveys on the North Slope show that the yellow-billed loon population is currently stable.

Trumpeter Swans—One commenter provided a detailed statement justifying why Trumpeter Swans should be removed from the list of birds open to harvest in 2003. Cited was the ongoing 70-year effort to restore the population in North America and how the population had only grown to 18,000 by the end of the 20th century. Concern was expressed that trumpeters could be subject to population reductions if taken or regularly disturbed during the nesting and brood rearing period, because of certain breeding behavior characteristics, such as the way they pair, select, and defend nesting territories, and their inability to renest successfully at high latitudes. Trumpeters have shown their best population growth in Alaska, but the people in this area are increasing rapidly and do not have a long-established, consistent pattern of use of these birds. In addition, threats on the wintering grounds in the lower 48 states such as urban sprawl, agricultural development, and lead poisoning threaten the overall security of the population, warranting protection of these birds from subsistence harvest in Alaska.

One respondent recognized trumpeter swans as a subsistence resource, but did not support a spring and summer open season at this time. The principal concerns expressed were: (1) Insufficient information on the extent of recent subsistence harvest; (2) the current lack of regulations limiting harvest quantity by qualified hunters; and (3) the potential for overharvest of this small population with low productivity.

One individual requested that trumpeter swans be protected from harvest with the justification that it has already been proved that it is not the grace of God but the grace of man that has allowed a tiny population to increase and repopulate the nesting territories where spring hunting will be allowed.

Aleutian Canada Geese—One respondent expressed that if the prohibition on taking Aleutian Canada Geese is ever extended to the Yukon-Kuskokwim Delta, it would be very difficult for hunters to distinguish this species from other subspecies.

King eiders—One individual requested that king eiders be restricted in the harvest, stating that North American numbers have been in a steady decline for the past several years. There is so much concern that Senator Ted Stevens just appropriated $100,000 to study the decline of king eiders on the North Slope. To help protect the remaining numbers, there needs to be a restricted take on the North Slope, particularly in the Barrow region.

Canvasbacks—One individual requested that a one bird or no bird limit be placed on canvasbacks in the subsistence hunt, stating that all people should share in the conservation of this great bird.

Shorebirds—One respondent from the Yukon-Kuskokwim Delta explained that young boys have traditionally hunted many of the smaller birds on the subsistence harvest list, especially shorebirds such as sandpipers, plovers, curlews, and godwits. It is known that these boys bring their catch to their grandmothers to cook and eat, which has been done for generations. Elders in the villages in the past harvested many of these shorebird species for subsistence foods, especially when these birds are migrating along the shoreline in flocks.

Black Oystercatchers—One commenter stated that a few people in the Aleutian/Pribilof Islands gather these eggs, but likely have little or no effect on the population of this species, and recommended that an accurate account of the harvest be made to support the stance that it is minor relative to the overall population. In addition, 10 subsistence hunter testimonials were received from the Aleutian/Pribilof region stating that some people do gather black oystercatcher eggs, but that the limited take likely has little to no effect on the population. On the other hand, one commenter expressed special local concern for this species because of its small population (2,500), limited range, and vulnerability to disturbance at coastal breeding sites and from oil spills. The Kodiak Archipelago is home to the largest concentration of black oystercatchers and should be afforded special protection from both hunting and egg gathering. Further cited was the oystercatcher's low reproductive rate, inability to re-nest, and vulnerability to egg gathering.

Red-legged Kittiwakes—Sixteen hunter testimonials were received stating that this species is customarily and traditionally harvested in the Pribilof Islands (primarily St. George Island), with minimum impacts to the population. This harvest is done with no waste and there is no reason to close or restrict the harvest. These hunters recommended an accurate count of the birds and eggs taken be maintained to support the stance that the take is very minor in relation to the overall species population. One St. George hunter specified that he takes less than 60 kittiwakes per season, consisting of a mix of black-legged and red-legged kittiwakes, and shares these birds with another household. Interviews of 11 kittiwakes hunters indicated that they take an average of 37 red-legged kittiwakes each per season. To demonstrate the customary and traditional nature of these hunts, one commenter from St. George explained, ''I've been involved with red-legged kittiwake hunts since I was 6 years old. I was a gatherer for my grandfather; he shot the birds on the wing and I

gathered them up from where they had fallen. I did this for him until I was 10 years old and the following year I started hunting by myself and have done so ever since. I hunt the same areas as my grandfather did and spend no more time in the hunts than we did 44 years ago, which indicates to me that the abundance has not changed very much or not at all.''

Arctic and Aleutian Terns—One commenter requested that both species be protected from the subsistence harvest and that they be treated together since they nest commonly in mixed colonies, and eggs from the two species are not readily distinquishable. Decreases in the arctic tern population are widely reported but poorly documented in arctic regions; however, large declines have occurred in Greenland where a traditional harvest is unregulated. In Alaska, recent declines have been reported from the Gulf of Alaska and coastal sites along the Beaufort Sea, while waterfowl surveys of the North Slope and Yukon-Kuskokwim Delta have shown increases. Perennial harvesting of adults could have serious impacts on local populations. The 30-day closures may provide some protection for the eggs, but they are probably set too late to provide adequate protection in the Aleutians and Kodiak.

Owls—One commenter expressed concern that the residents of Tok may dramatically affect local owl populations with the subsistence harvest. The commenter sites a Service management plan for Alaska's raptors that states, ''with few exceptions, we are woefully ignorant and lack sufficient information to make management decisions or assess population status of raptors based on scientific data.'' The commenter requested that all owl species be removed from harvest except in areas where their customary and traditional use has been documented and shown not to impact Statewide population levels.

One commenter requested that all owls be removed from the harvest list because, even if there may not be a biological reason to do so now, in 20 years there will be, and by then the users will say ''we have done this for a long time,'' so it is best to stop it now. The commenter added that most places are trying to save owls while the Service is allowing a certain few to harvest them.

1. What Measurable Impacts Do You Think a Limited Subsistence Harvest Would Have on Populations of These Species?

Two respondents answered that for any species with very small populations, any harvest added to normal mortality could be significant. The Service would be ill-advised to authorize harvest of species with populations this small, particularly given that birds harvested in the spring/summer have survived the prior winter and in many cases are likely breeders. Specifically in regard to shorebirds, the commenter responded that biology has not been studied with respect to the ability of populations to sustain harvests.

One individual responded that the Service lacks the ability to determine the impact of hunting on these species.

In regard to arctic terns, one commenter responded that the killing of adults could have serious impacts on local populations.

2. Which Bird Species Are More Important in Terms of Food Value and/or Customary and Traditional Uses?

One commenter claimed not to have found evidence that harvesting arctic terns has particular cultural significance, nor did the commenter find evidence that harvesting occurs in ways that minimize impacts.

One individual stated that these birds are not important species in the hunt for food, but if hunting them were legal, that would encourage a try at taking them.

3. Apart From Their Designation as ''Birds of Conservation Concern,'' Are There Particular Reasons Why Subsistence Harvest Should Be Restricted or Closed for Any of These Species?

Two respondents answered that there is the potential for adverse public reaction if it becomes widely known that species that are rare, vulnerable, or declining are being harvested, particularly if such hunts are sanctioned by management authorities. In addition, some of these species are charismatic such as puffins, loons, terns, and owls, which only increases the sensitivity of such decisions. Populations of species that are open for harvest must be sufficiently large to justify any harvest.

One individual responded that these are all species trying to find a place in a world dominated by man and whose population levels are substantially lower than when they were first described.

4. In the Event that Subsistence Hunting were Allowed for Some or All of These Species, Do You Believe that Certain Conditions Should be Imposed to Ensure that the Population Statuses of these Species are Maintained or Improved? If so, What Would you Recommend?

One commenter expressed that this would be like putting the cart before the horse, because as subsistence hunters, nothing is wasted and there is no overhunting even if an abundance of birds present themselves during the hunt.

One individual responded that with the exception of Trumpeter swans, the Service lacks the ability to determine if the population of any of these birds is being maintained or improved.

One respondent suggested that subsistence users should participate in a registration system to provide a means to follow up with harvest surveys and more accurately determine the composition and levels of subsistence harvests.

One respondent suggested that harvest quotas and bag limits should be required in each subsistence harvest area to avoid overharvests.

Service Response: Subsistence hunting of migratory birds was authorized by recent amendments to the migratory bird treaties with Canada and Mexico. A proposed rule was developed after extensive consultation with the interested parties in Alaska through the newly formed Co-management Council and other interested constituencies. Comments have been received and reviewed regarding this proposal. The main issue to emerge during development was the number and species of migratory birds to be included in the list of birds open to subsistence harvest for the coming year. The Service highlighted 23 species of birds in the proposed rule for public comment, including 22 species that also occur on the Service's list of Birds of Conservation Concern (BCC), and the Trumpeter Swan.

Based on the comments received and internal Service analysis, we have decided to remove the following species from the list of species open to subsistence take for the reasons stated:

Yellow-billed Loon: Yellow-billed Loons have a limited distribution in Alaska and are found primarily along the Arctic Coastal Plain. The highest density of breeding Yellow-billed Loons are found within the National Petroleum Reserve. Yellow-billed Loons have a low relative abundance, and the Alaska population is estimated to be about 2,500 birds. Threats to Yellow-billed

Loons include oil and gas development, oil pollution, contaminants, gill-net fisheries, and overharvest. The Service is in the process of completing a Status Assessment for this species.

Trumpeter Swan: This species was significantly reduced and extirpated from much of its range during the 19th Century. The current world population is between 20,000 and 25,000, approximately 90% of which summer and nest in Alaska. The population is increasing and active efforts are underway to restore breeding populations to parts of the former range. However, in recent years, significant losses caused by lead poisoning have been documented in that portion of the winter range associated with Alaskan breeding Trumpeter Swans.

Pacific Golden-plover: The Pacific Golden-plover is of primary importance within the Alaska Region because of its small population size, 16,000 birds, and because its North American breeding range is restricted to Alaska (Johnson and Connors 1996). This species occurs only in western Alaska. Like the American Golden-plover, the species is especially susceptible to hunting because of its high visibility and tendency to remain near humans when they enter its territory.

American Golden-plover: The American Golden-plover is listed as a species of moderate concern in the Alaska Shorebird Plan (ASWG 2000) and of high concern within the U.S. Shorebird Conservation Plan (Brown *et al.* 2001). This ranking reflects a population decline and high threats to the species on nonbreeding areas. We believe its removal from the list is appropriate due to possible misidentification problems with the Pacific Golden-plover mentioned above.

Bristle-thighed Curlew: This species is of interest because it nests only in Alaska in 2 relatively small, disjunct regions, the Andreafsky Wilderness near the north Yukon Delta and the central Seward Peninsula. The total breeding population is among the smallest of all shorebirds and estimated at 3,200 pairs (Handel *et al.* 1990). Numerous lines of evidence suggest the population is being affected by anthropogenic factors on areas outside the nesting grounds (Marks and Redmond 1994, Gill 1998). The Bristle-thighed Curlew is listed as a species of high concern within the U.S. and Alaska Shorebird Conservation Plans. This ranking reflects a very low population size and restricted breeding range.

Hudsonian Godwit: Alaska is important to this species because as much as 30% of the population may breed in the region (McCaffery 1996; McCaffery and Harwood in press). Recent findings suggest Alaska birds may warrant subspecies status (Haig *et al.* 1997). The Hudsonian Godwit is listed as a species of high concern within the U.S. and Alaska Shorebird Conservation Plans. This ranking reflects a low population size, threats on nonbreeding areas, and restricted breeding and non-breeding distributions.

Marbled Godwit: Alaska hosts a small (probably <3,000 birds), highly disjunct breeding population of sufficiently different morphology to warrant subspecies (*Limosa fedoa beringiae*) designation (Gibson and Kessel 1989). The Marbled Godwit is listed as a species of high concern within the U.S. and Alaska Shorebird Conservation Plans. This ranking reflects a declining population and threats on breeding and nonbreeding areas.

Buff-breasted Sandpiper: The regional importance of this species is based on the high proportion of breeding birds in the State and the marked decline in the population, which is now thought to number less than 15,000 birds (Lanctot and Laredo 1994, R. Lanctot, pers. comm.). The Buff-breasted Sandpiper is listed as a species of high concern within the U.S. and Alaska Shorebird Conservation Plans. This ranking reflects a declining and extremely low population size, threats on nonbreeding areas, and a restricted nonbreeding range.

Whimbrel: The Whimbrel is of primary importance in the Alaska Region because the majority of a subspecies (*Numenius phaeopus rufiventris*) breeds in Alaska (Gibson and Kessel 1997; Engelmoer and Roselaar 1998). The species population is estimated at about 60,000 birds, of which as many as 40,000 occur in Alaska. The Whimbrel is listed as a species of high concern within the U.S. and Alaska Shorebird Conservation Plans. This ranking reflects a declining and low population size. The Service's determination is based primarily on the fact that this species overlaps the distribution of the Bristle-thighed Curlew and we believe it will be difficult, if not impossible, for subsistence hunters to distinguish between the 2 species.

Harvest of these 9 species will not be authorized in 2003. Harvest will be allowed on the other 15 species of birds listed in the proposed rule as being of conservation concern, as well as 2 species recommended by the State of Alaska, the Northern Hawk-owl and Wandering Tattler. However, these species will be given additional consideration by Co-management Council for over the coming year. We intend the Co-management Council to focus its attention on determining the importance of the harvest of these species for subsistence purposes, as well as any information on status that would be useful in future deliberations. In the case of the Bar-tailed Godwit, which we understand is an important species in the subsistence harvest, we are concerned about incidental take of 2 similar species-Hudsonian and Marbled Godwits-for which no harvest will be authorized. The Co-management Council should address actions that have, or can be, taken to minimize incidental take of the Hudsonian and Marbled godwits in the event that the Bar-tailed Godwit remains on the list submitted to the Service for consideration of subsistence harvest in future years.

Section 92.33 Region-specific regulations

One commenter from the North Slope requested that the season for the Northern Unit should be amended to include a specific season for king and common eiders: open April 2–June 6, and July 7—August 31, and closed June 7—July 6. This change will allow for customary and traditional eider harvest practices.

Service Response: We concur with this request and have added this season under § 92.33 (g)(2) in the Final Rule.

One respondent recommended the following changes in the regulations: Aleutian/Pribilofs Region, Section (2): clarify that Unalaska is included in the Central Unit (*e.g.*, ''* * * to and including Unalaska''). Section (3): clarify that Attu is in the Western Unit.

Service Response: We have not made the requested changes regarding geographical boundaries. These regulations do not have distinct geographic boundaries for harvest areas, but instead define included community subsistence harvest areas. For example, the village of Nuiqsut could hunt on both sides of the Colville River; however if its members hunt as far east as the Arctic National Wildlife Refuge, it would have to follow the Eastern Unit season dates.

One commenter representing a Yukon-Kuskokwim village suggested that the nesting closure period for the Yukon-Kuskokwim region be simplified to parallel the Bristol Bay region: June 15–July 15.

Service Response: The Co-management Council struggled to set up a flexible system to adjust the dates of the 30-day harvest closure around annual seasonal variations, to be determined by the Alaska Regional

Director or his designee, after consultation with local subsistence users and the region's Waterfowl Conservation Committee. Simplifying the closure dates to those requested would eliminate the flexibility and local consultation benefits of the current regulations.

Statutory Authority

We derive our authority to issue these regulations from the four migratory bird treaties with Canada, Mexico, Japan, and Russia, and from the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.*), which implements these treaties. Specifically, these regulations are issued pursuant to 16 U.S.C. 712 (1), which authorizes the Secretary of the Interior, in accordance with these four treaties, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.''

Effective Date

Under the Administrative Procedure Act, our normal practice is to publish rules with a 30-day delay in effective date. But in this case, we are using the ''good cause'' exemption under 5 U.S.C. 553 (d)(3) to make this rule effective immediately upon publication in order to ensure conservation of the resource for the upcoming spring/summer subsistence harvest. The rule needs to be made effective immediately for the following reason. The Service Regulations Committee approved the April 2, 2003, harvest start date at a phone conference on March 31, 2003, and publication of this rule well after April 2 has delayed the actual commencement of the legal harvest season. We need to open the harvest as close as possible to the original agreed-upon date. The expediency of the publication of this first set of annual regulations will ensure prompt follow-through on the process to start the first legally recognized spring/summer subsistence migratory bird harvest season in Alaska.

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this document is not a significant rule subject to OMB review under Executive Order 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule is administrative, technical, and procedural in nature, establishing the procedures for implementing spring and summer subsistence harvest of migratory birds as provided for in the amended Canada and Mexican Treaties. The rule does not provide for new or additional hunting opportunities and therefore will have minimal economic or environmental impact.

This rule benefits those participants who engage in the subsistence harvest of migratory birds in Alaska in two identifiable ways: First, participants receive the consumptive value of the birds harvested, and second, participants get the cultural benefit associated with the maintenance of a subsistence economy and way of life. The Service can estimate the consumptive value for birds harvested under this rule but does not have a dollar value for the cultural benefit of maintaining a subsistence economy and way of life.

The economic value derived from the consumption of the harvested migratory birds has been estimated using the results of a paper by Robert J. Wolfe titled ''Subsistence Food Harvests in Rural Alaska, and Food Safety Issues'' (August 13, 1996). Using data from Wolfe's paper and applying it to the areas that will be included in this process, a maximum economic value of $6 million is determined. This is the estimated economic benefit of the consumptive part of this rule for participants in subsistence hunting. The cultural benefits of maintaining a subsistence economy and way of life can be of considerable value to the participants, and these benefits are not included in this figure.

b. This rule will not create inconsistencies with other agencies' actions. We are the Federal agency responsible for the management of migratory birds, coordinating with the State of Alaska's Department of Fish and Game on management programs within Alaska. The State of Alaska is a member of the Alaska Migratory Bird Co-management Council.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The rule does not affect entitlement programs.

d. This rule will not raise novel legal or policy issues. The subsistence harvest regulations will go through the same National regulatory process as the existing migratory bird hunting regulations in 50 CFR part 20.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed by the harvesters or persons within their local community.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, as discussed in the Executive Order 12866 section above.

a. This rule does not have an annual effect on the economy of $100 million or more. It will legalize and regulate a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns.

The commodities being regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska would qualify as small businesses. The Service has no reason to believe that this rule will lead to a disproportionate distribution of benefits.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule does not deal with traded commodities and, therefore, does not have an impact on prices for consumers.

c. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It does not regulate the marketplace in any way to generate effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certify pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. A statement containing the information required by this Act is therefore not necessary.

Participation on regional management bodies and the Co-management Council will require travel expenses for some Alaska Native organizations and local governments. In addition they will assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In the Notice of Decision, 65 FR 16405, March 28, 2000, we identified 12 partner organizations to be responsible for administering the regional programs. When possible, we will make annual grant agreements available to the partner organizations to help offset their expenses. The Alaska Department of Fish and Game will incur expenses for travel to the Co-management Council meetings and to meetings of the regional management bodies. In addition, the State of Alaska will be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year.

Paperwork Reduction Act

This rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements. We are, however, beginning the process to request OMB approval of associated voluntary annual household surveys used to determine levels of subsistence take. In the March 3, 2003, **Federal Register**, we published a notice of intent to submit the Alaska Subsistence Harvest Survey Information Collection Forms to OMB for approval (68 FR 10024) under the Paperwork Reduction Act, with a 60-day public comment period. 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.

Federalism Effects

As discussed in the Executive Order 12866 and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. We worked with the State of Alaska on development of these regulations.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of section 3 of the Order.

Takings Implication Assessment

This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. Therefore, in accordance with Executive Order 12630, this rule does not have significant takings implications.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), and Executive Order 13175, 65 FR 67249 (November 6, 2000), concerning consultation and coordination with Indian Tribal Governments, we have consulted with Alaska tribes, evaluated the rule for possible effects on tribes or trust resources and have determined that there are no significant effects. This rule establishes procedures by which the individual tribes in Alaska will be able to become significantly involved in the annual regulatory process for spring and summer subsistence harvesting of migratory birds and their eggs. The rule will legalize the subsistence harvest for tribal members, as well as for other indigenous inhabitants.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of the Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion that concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final rule reflects such modifications. Our biological opinions resulting from the section 7 consultation are public documents available for public inspection at the address indicated under the caption **ADDRESSES.**

National Environmental Policy Act Consideration

The annual regulations and options were considered in the Environmental Assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the First Legal Spring/Summer Harvest in 2003'' issued August 7, 2002, modified, with a Finding of No Significant Impact issued May 7, 2003. Copies are available from the address indicated under the caption **ADDRESSES.**

Energy Supply, Distribution or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only allows for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest, it is not a significant regulatory action under Executive Order 12866. Consequently it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not significant energy action under Executive Order 13211 and no Statement of Energy Effects is required.

List of Subjects

50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 92

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Subsistence, Treaties, Wildlife.

■ For the reasons set out in the preamble, we are amending title 50, chapter I, subchapters B and F, of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

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

Authority: 16 U.S.C. 703–712 and 742 a–j; Pub. L. 106–108.

■ 2. Amend § 20.2 by adding paragraph (e) to read as follows:

§ 20.2 Relation to other provisions.

* * * * *

(e) *Migratory bird subsistence harvest in Alaska.* The provisions of this part, except for paragraphs (a) through (d) of this section, are not applicable to the regulations governing the migratory bird subsistence harvest in Alaska (part 92 of this subchapter) unless specifically referenced in part 92 of subchapter G of this chapter.

■ 3. Revise § 20.22 to read as follows:

§ 20.22 Closed seasons.

No person may take migratory game birds during the closed season established in this part except as provided in parts 21 and 92 of this chapter.

■ 4. Revise § 20.132 to read as follows:

§ 20.132 Subsistence use in Alaska.

In Alaska, any person may, for subsistence purposes, take, possess, and transport, in any manner, from September 1 through April 1, snowy owls and cormorants for food and their skins for clothing, but birds and their parts may not be sold or offered for sale.

PART 21—[AMENDED]

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

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108.

■ 6. Revise § 21.11 to read as follows:

§ 21.11 General permit requirements.

No person may take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13 of this chapter, or as permitted by regulations in this part, or part 20 of this subchapter (the hunting regulations), or part 92 of subchapter G of this chapter (the Alaska subsistence harvest regulations). Birds taken or possessed under this part in ''included areas'' of Alaska as defined in § 92.5(a) are subject to this part and not to part 92 of subchapter G of this chapter.

PART 92—[AMENDED]

■ 7. The authority for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart A—General Provisions

■ 8. In subpart A amend § 92.4 by revising the definition for ''Migratory bird'' to read as follows:

§ 92.4 Definitions.

* * * * *

Migratory bird, for the purposes of this part, means the same as defined in § 10.12 of subchapter B of this chapter. Species eligible to harvest are listed in § 92.32.

* * * * *

■ 9. In subpart A amend § 92.5 by revising paragraphs (b) and (d) to read as follows:

§ 92.5 Who is eligible to participate?

* * * * *

(b) *Excluded areas.* Village areas located in Anchorage, the Matanuska-Susitna or Fairbanks North Star Boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, or Southeast Alaska generally do not qualify for a spring or summer harvest. Communities located within one of these areas may petition the Co-management Council through their designated regional management body for designation as a spring and summer subsistence harvest area. The petition must state how the community meets the criteria identified in paragraph (c) of this section. The Co-management Council will consider each petition and will submit to the Service any recommendations to designate a community as a spring and summer subsistence harvest area. The Service will publish any approved new designations of communities as spring and summer subsistence harvest areas in subpart D of this part. All areas outside Alaska are ineligible.

* * * * *

(d) *Participation by permanent residents of excluded areas.* Immediate family members who are permanent residents of excluded areas may participate in the customary spring and summer subsistence harvest in a village's subsistence harvest area with the permission of the village council, where it is appropriate to assist indigenous inhabitants in meeting their nutritional and other essential needs or for the teaching of cultural knowledge to or by their immediate family members. Eligibility for participation will be developed and recommended by the Co-management Council and adopted or amended by regulations published in subpart D of this part.

■ 10. In subpart A revise § 92.6 to read as follows:

§ 92.6 Use and possession of migratory birds.

Harvest and possession of migratory birds must be done using nonwasteful taking. You may not take birds for purposes other than human consumption. You may not sell, offer for sale, purchase, or offer to purchase migratory birds, their parts, or their eggs taken under this part. Nonedible by-products of migratory birds taken for food may be used for other noncommercial purposes only by individuals qualified to possess those birds. You may possess migratory birds, their parts, and their eggs, taken under this part, only if you are an eligible person as determined in § 92.5.

Subpart B—Program Structure

■ 11. In subpart B amend § 92.10 by revising paragraph (b)(1) to read as follows:

§ 92.10 Alaska Migratory Bird Co-management Council.

* * * * *

(b) * * *

(1) The Federal and State governments will each seat one representative. The Federal representative will be appointed by the Alaska Regional Director of the U.S. Fish and Wildlife Service, and the State representative will be appointed by the Commissioner of the Alaska Department of Fish and Game. Regional partner organizations may seat 1 representative from each of the 12 regions identified in § 92.11(a).

* * * * *

■ 12. In subpart B, amend § 92.11 by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 92.11 Regional management areas.

(a) *Regions identified.* To allow for maximum participation by residents of subsistence eligible areas, the Alaska Regional Director of the Service established 12 geographic regions based on common subsistence resource use patterns and the 12 Alaska Native regional corporation boundaries established under the Alaska Native Claims Settlement Act. Despite using the Alaska Native regional corporation boundaries, we are not working directly

with the regional corporations in this program and are instead working with the Alaska Native nonprofit groups and local governments in those corresponding regions. You may obtain records and maps delineating the boundaries of the 12 regions from the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, 222 West 7th Ave., No. 13, Anchorage, AK 99513. The regions are identified as follows:

(1) Aleutian/Pribilof Islands;
(2) Kodiak Archipelago;
(3) Bristol Bay;
(4) Yukon/Kuskokwim Delta;
(5) Bering Strait/Norton Sound;
(6) Northwest Arctic;
(7) North Slope;
(8) Interior;
(9) Southeast;
(10) Gulf of Alaska;
(11) Upper Copper River; and
(12) Cook Inlet.

(b) *Regional partnerships.* The U.S. Fish and Wildlife Service will establish partner agreements with at least 1 partner organization in each of the 12 regions. The partner organization identified must be willing and able to coordinate the regional program on behalf of all subsistence hunters within that region. A regional partner will:

* * * * *

Subpart C—General Regulations Governing Subsistence Harvest

■ 13. In subpart C, add §§ 92.20 and 92.21 to read as follows:

§ 92.20 Methods and means.

You may not use the following devices and methods to harvest migratory birds:

(a) Swivel guns, shotguns larger than 10 gauge, punt guns, battery guns, machine guns, fish hooks, poisons, drugs, explosives, or stupefying substances;

(b) Shooting from a sinkbox or any other type of low-floating device that affords the hunter a means of concealment beneath the surface of the water;

(c) Hunting from any type of aircraft;

(d) Taking waterfowl and other species using live birds as decoys, except for auklets on Diomede Island (Use of live birds as decoys is a customary and traditional means of harvesting auklets on Diomede Island.);

(e) Hunting with the aid of recorded bird calls;

(f) Using any type of vehicle, aircraft, or boat for the purpose of concentrating, driving, rallying, or stirring up of any migratory bird, except boats may be used to position a hunter;

(g) The possession or use of lead or other toxic shot while hunting all migratory birds (Approved nontoxic shot types are listed in § 20.21(j) of subchapter B.);

(h) Shooting while on or across any road or highway; or

(g) Using an air boat or jet ski for hunting or transporting hunters (Interior Region only).

§ 92.21 Emergency closures.

(a) The Regional Director, after consultation with the Co-management Council, may close or temporarily suspend any regulation established under subparts C or D of this part:

(1) Upon finding that a continuation of the regulation would pose an imminent threat to the conservation of any endangered or threatened species or other migratory bird population; and

(2) Upon issuance of local public notice by such means as publication in local newspapers of general circulation, posting of the areas affected, notifying the State wildlife conservation agency, and announcement on the internet and local radio and television.

(b) The Service will also announce any such closure or temporary suspension by publication of a notice in the **Federal Register** simultaneously with the local public notice referred to in paragraph (a)(2) of this section. However, in the event that publishing a **Federal Register** notice simultaneously with the local public notice is impractical, we will publish in the **Federal Register** as soon as possible after the steps outlined in paragraph (a) of this section are taken.

(c) Any closure or temporary suspension under this section will be effective on the date of publication of the **Federal Register** notice; or if such notice is not published simultaneously with the notification methods described in paragraph (a) of this section, then on the date and at the time specified in the local notification to the public given under paragraph (a)(2) of this section. Every notice of closure or temporary suspension will include the date and time of the closing, the area or areas affected, and the species affected. In the case of a temporary suspension, the date and time when the harvest may be resumed will also be provided by local notification to the public and by publication in the **Federal Register** as provided for in paragraphs (a) and (b) of this section.

Subpart D—Annual Regulations Governing Subsistence Harvest

■ 14. In subpart D, amend § 92.30 by adding an introductory paragraph to read as follows:

§ 92.30 General overview of the regulations.

These regulations establish a spring/summer migratory bird subsistence harvest in Alaska. The regulations list migratory bird species that are authorized for harvest, species that are not authorized for harvest, season dates, and dates for a 30-day closure to protect nesting birds. The Co-management Council will review and, if necessary, recommend modifications to these harvest regulations on an annual basis, working within the schedule of the Federal late-season regulations for migratory game bird hunting.

* * * * *

■ 15. In Subpart D, add §§ 92.31 through 92.33 to read as follows:

§ 92.31 Migratory bird species not authorized for subsistence harvest.

(a) You may not harvest birds or gather eggs from the following species:

(1) Spectacled Eider, *Somateria fischeri*.

(2) Steller's Eider, *Polysticta stelleri*.

(3) Emperor Goose, *Chen canagica*.

(4) Aleutian Canada Goose, *Branta canadensis leucopareia*—Semidi Islands only.

(b) In addition, you may not gather eggs from the following species:

(1) Cackling Canada Goose, *Branta canadensis minima*.

(2) Black Brant, *Branta bernicla nigricans*—in the Yukon/Kuskokwim Delta and North Slope regions only.

§ 92.32 Subsistence migratory bird species.

You may harvest birds or gather eggs from the following species, listed in taxonomic order, within all included regions. When birds are listed only to the species level, all subspecies existing in Alaska are open to harvest.

(a) Family Gaviidae.

(1) Red-throated Loon (*Gavia stellata*).
(2) Arctic Loon (*Gavia arctica*).
(3) Pacific Loon (*Gavia pacifica*).
(4) Common Loon (*Gavia immer*).

(b) Family Podicipedidae.

(1) Horned Grebe (*Podiceps auritus*).
(2) Red-necked Grebe (*Podiceps grisegena*).

(c) Family Procellariidae.

(1) Northern Fulmar (*Fulmarus glacialis*).
(2) [Reserved].

(d) Family Phalacrocoracidae.

(1) Double-crested Cormorant (*Phalacrocorax auritus*).
(2) Red-faced Cormorant (*Phalacrocorax urile*).

(3) Pelagic Cormorant (*Phalacrocorax pelagicus*).

(e) Family Anatidae.

(1) Greater White-fronted Goose (*Anser albifrons*).
(2) Snow Goose (*Chen caerulescens*).
(3) Lesser Canada Goose (*Branta canadensis parvipes*).
(4) Taverner's Canada Goose (*Branta canadensis taverneri*).
(5) Aleutian Canada Goose (*Branta canadensis leucopareia*)—except in the Semidi Islands.
(6) Cackling Canada Goose (*Branta canadensis minima*)—except no egg gathering is permitted.
(7) Black Brant (*Branta bernicla nigricans*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.
(8) Tundra Swan (*Cygnus columbianus*).
(9) Gadwall (*Anas strepera*).
(10) Eurasian Wigeon (*Anas penelope*).
(11) American Wigeon (*Anas americana*).
(12) Mallard (*Anas platyrhynchos*).
(13) Blue-winged Teal (*Anas discors*).
(14) Northern Shoveler (*Anas clypeata*).
(15) Northern Pintail (*Anas acuta*).
(16) Green-winged Teal (*Anas crecca*).
(17) Canvasback (*Aythya valisineria*).
(18) Redhead (*Aythya americana*).
(19) Ring-necked Duck (*Aythya collaris*).
(20) Greater Scaup (*Aythya marila*).
(21) Lesser Scaup (*Aythya affinis*).
(22) King Eider (*Somateria spectabilis*).
(23) Common Eider (*Somateria mollissima*).
(24) Harlequin Duck (*Histrionicus histrionicus*).
(25) Surf Scoter (*Melanitta perspicillata*).
(26) White-winged Scoter (*Melanitta fusca*).
(27) Black Scoter (*Melanitta nigra*).
(28) Long-tailed Duck (*Clangula hyemalis*).
(29) Bufflehead (*Bucephala albeola*).
(30) Common Goldeneye (*Bucephala clangula*).
(31) Barrow's Goldeneye (*Bucephala islandica*).
(32) Hooded Merganser (*Lophodytes cucullatus*).
(33) Common Merganser (*Mergus merganser*).
(34) Red-breasted Merganser (*Mergus serrator*).

(f) Family Gruidae.

(1) Sandhill Crane (*Grus canadensis*).
(2) [Reserved].

(g) Family Charadriidae.

(1) Black-bellied Plover (*Pluvialis squatarola*).
(2) Common Ringed Plover (*Charadrius hiaticula*).

(h) Family Haematopodidae.

(1) Black Oystercatcher (*Haematopus bachmani*).
(2) [Reserved].

(i) Family Scolopacidae.

(1) Greater Yellowlegs (*Tringa melanoleuca*).
(2) Lesser Yellowlegs (*Tringa flavipes*).
(3) Solitary Sandpiper (*Tringa solitaria*).
(4) Wandering Tattler (*Heteroscelus incanus*).
(5) Spotted Sandpiper (*Actitis macularia*).
(6) Upland Sandpiper (*Bartramia longicauda*).
(7) Bar-tailed Godwit (*Limosa lapponica*).
(8) Ruddy Turnstone (*Arenaria interpres*).
(9) Black Turnstone (*Arenaria melanocephala*).
(10) Red Knot (*Calidris canutus*).
(11) Semipalmated Sandpiper (*Calidris pusilla*).
(12) Western Sandpiper (*Calidris mauri*).
(13) Least Sandpiper (*Calidris minutilla*).
(14) Baird's Sandpiper (*Calidris bairdii*).
(15) Sharp-tailed Sandpiper (*Calidris acuminata*).
(16) Dunlin (*Calidris alpina*).
(17) Long-billed Dowitcher (*Limnodromus scolopaceus*).
(18) Common Snipe (*Gallinago gallinago*).
(19) Red-necked phalarope (*Phalaropus lobatus*).
(20) Red phalarope (*Phalaropus fulicaria*).

(j) Family Laridae.

(1) Pomarine Jaeger (*Stercorarius pomarinus*).
(2) Parasitic Jaeger (*Stercorarius parasiticus*).
(3) Long-tailed Jaeger (*Stercorarius longicaudus*).
(4) Bonaparte's Gull (*Larus philadelphia*).
(5) Mew Gull (*Larus canus*).
(6) Herring Gull (*Larus argentatus*).
(7) Slaty-backed Gull (*Larus schistisagus*).
(8) Glaucous-winged Gull (*Larus glaucescens*).
(9) Glaucous Gull (*Larus hyperboreus*).
(10) Sabine's Gull (*Xema sabini*).
(11) Black-legged Kittiwake (*Rissa tridactyla*).
(12) Red-legged Kittiwake (*Rissa brevirostris*).
(13) Ivory Gull (*Pagophila eburnea*).
(14) Arctic Tern (*Sterna paradisaea*).
(15) Aleutian Tern (*Sterna aleutica*).

(k) Family Alcidae.

(1) Common Murre (*Uria aalge*).
(2) Thick-billed Murre (*Uria lomvia*).
(3) Black Guillemot (*Cepphus grylle*).
(4) Pigeon Guillemot (*Cepphus columba*).
(5) Cassin's Auklet (*Ptychoramphus aleuticus*).
(6) Parakeet Auklet (*Aethia psittacula*).
(7) Least Auklet (*Aethia pusilla*).
(8) Whiskered Auklet (*Aethia pygmaea*).
(9) Crested Auklet (*Aethia cristatella*).
(10) Rhinoceros Auklet (*Cerorhinca monocerata*).
(11) Horned Puffin (*Fratercula corniculata*).
(12) Tufted Puffin (*Fratercula cirrhata*).

(l) Family Strigidae.

(1) Great Horned Owl (*Bubo virginianus*).
(2) Snowy Owl (*Nyctea scandiaca*).
(3) Northern Hawk Owl (*Surnia ulula*).
(4) Short-eared Owl (*Asio flammeus*).

§ 92.33 Region-specific regulations.

The season dates for the 2003 season for eight subsistence regions are as follows:

(a) Aleutian/Pribilof Islands Region.
(1) Northern Unit (Pribilof Islands):
(i) Season: April 2–June 30.
(ii) Closure: July 1–August 31.
(2) Central Unit (Aleut Region's eastern boundary on the Alaska Peninsula westwards to and including Unalaska Island):
(i) Season: April 2–June 15 and July 16–August 31.
(ii) Closure: June 16–July 15.
(3) Western Unit (Umnak Island west to and including Attu Island):
(i) Season: April 2–July 15 and August 16–August 31.
(ii) Closure: July 16–August 15.
(b) Yukon/Kuskokwim Delta Region.
(1) Season: April 2–August 31.
(2) Closure: 30-day closure dates to be announced by the Alaska Regional Director or his designee, after consultation with local subsistence users and the region's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers

and radio and television stations and posted in village post offices and stores.

(c) Bristol Bay Region.

(1) Season: April 2–June 14 and July 16–August 31.

(2) Closure: June 15–July 15.

(d) Bering Strait/Norton Sound Region.

(1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) Season: April 15–June 14 and July 16–August 31.

(ii) Closure: June 15–July 15.

(2) Remainder of the region:

(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) Kodiak Archipelago Region, except the Kodiak Island roaded area is closed to the harvesting of migratory birds and their eggs. The closed area is depicted on a map and consists of all lands and water east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larson Bay. Offshore islands and waters adjacent to the closed area will remain open to harvest.

(1) Season: April 2–June 20 and July 22–August 31, egg gathering: May 1–June 20.

(2) Closure: June 21–July 21.

(f) Northwest Arctic Region.

(1) Season: April 2–August 31 (in general); waterfowl egg gathering May 20–June 9; seabird egg gathering July 3–July 12; molting/non-nesting waterfowl July 1–July 31.

(2) Closure: June 10–August 14, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) North Slope Region.

(1) Southern Unit (Pt. Hope to Wainwright, along the Chuckchi coast, south and east to Atqasuk and Anaktuvuk Pass):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(2) Northern Unit (Barrow to Nuiqsut):

(i) Season: April 6–June 6 and July 7–August 31 for king and common eiders and April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders and June 16–July 15 for all other birds.

(3) Eastern Unit (Communities east of Nuiqsut):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(h) Interior Region.

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14.

(2) Closure: June 15–July 15.

Dated: June 16, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–18097 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307 3037–02; I.D. 071503C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 2003, through 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of Pacific ocean perch for the Western Aleutian District was established as 5,411 metric tons (mt) by the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for Pacific ocean perch in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,111 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 TAC for Pacific ocean perch in the Western Aleutian District, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 15, 2003.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–18487 Filed 7–16–03; 4:12 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 139
Monday, July 21, 2003

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

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV03–948–3 PR]

Irish Potatoes Grown in Colorado; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Area No. 2 Colorado Potato Administrative Committee (Committee) for the 2003–2004 and subsequent fiscal periods from $0.0035 to $0.0051 per hundredweight of potatoes handled. The Committee locally administers the marketing order which regulates the handling of potatoes grown in Colorado. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins September 1 and ends August 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 20, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable potatoes beginning on September 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2003–2004 and subsequent fiscal periods from $0.0035 to $0.0051 per hundredweight of potatoes.

The Colorado potato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Colorado potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001–2002 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 15, 2003, and recommended 2003–2004 expenditures of $85,695 and an assessment rate of $0.0051 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $74,643. The assessment rate of $0.0051 is $0.0016 higher than the rate currently in effect. The higher assessment rate is necessary to offset an increase in salaries and operation expenses.

The major expenditures recommended by the Committee for the 2003–2004 fiscal period include $54,520

for salaries, $9,925 for office expenses, and $7,300 for building maintenance. Budgeted expenses for these items in 2002–2003 were $41,703, $9,700, and $7,650, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado potatoes. Colorado potato shipments for the year are estimated at 17,000,000 hundredweight which should provide $86,700 in assessment income. Income derived from handler assessments should be adequate to cover budgeted expenses. Funds in the reserve (estimated at $14,025 as of August 31, 2003) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 948.78).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2003–2004 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 90 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 230 producers of potatoes in the regulated production area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

During the 2001–2002 fiscal period, 14,805,719 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $11.75 per hundredweight, the Committee estimates that 79, or about 88 percent of the Area No. 2 handlers, had annual receipts of less than $5,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Colorado fall potatoes for the 2001–2002 fiscal period was $9.65 per hundredweight. The average annual producer revenue for the 230 Colorado Area No. 2 potato producers is therefore calculated to be approximately $621,196. In view of the foregoing, the majority of the Colorado Area No. 2 potato producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2003–2004 and subsequent fiscal periods from $0.0035 to $0.0051 per hundredweight of potatoes. The Committee recommended 2003–2004 expenditures of $85,695 and an assessment rate of $0.0051 per hundredweight. The proposed assessment rate is $0.0016 higher than the current rate. The quantity of assessable Area No. 2 Colorado potatoes for the 2003–2004 fiscal period is estimated at 17,000,000 hundredweight. Thus, the $0.0051 rate should provide $86,700 in assessment income and be adequate to meet this fiscal period's expenses.

The major expenditures recommended by the Committee for the 2003–2004 fiscal period include $54,520 for salaries, $9,925 for office expenses, and $7,300 for building maintenance. Budgeted expenses for these items in 2002–2003 were $41,703, $9,700, and $7,650, respectively.

The higher assessment rate is necessary to offset an increase in salaries and operation expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with adequate reserves.

The assessment rate of $0.0051 per hundredweight of assessable potatoes was determined by dividing the total recommended budget by the quantity of assessable potatoes, estimated at 17,000,000 hundredweight for the 2003–2004 fiscal period. This is approximately $1,005 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2003–2004 fiscal period could range between $2.95 and $9.65 per hundredweight of Colorado fall potatoes. Therefore, the estimated assessment revenue for the 2003–2004 fiscal period as a percentage of total producer revenue could range between 0.05 and 0.17 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Area No. 2 Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 15, 2003, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Colorado Area No. 2 potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the

compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003–2004 fiscal period begins on September 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay for expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 948.216 is revised to read as follows:

§ 948.216 Assessment rate.

On and after September 1, 2003, an assessment rate of $0.0051 per hundredweight is established for Colorado Area No. 2 potatoes.

Dated: July 16, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–18447 Filed 7–18–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), that is applicable to Pratt & Whitney (PW) model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines. That AD currently requires interim actions to address engine takeoff power loss events until the high-pressure-compressor (HPC) case is redesigned and available for incorporation on the PW4000 engines. That amendment also requires on-wing Testing-21 to engines installed on Boeing 747 and MD–11 airplanes, and the installation of a new Ring Case Configuration (RCC) rear HPC on PW 4000 series engines installed in the Boeing fleet as terminating action to the requirements of that AD. This proposal is prompted by the development of an RCC rear HPC for PW4000 series turbofan engines installed in the Airbus fleet. The actions specified by this proposed AD are intended to prevent engine takeoff power losses due to HPC surge.

DATES: Comments must be received by August 25, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this proposed AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108, telephone (860) 565–6600; fax (860) 565–4503. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133; fax (781) 238–7199.

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 should 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 action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On May 28, 2003, the FAA issued AD 2003–11–18, Amendment 39–13177 (68 FR 33844, June 6, 2003), which supersedes AD 2002–21–10. AD 2003–11–18 was published as an interim action to address engine takeoff power loss events until the HPC case could be redesigned and available for incorporation on the PW4000 engines. That action also added on-wing Testing-21 to engines installed on Boeing 747 and MD–11 airplanes, and required the installation of a new RCC rear HPC on engines installed in the Boeing fleet as terminating action to the requirements of that AD. That AD was prompted by the development of an RCC rear HPC for PW4000 series turbofan engines installed in the Boeing fleet. The actions

specified by that AD are intended to prevent engine takeoff power losses due to HPC surge.

Since that AD was issued, PW developed an RCC rear HPC for PW4000 series turbofan engines installed in the Airbus fleet. This proposal mandates the same actions as AD 2003–11–18 (with some modifications based on AMOC approvals) and incorporates the RRC rear HPC as terminating action for the Airbus fleet.

Manufacturer's Service Information

For AD 2003–11–18, the FAA reviewed and approved the technical contents of the following PW service information:

- Service Bulletin (SB) PW4ENG 72–755, dated February 28, 2003.
- Internal Engineering Notice (IEN) 02KCW13, dated October 14, 2002.
- IEN 02KCW13A, dated October 14, 2002.
- IEN 02KCW13C, dated July 25, 2002.
- IEN 02KCW13D, dated July 29, 2002.
- IEN 02KCW13E, dated November 21, 2002.
- IEN 02KCW13F, dated October 14, 2002.
- IEN 02KCW13H, dated December 9, 2002.
- SB PW4ENG72–714, Revision 1, dated November 8, 2001.
- SB PW4ENG72–749, dated June 17, 2002.
- IEN 96KC973D, dated October 12, 2001.
- Temporary Revision (TR) TR 71–0018, dated November 14, 2001.
- TR 71–0026, dated November 14, 2001.
- TR 71 71–0035, dated November 14, 2001.
- Cleaning, Inspection, and Repair (CIR) procedure CIR 51A357, Section 72–35–68, Inspection/Check–04, Indexes 8–11, dated September 15, 2001.
- CIR 51A357, Section 72–35–68, Repair 16, dated June 15, 1996.
- PW4000 PW engine manual (EM) 50A443, 71–00–00, TESTING–21, dated March 15, 2002.
- PW4000 PW EM 50A822, 71–00–00, TESTING–21, dated March 15, 2002.
- PW4000 PW EM 50A605, 71–00–00, TESTING–21, dated March 15, 2002.

Since the issuance of AD 2003–11–18, PW has issued the following service information which have also been reviewed and approved by the FAA.

- SB PW4ENG 72–756, dated July 7, 2003.
- SB PW4ENG 72–759, dated July 7, 2003.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW4000 series turbofan engines of this same type design, the proposed AD would supersede AD 2003–11–18 to require the same actions as that AD, and additionally require the installation of a new RCC rear HPC on engines installed in the Airbus fleet as terminating action to the AD. The actions are required to be done in accordance with the service bulletins described previously.

Economic Analysis

There are approximately 2,300 engines of the affected design in the worldwide fleet. The FAA estimates that 550 engines installed on Boeing aircraft and 100 engines installed on Airbus aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 183 work hours per engine to perform the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $119,500 per engine. Based on these figures, the total average annual cost impact of the proposed AD to U.S. operators is estimated to be $13,950,500.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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 removing Amendment 39–13177, (68 FR 33844), June 7, 2003), and by adding a new airworthiness directive:

Pratt & Whitney: Docket No. 2000–NE–47–AD. Supersedes AD 2003–11–18, Amendment 39–13177.

Applicability

This airworthiness directive (AD) is applicable to: Pratt & Whitney (PW) model PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650 turbofan engines. These engines are installed on, but not limited to, certain models of Airbus Industrie A300, Airbus Industrie A310, Boeing 747, Boeing 767, and McDonnell Douglas MD–11 series airplanes.

Note 1: This AD applies to each engine 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 engines 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 (w) 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

Compliance with this AD is required as indicated, unless already done.

To prevent engine takeoff power losses due to high-pressure-compressor (HPC) surges, do the following:

(a) When complying with this AD, determine the configuration of each engine on each airplane using the following Table 1:

TABLE 1.—ENGINE CONFIGURATION LISTING

Configuration	Configuration designator	Description
(1) Phase 1 without high pressure turbine (HPT) 1st turbine vane cut back stator (1TVCB).	A	Engines that did not incorporate the Phase 3 configuration at the time they were originally manufactured, or have not been converted to Phase 3 configuration; and have not incorporated HPT 1TVCB using any Revision of service bulletin (SB) PW4ENG 72–514.
(2) Phase 1 with 1TVCB	B	Same as Configuration A except that HPT 1TVCB has been incorporated using any Revision of SB PW4ENG 72–514.
(3) Phase 3, 2nd Run	C	Engines that incorporated the Phase 3 configuration at the time they were originally manufactured, or have been converted to the Phase 3 configuration during service; and that have had at least one HPC overhaul since new.
(4) Phase 3, 1st Run	D	Same as Configuration C except that the engine has not had an HPC overhaul since new, except those engines that are defined as Configuration Designator G.
(5) HPC Cutback Stator Configuration Engines.	E	Engines that currently incorporate any Revision of SBs PW4ENG 72–706, PW4ENG 72–704, or PW4ENG 72–711.
(6) Engines that have passed Testing-21.	F	Engines which have successfully passed Testing-21 performed in accordance with paragraph (i) or (j) of this AD. Once an engine has passed a Testing-21, it will remain a Configuration F engine until the HPC is overhauled, or is replaced with a new or overhauled HPC, or the HPC is retrofitted to Configuration I.
(7) Phase 3, 1st Run Subpopulation Engines. These engines are identified by mode and serial numbers (SNs) as follows:. PW4152: SN 724942 through SN 724944 inclusive; PW4158: SN 728518 through SN 728533 inclusive; PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062: SN 727732 through SN 728000 inclusive and SN 729001 through SN 729010 inclusive; PW4460, PW4462: SN 733813 through SN 733840 inclusive.	G	Engines that incorporated the Phase 3 configuration and did not incorporate Haynes material HPC inner case rear hook at the time they were originally manufactured, that were built from August 29, 1997 up to the incorporation of the HPC inner rear case with Haynes material rear hook at the original engine manufacturer and have not had an HPC overhaul since new.
(8) Engines from Configuration G that have passed Testing-21.	H	Engines that have successfully passed Testing-21 performed in accordance with paragraph (i) or (j) of this AD. Once an engine has passed a Testing-21, it will remain a Configuration H engine until the HPC is overhauled, or is replaced with a new or overhauled HPC, or the HPC is retrofitted to Configuration I.
(9) Engines installed on Boeing or Airbus airplanes with a build standard that incorporates a ring case configuration (RCC) rear HPC.	I	Engines that have incorporated PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003, or PW SB PW4ENG 72–756, dated July 7, 2003, or PW SB PW4ENG 72–759, dated July 7, 2003, or have been manufactured with an RCC read HPC.

Configuration E Engines Installed on Boeing 747, 767, and MD–11 Airplanes

(b) For Configuration E engines, do the following:

(1) Before further flight, limit the number of engines with Configuration E as described in Table 1 of this AD, to one on each airplane.

(2) Remove all engines with Configuration E from service before accumulating 1,300 cycles-since-new (CSN) or cycles-since-conversion (CSC) to Configuration E, whichever is later.

Configuration G and H Engines Installed on Boeing 747, 767, MD–11, and Airbus A300 and A310 Airplanes

(c) For Configuration G and H engines installed on Boeing 747 and 767, MD–11, and Airbus A300 and A310 airplanes, except as provided in paragraph (b) of this AD:

(1) Before further flight, remove from service engines that exceed the CSN or cycles-since-Testing-21 (CST) limits listed in the following Table 2, or perform on-wing Testing-21 on MD–11 or Boeing 747 airplanes in accordance with paragraph (i)(3) or (j)(3) of this AD, respectively. Thereafter, ensure that no Configuration G or H engines exceed the HPC CSN or CST limits listed in Table 2 of this AD.

TABLE 2.—CONFIGURATION G AND H LIMITS

Configuration designator	B747 PW4056	B767 PW4052	B767 PW4056	B767 PW4060 PW4060A PW4060C PW4062	MD–11 PW4460 PW4462	A300/310 PW4152 PW4156A PW4158
G	1,700 CSN 600 CST	3,000 CSN 600 CST	2,100 CSN 600 CST	1,350 CSN 600 CST	1,150 CSN 600 CST	2,800 CSN 600 CST
H						

(2) Prior to return to service and installed on Boeing 767 or 747 or Airbus A300 or A310 airplanes, Configuration G and H engines must meet the requirements of paragraph (j) of this AD.

(3) Prior to return to service and installed on McDonnell Douglas MD–11 airplanes, Configuration G or H engines must meet the requirements of paragraph (i) of this AD.

Engines Installed on Boeing 767 and MD–11 Airplanes

(d) For engines installed on Boeing 767 and MD–11 airplanes, except as provided in paragraph (b) and (c) of this AD:

(1) Before further flight, limit the number of engines that exceed the HPC CSN, HPC cycles-since-overhaul (CSO), or HPC CST limits in Table 3 of this AD, to no more than one engine per airplane. Thereafter, ensure that no more than one engine per airplane exceeds the HPC CSN, CSO, or CST limit in Table 3 of this AD.

(2) Prior to return to service and installed on MD–11 airplanes, engines must meet the requirements of paragraph (i) of this AD.

(3) Prior to return to service and installed on Boeing 767 airplanes, engines must meet the requirements of paragraph (j) of this AD.

Engines Installed on Boeing 747 Airplanes

(e) Except as provided in paragraph (b) and (c) of this AD, before further flight, and thereafter, manage the engine configurations installed on Boeing 747 airplanes as follows:

(1) Limit the number of Configuration A, B, C, or E engines that exceed the HPC CSN or HPC CSO limits listed in Table 3 of this AD, to not more than one engine per airplane. Table 3 follows:

TABLE 3.—ENGINE LIMITS FOR BOEING AIRPLANES

Configuration designator	B747 PW4056	B767 PW4052	B767 PW4056	B767 PW4060 PW4060A PW4060C PW4062	MD–11 PW4460 PW4462
A	1,400 CSN or CSO	3,000 CSN or CSO	1,600 CSN or CSO	900 CSN or CSO	800 CSN or CSO
B	2,100 CSN or CSO	4,400 CSN or CSO	2,800 CSN or CSO	2,000 CSN or CSO	1,200 CSN or CSO
C	2,100 CSO	4,400 CSO	2,800 CSO	2,000 CSO	1,300 CSO
D	2,600 CSN	4,400 CSN	3,000 CSN	2,200 CSN	2,000 CSN
E	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO	750 CSN or CSO
F	800 CST	800 CST	800 CST	800 CST	800 CST

(2) The single Configuration A, B, C, or E engine per airplane that exceeds the HPC CSN or CSO limits listed in Table 3 of this AD, must be limited to 2,600 HPC CSN or CSO for Configuration A, B, or C engines, or 1,300 HPC CSN or CSC to Configuration E, whichever is later, for Configuration E engines.

(3) Remove from service or perform on-wing Testing-21 in accordance with paragraph (j)(3) of this AD for Configuration D engines, before accumulating 2,600 CSN.

(4) Remove from service or perform on-wing Testing-21 in accordance with paragraph (j)(3) of this AD for Configuration F engines, before accumulating 800 CST.

(5) Prior to return to service and installed on Boeing airplanes, Configuration A, B, C, D, and F engines must meet the requirements of paragraph (j) of this AD.

Engines Installed on Airbus A300 and A310 Airplanes

(f) For Airbus operators that began operation of their A300 fleet after the effective date of this AD, use paragraphs (f)(7) through (f)(9) of this AD to determine which Airbus A300 PW4158 engine category 1 or 3 limits of the following Table 4 of this AD apply to your engine fleet. For Airbus operators that have been in operation before the effective date of this AD, use your PW4158 engine category classification previously determined for your fleet and continue to apply the A300 PW 4158 Category limits in Table 4 of this AD, to your fleet.

TABLE 4.—ENGINE LIMITS FOR AIRBUS AIRPLANES

Configuration designator	A300 PW4158 Category 1, and A310 PW4156 and PW4156A	A300 PW4158 Category 2, and 310 PW4152	A300 PW4158 Category 3
A	900 CSN or CSO	1,850 CSN or CSO	500 CSN or CSO
B	2,200 CSN or CSO	4,400 CSN or CSO	1,600 CSN or CSO
C	2,200 CSO	4,400 CSO	1,600 CSO
D	4,400 CSN	4,400 CSN	4,400 CSN
E	Not Applicable	Not Applicable	Not Applicable
F	800 CST	800 CST	800 CST

(1) Determine the number of Group 3 takeoff surges experienced by engines in your fleet before April 13, 2001. Count surge events for engines that had an HPC overhaul and incorporated either SB PW 4ENG 72–484 or SB PW4ENG 72–575 at the time of overhaul. Do not count surge events for engines that did not have the HPC overhauled (*i.e.* 1st run engine) or had the HPC overhauled but did not incorporate either SB PW4ENG 72–484 or SB PW4ENG 72–575. *See* paragraph (v)(5) of this AD for a definition of a Group 3 takeoff surge.

(2) Determine the number of cumulative HPC CSO accrued by engines in your fleet before April 13, 2001. Count HPC CSO for engines that had an HPC overhaul and incorporated either SB PW4ENG 72–484 or SB PW4ENG 72–575 at the time of overhaul. Do not count HPC CSO accrued on your engines while operating outside your fleet.

(3) Calculate the surge rate by dividing the number of Group 3 takeoff surges determined in paragraph (f)(1) of this AD, by the number of cumulative HPC CSO determined in paragraph (f)(2) of this AD, and then multiply by 1,000.

(4) If the surge rate calculated in paragraph (f)(3) of this AD is less than 0.005, go to paragraph (f)(5) of this AD. If the surge rate calculated in paragraph (f)(3) of this AD is greater than or equal to 0.005, go to paragraph (f)(6) of this AD.

(5) If the cumulative HPC CSO determined in paragraph (f)(2) of this AD is greater than or equal to 200,000 cycles, use A300 PW4158 Category 2 limits of Table 4 of this AD. If less than 200,000 cycles, go to paragraph (f)(7) of this AD.

(6) If the surge rate calculated in paragraph (f)(3) of this AD is greater than 0.035, use A300 PW 4158 Category 3 limits of Table 4 of this AD. If less than or equal to 0.035, go to paragraph (f)(7) of this AD.

(7) Determine the percent of takeoffs with greater than a 1.45 Takeoff engine pressure ratio (EPR) data for engines operating in your fleet. Count takeoffs from a random sample of at least 700 airplane takeoffs that have occurred over at least a 3-month time period, for a period beginning no earlier than 23 months prior to the effective date of this AD. See paragraph (v)(6) of this AD for definition of Takeoff EPR data.

(8) If there is insufficient data to satisfy the criteria of paragraph (f)(7) of this AD, use A300 PW4158 Category 3 limits of Table 4 of this AD.

(9) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (f)(7) of this AD is greater than 31%, use A300 PW 4158 Category 3 limits listed in Table 4 of this AD. If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (f)(7) of this AD is less than or equal to 31%, use A300 PW 4158 Category 1 limits listed in Table 4 of this AD.

(g) For engines installed on Airbus A300 or A310 airplanes, except as provided in paragraph (c) of this AD, before further flight, limit the number of engines that exceed the CSN, CSO, or CST limits listed in Table 4 of this AD, to no more than one engine per airplane. Thereafter, ensure that no more than one engine per airplane exceeds the HPC CSN, CSO, or CST limits listed in Table 4 of this AD. *See* paragraph (j) of this AD for return to service requirements.

(h) For Airbus A300 PW4158 engine operators, except those operators whose engine fleets are determined to be Category 3 classification based on surge rate in accordance with paragraph (f)(6) of this AD, re-evaluate your fleet category within 6 months from the last evaluation, and thereafter, at intervals not to exceed 6 months, using the following criteria:

(1) For operators whose engine fleets are initially classified as Category 1 or 3 in accordance with paragraph (f) of this AD, determine the percent of takeoffs with greater than a 1.45 Takeoff EPR data for engines operating in your fleet. Count takeoffs from a sample of at least 200 takeoffs that occurred over the most recent six month time period since the last categorization was determined, or the total number of takeoffs accumulated over 6 months if less than 200 takeoffs. *See* paragraph (v)(6) of this AD for definition of takeoff EPR data.

(i) If there is insufficient data to satisfy the criteria of paragraph (h)(1) of this AD, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(ii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(1) of this AD is greater than 31%, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(iii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(1) of this AD is less than or equal to 31%, use A300 PW4158 Category 1 limits listed in Table 4 of this AD.

(2) For operators whose engine fleets are initially classified as Category 2 in accordance with paragraph (f) of this AD, determine the percent of takeoffs with greater than a 1.45 Takeoff EPR data for engines operating in your fleet. Count takeoffs from a sample of at least 200 takeoffs that occurred over the most recent six month time period since the last categorization was determined, or the total number of takeoffs accumulated over 6 months if less than 200 takeoffs. *See* paragraph (v)(6) of this AD for definition of takeoff EPR data.

(i) If there is insufficient data to satisfy the criteria of paragraph (h)(2) of this AD, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(ii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is greater than 37%, use A300 PW4158 Category 3 limits listed in Table 4 of this AD.

(iii) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is greater than or equal to 21% and less than or equal to 37%, use A300 PW4158 Category 1 limits listed in Table 4 of this AD.

(iv) If the percentage of takeoffs with greater than a 1.45 Takeoff EPR data determined in paragraph (h)(2) of this AD is less than 21%, use A300 PW4158 Category 2 limits listed in Table 4 of this AD.

Return to Service Requirements for Engines To Be Installed on McDonnell Douglas MD–11 Airplanes

(i) Engines removed from service in accordance with paragraph (c) or (d), of this AD may be returned to service and installed on McDonnell Douglas MD–11 airplanes under the following conditions:

(1) After passing a cool-engine fuel spike stability test (Testing-21) that has been done in accordance with PW4000 EM 50A822, 71–00–00, TESTING–21, dated March 15, 2002, except for engines with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(2) Engines tested before the effective date of this AD, in accordance with PW4000 EM 50A822, 71–00–00, TESTING–21, dated November 14, 2001; or PW4000 EM 50A822, Temporary Revision No. 71–0018, dated November 14, 2001; or PW Internal Engineering Notice (IEN) 96KC973D, dated October 12, 2001, meet the requirements of TESTING–21; or

(3) After passing an on-wing Testing–21 on PW4460 and PW4462 engines installed on McDonnell Douglas MD–11 airplanes that have been done in accordance with Major IEN 02KCW13H, dated December 9, 2002, or done prior to the approval of Major IEN 02KCW13H, dated December 9, 2002, in accordance with Minor IEN 02KCW13F, dated October 14, 2002, except for engines with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(4) The engine HPC was replaced with an HPC that is new from production with no time in service; or

(5) The engine HPC has been overhauled, or the engine HPC replaced with an overhauled HPC with zero cycles since overhaul; or

(6) An engine that is either below or exceeds the limits of Table 3 or Table 4 of this AD may be removed and installed on another airplane without Testing-21, as long as the requirements of paragraph (c) or (d) of this AD are met at the time of engine installation.

Return to Service Requirements for Engines To Be Installed on Boeing or Airbus Airplanes

(j) Engines removed from service in accordance with paragraph (c), (d), (e), or (g) of this AD may be returned to service and installed on Boeing 747, 767, or Airbus A300 orA310 airplanes under the following conditions:

(1) After passing a cool-engine fuel spike stability test (Testing-21) that has been done in accordance with PW4000 Engine Manual (EM) 50A605, 71–00–00, Testing-21, dated June 15, 2003, or PW4000 EM 50A443, 71–00–00, Testing-21, dated March 15, 2002, except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(2) Engines tested before the effective date of this AD, in accordance with PW4000 EM 50A605, 71–00–00, Testing-21, dated March 15, 2002; PW4000 EM 50A443, 71–00–00, Testing-21, dated November 14, 2001; or PW4000 EM 50A443, Temporary Revision No. 71–0026, dated November 14, 2001; or PW IEN 96KC973D, dated October 12, 2001; or PW4000 EM 50A605, Temporary Revision No. 71–0035, dated November 14, 2001 meet the requirements of Testing-21; or

(3) For PW4056 engines installed on Boeing 747 airplanes, after successfully completing on-wing Testing-21 in accordance with Major IEN 02KCW13E, dated November 21, 2002; or if done prior to the approval of Major IEN 02KCW13E, dated November 21, 2002; in accordance with Minor IENs 02KCW13, dated October 14, 2002; 02KCW13A, dated October 14, 2002; 02KCW13C, dated July 25, 2002; or 02KCW13D, July 29, 2002; except for engines configured with Configuration E, or engines that have experienced a Group 3 takeoff surge; or

(4) An engine that is either below or exceeds the limits of Table 3 or Table 4 of this AD may be removed and installed on another airplane without Testing-21, as long as the requirements of paragraph (c), (d), (e), or (g) of this AD are met at the time of engine installation.

(5) An engine that has incorporated the RCC rear HPC in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003, for engines installed in Boeing airplanes; or PW4ENG 72–756, dated July 7, 2003; or PW4ENG 72–759, dated July 7, 2003 for engines installed in Airbus airplanes. Completing these SBs changes the engine configuration to Configuration I.

Phase 0 or Phase 1, FB2T or FB2B Fan Blade Configurations

(k) For Configuration A, B, C, D, E, F, G, and H engines with Phase 0 or Phase 1, FB2T or FB2B fan blade configurations complying with the requirements of AD 2001–09–05, (66 FR 22908, May 5, 2001); AD 2001–09–10, (66 FR 21853, May 2, 2001); or AD 2001–01–10, (66 FR 6449, January 22, 2001); do the following:

(1) Operators complying with the ADs listed in paragraph (k) of this AD using the weight restriction compliance method, must perform Testing-21 in accordance with paragraph (i) or (j) of this AD whenever any quantity of fan blades are replaced with new fan blades, overhauled fan blades, or with fan blades having the leading edges recontoured after the effective date of this AD, if during the shop visit the HPC is not overhauled and separation of a major engine flange, located between ''A'' flange and ''T'' flange, does not occur.

(2) If an operator changes from the weight restriction compliance method to the fan blade leading edge recontouring method after the effective date of this AD, Testing-21 in

accordance with paragraph (i) or (j) of this AD is required each time fan blade leading edge recontouring is done, if the fan blades accumulate more than 450 cycles since new or since fan blade overhaul, or since the last time the fan blade leading edges were recontoured.

Minimum Build Standard for Engines Installed on McDonnell Douglas MD–11 Airplanes

(l) Use the following minimum build standards for engines to be returned to service and installed on McDonnell Douglas MD–11 airplanes:

(1) After the effective date of this AD, do not install an engine with HPC and HPT modules where the CSO of the HPC is 1,500 cycles or greater than the CSN or CSO of the HPT.

(2) For any engine that undergoes an HPC overhaul after the effective date of this AD:

(i) Inspect the HPC mid hook and rear hook of the HPC inner case for wear in accordance with PW Clean, Inspect and Repair (CIR) Manual PN 51A357, Section 72–35–68 Inspection/Check-04, Indexes 8–11, dated December 15, 2002; or March 15, 2002; or September 15, 2001. If the HPC rear hook is worn beyond serviceable limits, replace the HPC inner case rear hook with an improved durability hook in accordance with PW SB PW4ENG 72–714, Revision 1, dated November 8, 2001; or Revision 2, dated February 28, 2003; or Chromalloy Florida Repair Procedure 00 CFL–039–0, dated December 27, 2000. If the HPC inner case mid hook is worn beyond serviceable limits, repair the HPC inner case mid hook in accordance with PW SB PW4ENG 72–749, dated June 17, 2002; or Revision 1, dated January 8, 2003; or Chromalloy Florida Repair Procedure 02 CFL–024–0, dated September 15, 2002.

(ii) After the effective date of this AD, any engine that undergoes an HPC overhaul may not be returned to service unless it meets the build standard of PW SB PW4ENG 72–484, PW4ENG 72–486, PW4ENG 72–514, and PW4ENG 72–575. Engines that incorporate the Phase 3 configuration already meet the build standard defined by PW SB PW4ENG 72–514.

(3) After the effective date of this AD, any engine that undergoes separation of the HPC and HPT modules must not be installed on an airplane unless it meets the build standard of PW SB PW4ENG 72–514. Engines that incorporate the Phase 3 configuration already meet the build standard defined by PW SB PW4ENG 72–514.

Minimum Build Standard for Engines Installed on Boeing and Airbus Airplanes

(m) For engines inducted into the shop after July 7, 2003 for Boeing 747 and 767 airplanes; and after the effective date of this AD for Airbus airplanes:

(1) Any Segmented Case Configuration (SCC) HPC module that is disassembled to a level that fully separates the HPC rear case assembly at H flange from the HPC module may not be returned to service unless the RCC rear HPC is incorporated in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003, for engines installed on Boeing airplanes; or PW SB PW4ENG72–756, dated July 7, 2003, or PW SB PW4ENG72–759, dated July 7, 2003, for engines installed on Airbus airplanes.

(2) Any engine with a SCC HPC module that is not disassembled in accordance with paragraph (m)(1) of this AD, must meet the following minimum build standard:

(i) Do not install an engine with SCC HPC and HPT modules where the CSO of the HPC is 1,500 cycles or more than the CSN or CSO of the HPT.

(ii) Any engine that undergoes separation of the SCC HPC and HPT modules must not be installed on an airplane unless it meets the build standard defined by PW SB PW4ENG 72–514. Engines that incorporate the Phase 3 configuration meet the build standard defined by PW SB PW4ENG 72–514.

Stability Testing Requirements for Engines To Be Installed on McDonnell Douglas MD–11 Airplanes

(n) For engines to be installed on McDonnell Douglas MD–11 airplanes, after the effective date of this AD, Testing-21 must be performed in accordance with paragraph (i) of this AD, before an engine can be returned to service after having undergone maintenance in the shop, except under any of the following conditions:

(1) The engine HPC was overhauled, or replaced with an overhauled HPC with zero cycles since overhaul; or the engine HPC was replaced with an HPC that is new from production with no time in service, or

(2) Engine maintenance intended to maintain the airworthiness of the engine between planned shop visits, that requires separation of a major engine flange located between ''A'' flange and ''T'' flange, that results in the engine being reassembled with all gas path-related components remaining in the as-removed condition, or

(3) Engines with an HPC having zero CSN or CSO, or engines that successfully passed Testing-21 with zero CST; and are split at Flange E for transportation reasons as specified in the applicable Storage/Transport section of the applicable Engine Manual.

Stability Testing Requirements for Engines To Be Installed on Boeing or Airbus Airplanes

(o) For engines to be installed on Boeing 767, 747, or Airbus A300, or A310 airplanes, after the effective date of this AD, Testing-21 must be performed in accordance with paragraph (j) of this AD, before an engine can be returned to service after having undergone maintenance in the shop, except under any of the following conditions:

(1) Engine HPC has incorporated the RCC rear HPC in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003, for engines installed on Boeing airplanes; or PW SB PW4ENG72–756, dated July 7, 2003; or PW SB PW4ENG72–759, dated July 7, 2003; for engines installed on Airbus airplanes. Incorporation of any of these SBs changes the engine configuration to Configuration I; or

(2) Engine maintenance intended to maintain the airworthiness of the engine between planned shop visits, that requires separation of a major engine flange located between ''A'' flange and ''T'' flange, that results in the engine being reassembled with all gas path-related components remaining in the as-removed condition; or

(3) Engines that successfully passed Testing-21 with zero CST, and are split at Flange E for transportation reasons as specified in the applicable Storage/Transport section of the applicable EM.

Thrust Rating Changes, Installation Changes, and Engine Transfers for Non-Configuration I Engines

(p) When a thrust rating change has been made by using the Electronic Engine Control (EEC) programming plug, or an installation change has been made during an HPC overhaul, use the lowest cyclic limit of Table 3 or Table 4 of this AD, associated with any engine thrust rating change or with any installation change made during this period. See paragraph (v)(2) for definition of HPC overhaul period.

(q) When a PW4158 engine is transferred to another PW4158 engine operator whose engine fleet has a different category, use the lowest cyclic limit in Table 4 of this AD that was used or will be used during the affected HPC overhaul period.

(r) When a PW4158 engine operator whose engine fleet changes category in accordance with paragraph (h) of this AD, use the lowest cyclic limits in Table 4 of this AD that were used or will be used during the affected HPC overhaul period.

(s) Engines with an HPC having zero CSN or CSO at the time of thrust rating change, or installation change, or engine transfer between PW4158 engine operators, or subsequent change in operator engine fleet category in accordance with paragraph (h) of this AD in the direction of lower to higher Table 4 limits of this AD, are exempt from the lowest cyclic limit requirement in paragraphs (p), (q), and (r) of this AD.

Engines That Surge

(t) For engines that experience a surge, and after troubleshooting procedures are completed for airplane-level surge during forward or reverse thrust, do the following:

(1) For engines that experience a Group 3 takeoff surge, remove the engine from service before further flight and

(i) For engines that will be installed on McDonnell Douglas MD–11 airplanes, perform an HPC overhaul; or

(ii) For engines that will be installed on Boeing 747 or 767 airplanes, incorporate the RRC rear HPC in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003; or

(iii) For engines that will be installed on Airbus A300 or A310 airplanes, incorporate the RRC rear HPC in accordance with PW SB PW4ENG72–756, dated July 7, 2003, or PW SB PW4ENG72–759, dated July 7, 2003.

(2) For any engine that experiences a forward or reverse thrust surge at EPR's greater than 1.25 that is not a Group 3 takeoff surge, do the following:

(i) For Configuration A, B, C, D, F, G, and H engines, remove engine from service within 25 CIS or before further flight if airplane-level troubleshooting procedures

require immediate engine removal, and perform Testing-21 in accordance with paragraph (i) or (j) of this AD, as applicable.

(ii) For Configuration E engines, remove engine from service within 25 CIS or before further flight if airplane-level troubleshooting procedures require immediate engine removal.

(3) Paragraphs (t)(1) and (t)(2) of this AD are not applicable to engines that incorporate the RCC rear HPC in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003; or PW SB PW4ENG72–756, dated July 7, 2003; or PW SB PW4ENG72–759, dated July 7, 2003.

Terminating Action for Boeing and Airbus Airplanes

(u) For Boeing and Airbus operators with PW4000 engines installed on Boeing 747, 767, or Airbus A300 or A310 airplanes, modify the engine HPC assembly by incorporating the RCC rear HPC in accordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003, for engines installed on Boeing airplanes; or PW SB PW4ENG72–756, dated July 7, 2003, or PW SB PW4ENG72–759, dated July 7, 2003, for engines installed on Airbus airplanes, as follows:

(1) For engines installed on Boeing 767 airplanes, manage the engine configuration installed on the airplanes in your fleet as follows:

(i) By May 31, 2006 and thereafter, ensure that at least one Configuration I engine is installed on the airplane.

(ii) After May 31, 2006, the non-Configuration I engine (SCC HPC module) installed on the airplane must have incorporated the Haynes material in the HPC inner case rear hook during the original engine build or during an HPC overhaul in accordance with PW4ENG 72–714, dated June 27, 2000; or Revision 1, dated November 8, 2001; or Revision 2, dated February 28, 2003; or SB PW4ENG 72–749, dated June 17, 2002; or Revision 1, dated January 8, 2003; or Chromalloy Florida Repair procedure 00CFL–039–0, dated December 27, 2000.

(2) For engines installed on Boeing 747 airplanes, manage the engine configuration installed on the airplanes in your fleet as follows:

(i) By January 31, 2007 and thereafter, ensure that no more than one non-Configuration I engine is installed on the airplane.

(ii) After January 31, 2007, the non-Configuration I engine (SCC HPC module) installed on the airplane must have incorporated the Haynes-material in the HPC inner case rear hook during the original build or during an HPC overhaul in accordance with SB PW4ENG 72–714, dated June 27, 2000; or Revision 1, dated November 8, 2001; or Revision 2, dated February 28, 2003; or SB PW4ENG 72–749, dated June 17, 2002; or Revision 1, dated January 8, 2003; or Chromalloy Florida Repair procedure 00CFL–039–0, dated December 27, 2000.

(3) For engines installed on Airbus A300 or A310 airplanes, manage the engine configuration installed on the airplanes in your fleet as follows:

(i) By August 31, 2006 and thereafter, ensure that at least one Configuration I engine is installed on the airplane.

(ii) After August 31, 2007, the non-Configuration I engine installed on the airplane must have incorporated the Haynes-material in the HPC inner case rear hook during the original build or during an HPC overhaul in accordance with SB PW4ENG 72–714, dated June 27, 2000; or Revision 1, dated November 8, 2001; or Revision 2, dated February 28, 2003; or SB PW4ENG 72–749, dated June 17, 2002; or Revision 1, dated January 8, 2003; or Chromalloy Florida Repair procedure 00CFL–039–0, dated December 27, 2000.

(4) Prior to June 30, 2009, or whenever the HPC module is disassembled to a level that fully separates the HPC rear case assembly at H flange from the HPC module, whichever occurs first, incorporate the RCC rear HPC as follows:

(i) For engines that will be installed on Boeing airplanes, inaccordance with PW SB PW4ENG 72–755, Revision 2, dated May 23, 2003; or

(ii) For engines that will be installed on Airbus airplanes, in accordance with PW SB PW4ENG72–756, dated July 7, 2003, or PW SB PW4ENG72–759, dated July 7, 2003.

(iii) Engines incorporating the RCC rear HPC are Configuration I engines. *See* paragraph (v)(7) of this AD for definition of HPC rear case assembly.

(5) Incorporation of the RCC rear HPC constitutes terminating action to the Testing-21 requirements as specified in paragraph (o) of this AD, and engine stagger limit requirements as specified in paragraphs (c), (d), (e) and (g) of this AD for engines installed on Boeing or Airbus airplanes.

Note 2: Terminating action to this AD for engines installed on McDonnell Douglas MD–11 airplanes is pending RCC rear HPC certification to 14 CFR part 25. Once approved, this AD will be superseded to add terminating action requirements for the McDonnell Douglas fleet.

Definitions

(v) For the purposes of this AD, the following definitions apply:

(1) An HPC overhaul is defined as restoration of the HPC stages 5 through 15 blade tip clearances to the limits specified in the applicable fits and clearances section of the engine manual.

(2) An HPC overhaul period is defined as the time period between HPC overhauls.

(3) An HPT overhaul is defined as restoration of the HPT stage 1 and 2 blade tip clearances to the limits specified in the applicable fits and clearances section of the engine manual.

(4) A Phase 3 engine is identified by a (−3) suffix after the engine model number on the data plate if incorporated at original manufacture, or a ''CN'' suffix after the engine serial number if the engine was converted using PW SBs PW4ENG 72–490, PW4ENG 72–504, or PW4ENG 72–572 after original manufacture.

(5) A Group 3 takeoff surge is defined as the occurrence of any of the following engine symptoms that usually occur in combination during an attempted airplane takeoff operation (either at reduced, derated or full rated takeoff power setting) after takeoff power set, which can be attributed to no specific and correctable fault condition after completing airplane-level surge during forward thrust troubleshooting procedures:

(i) Engine noises, including rumblings and loud ''bang(s).''

(ii) Unstable engine parameters (EPR, N1, N2, and fuel flow) at a fixed thrust setting.

(iii) Exhaust gas temperature (EGT) increase.

(iv) Flames from the inlet, the exhaust, or both.

(6) Takeoff EPR data is defined as Maximum Takeoff EPR if takeoff with Takeoff-Go-Around (TOGA) is selected, or Flex Takeoff EPR if takeoff with Flex Takeoff (FLXTO) is selected. Maximum Takeoff EPR or Flex Takeoff EPR may be recorded using any of the following methods:

(i) Manually recorded by the flight crew read from the Takeoff EPR power management table during flight preparation (*see* Aircraft Flight Manual (AFM) chapter 5.02.00 and 6.02.01, or Flight Crew Operation Manual (FCOM) chapter 2.09.20) and then adjusted by adding 0.010 to the EPR value recorded; or

(ii) Automatically recorded during Takeoff at 0.18 Mach Number (Mn) (between 0.15 and 0.20 Mn is acceptable) using an aircraft automatic data recording system and then adjusted by subtracting 0.010 from the EPR value recorded; or

(iii) Automatically recorded during takeoff at maximum EGT, which typically occurs at 0.25–0.30 Mn, using an aircraft automatic data recording system.

(7) HPC rear case assembly is defined as the HPC rear case with heat shields and other minor detail parts installed within the HPC rear case, but not including the HPC rear segmented stators.

Alternative Methods of Compliance

(w) 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, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the ECO.

Special Flight Permits

(x) Special flight permits may be issued in accordance with §§ 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 done.

Testing-21 Reports

(y) Within 60 days of test date, report the results of the cool-engine fuel spike stability assessment tests (Testing-21) and on-wing Testing-21 to the ANE–142 Branch Manager, Engine Certification Office, 12 New England Executive Park, Burlington, MA 01803–5299, or by electronic mail to *9-ane-surge-ad-*

reporting@faa.gov. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056. Be sure to include the following information:

(1) Engine serial number.

(2) Engine configuration designation per Table 1 of this AD.

(3) Date of the cool-engine fuel spike stability test or on-wing Testing-21, as applicable.

(4) HPC Serial Number, and HPC time and cycles-since-new and since-compressor-overhaul at the time of the test.

(5) Results of the test (Pass or Fail).

Issued in Burlington, Massachusetts, on July 14, 2003.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–18244 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–297–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–100 and –200; 737–100, –200, –200C, –300, –400 and –500; and 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727–100 and −200; 737–100, −200, −200C, −300, −400 and −500; and 747 series airplanes. This proposal would require, among other things, preparation of the electrical bonding faying surfaces on the forward and aft surfaces of the rear spars of the fuel tanks of the left and right wings, a one-time measurement of the electrical bonding resistances, and follow-on actions. This action is necessary to ensure adequate electrical bonding between the penetration fittings of the hydraulic heat exchanger and the rear spars of the fuel tanks. Inadequate electrical bonding, in the event of a lightning strike, could cause electrical arcing and ignition of fuel vapor in the wing fuel tank, which could result in a fuel tank explosion. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 4, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–297–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–297–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6501; fax (425) 917–6590.

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 action may be changed in light of the comments received. Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–297–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. 2001–NM–297–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received data from the manufacturer indicating that, during an electrical bonding and grounding test of wing fuel tank penetrations on certain Boeing Model 747 series airplanes, it was found that the penetration fittings of the hydraulic heat exchanger were not electrically bonded to the rear spars. Inadequate electrical bonding, in the event of a lightning strike, could cause electrical arcing and ignition of fuel vapor in the wing fuel tank, which could result in a fuel tank explosion.

The electrical bonding condition of the penetration fittings of the hydraulic heat exchanger on certain Model 727 and 737 series airplanes may be the same as those on the affected Model 747 series airplanes. Therefore, these models may be subject to this same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing alert service bulletins:

Service bulletin	Revision level	Date	Model
727–29A0067	Original	June 7, 2001	727–100 and –200 series airplanes.
737–29A1096	Original	June 7, 2001	737–100, –200, –200C, –300, –400 and –500 series airplanes.
747–29A2104	Original	July 19, 2001	747 series airplanes.

These service bulletins describe procedures for preparation of the electrical bonding faying surfaces on the forward and aft surfaces of the rear spars of the fuel tanks of the left and right wings, a one-time measurement of the electrical bonding resistances between the penetration fittings of the hydraulic heat exchanger and the surfaces of the rear spars and between the heat exchanger tube and the lower wing stringer surfaces, and follow-on actions. The procedures to follow before preparation of the faying surfaces include depressurizing the hydraulic systems, draining the fuel from the fuel tanks of the left and right wings, disconnecting the inlet and outlet tubes of the heat exchangers, and removing the heat exchangers. The preparation of the faying surfaces is done by sanding the surface areas down to bare metal and applying alodine protective coating on the surfaces and re-installing the heat exchangers. The follow-on actions involve applying fillet sealant and protective finishes around the penetration fittings, servicing and pressurizing the hydraulic systems and examining for signs of hydraulic fluid leakage, and servicing the fuel tank and examining for signs of fuel leakage. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The service bulletins reference Boeing 727, 737, and 747 Airplane Maintenance Manuals, Standard Wiring Practices Manuals, and Standard Overhaul Practices Manuals for the leak check and repair instructions if any discrepancy is found.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Difference Between the Service Bulletins and This Proposed AD

Although the service bulletins recommend accomplishing the specified actions at the earliest opportunity when manpower, materials, and facilities are available, we have determined that such an imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the required actions (between 44 and 68 work hours). In light of all of these factors, we find a 5-year compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 5,085 airplanes of the affected design in the worldwide fleet. We estimate that 2,251 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact to do the proposed actions for airplanes affected by this proposed AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $6,302,640.

Model	Number of U.S.-registered airplanes	Work hours (estimated)	Labor cost (estimated)	Maximum fleet cost (estimated)
727	910	44	$2,640	$2,402,400
737	1,091	44	2,640	2,880,240
747	250	68	4,080	1,020,000

The cost impact figures discussed above are 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 proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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:

Boeing: Docket 2001–NM–297–AD.

Applicability: This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

Model—	As listed in—
727–100 and –200 series airplanes	Boeing Alert Service Bulletin 727–29A0067, dated June 7, 2001.
737–100, –200, –200C, –300, –400 and –500 series airplanes	Boeing Alert Service Bulletin 737–29A1096, dated June 7, 2001.
747 series airplanes	Boeing Alert Service Bulletin 747–29A2104, dated July 19, 2001.

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 ensure adequate electrical bonding between the penetration fittings of the hydraulic heat exchanger and the rear spars of the fuel tanks of the left and right wings, accomplish the following:

Prepare Electrical Bonding Faying Surfaces/ Measure Electrical Bonding

(a) Within 5 years after the effective date of this AD: Prepare the electrical bonding faying surfaces on the forward and aft surfaces of the rear spars of the fuel tanks of the left and right wings, and do a one-time measurement of the electrical bonding resistances between the penetration fittings of the hydraulic heat exchanger and the rear spars, and between the heat exchanger tube and the lower wing stringer surfaces, per the Accomplishment Instructions of the applicable Boeing alert service bulletin listed in Table 2 of this AD. The procedures include the following: Depressurize the hydraulic systems; drain the fuel from the fuel tanks; disconnect the inlet and outlet tubes of the heat exchangers and remove the heat exchangers; prepare the faying surface by sanding the surface areas down to bare metal and apply alodine protective coating on the surfaces, and re-install the heat exchangers. Before further flight, do the corrective action for any incorrect bonding resistance per the Accomplishment Instructions of the applicable service bulletin listed in Table 2 of this AD, as follows:

TABLE 2.—SERVICE BULLETINS

Model	Service bulletin	Revision level	Date
727–100 and –200	727–29A0067	Original	June 7, 2001.
737–100, –200, –200C, –300, –400 and –500	737–29A1096	Original	June 7, 2001.
747	747–29A2104	Original	July 19, 2001.

Follow-On Actions

(b) Before further flight after accomplishment of paragraph (a) of this AD: Apply fillet sealant and protective finishes around the penetration fittings of the hydraulic heat exchanger per the Accomplishment Instructions of the applicable Boeing alert service bulletin listed in Table 2 of this AD (per Figure 4 of Boeing Alert Service Bulletin 727–29A0067, per Figure 4 Boeing Alert Service Bulletin 747–29A2104, or per Figure 8 of Boeing Alert Service Bulletin 737–29A1096, as applicable); then service and pressurize the hydraulic systems and examine for signs of hydraulic fluid leakage; and service the fuel tank and examine for signs of fuel leakage per the Accomplishment Instructions of the applicable service bulletin listed in Table 2 of this AD. Repair any leaks found before further flight, per the applicable service bulletin listed in Table 2 of this AD.

Alternative Methods of Compliance

(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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(d) Special flight permits may be issued in accordance with §§ 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.

Issued in Renton, Washington, on July 15, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–18418 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–372–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require an inspection to detect chafing or damage to the electrical wire harnesses in the left- and right-hand wing fuel

tanks, applicable corrective action(s) if necessary, and installation of harnesses. For certain airplanes, this proposal also would require modifying the collector tank walls. This action is necessary to prevent chafing damage to the electrical wire harnesses in the left and right wing fuel tanks, which could cause misleading data and erroneous fuel pump cautions to be displayed to the flightcrew, and could result in electrical arcing with consequent increased potential for fire or explosion in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 20, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–372–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–372–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rosanne Ryburn, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2139; 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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–372–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. 2001–NM–372–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that an operator reported a damaged fuel tank harness, which resulted in an ''R FUEL PUMP FAULT'' caution. Inspection of the fuel tank wire harnesses revealed evidence of chafing due to the proximity of the wire harnesses to the openings in the metal collector tank walls. Chafing of the wire harness against the collector tank walls could expose the electric wiring in the harness to the collector tank wall. This condition, if not corrected, could cause misleading data and erroneous fuel pump cautions to be displayed to the flightcrew, and could result in electrical arcing with consequent increased potential for fire or explosion in the fuel tank.

Explanation of Relevant Service Information

Saab has issued Service Bulletin SAAB 2000–28–012, dated October 1, 2001, which describes procedures for a detailed inspection to detect chafing or damage to the electrical wire harnesses in the left- and right-hand wing fuel tanks; and applicable corrective action(s) if necessary. The corrective actions include:

- Adding and sealing a new piece of shrinkable tubing to repair a chafed/damaged area;
- Performing additional inspections; and
- Installing a new harness.

For certain airplanes, the service bulletin also describes procedures for modifying the collector tank walls. The modification includes:

- Increasing the cut out in the forward upper wall of the collector tanks;
- Removing all burrs and debris; breaking all sharp edges; applying alodine to the new edges; and
- Applying new part numbers to the doors.

In addition, the service bulletin describes procedures for installation of harnesses, which includes:

- Installing additional harness clamps;
- Cleaning the attaching surfaces;
- Installing new O-rings; and
- Applying primer and sealant.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive 1–168, dated October 1, 2001, in order to assure the continued airworthiness of these airplanes in Sweden. The Swedish airworthiness directive contains a typographical error in that it references Saab Service Bulletin ''SAAB 200–28–012'' instead of Saab Service Bulletin ''SAAB 2000–28–012.''

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are

certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Swedish Airworthiness Directive

The proposed AD would differ from the parallel Swedish airworthiness directive in that, if it is not possible to repair the chafed and/or opened area with a new piece of Viton shrinkable tubing, the proposed AD instructs operators to install a new electrical wire harness before further flight. The Swedish airworthiness directive instructs operators to return the damaged harness to Saab for repair. The FAA has notified the LFV of this difference in the proposed AD.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 80 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $455 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,765, or $5,255 per airplane.

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 proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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:

SAAB Aircraft AB: Docket 2001–NM–372–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers SAAB 2000–004 through −063 inclusive, 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 (f) 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 chafing damage to the electrical wire harnesses in the left- and right-hand wing fuel tanks, which could cause misleading data and erroneous fuel pump cautions to be displayed to the flightcrew, and could result in electrical arcing with consequent increased potential for fire or explosion in the fuel tank, accomplish the following:

Inspection

(a) *For all airplanes:* Within 18 months after the effective date of this AD, do a detailed inspection to detect chafing or damage to the electrical wire harnesses in the left- and right-hand wing fuel tanks, per the Accomplishment Instructions of Saab Service Bulletin SAAB 2000–28–012, dated October 1, 2001.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Chafing or Damage: Corrective Actions

(b) If any chafing or damage is detected during the inspection required by paragraph (a) of this AD: Before further flight, do the applicable corrective action(s) (*e.g.*, adding and sealing a new piece of Viton shrinkable tubing to repair a chafed/damaged area; and additional inspection) per paragraphs 2.C.(2)(b) and 2.C.(2)(c) of the Accomplishment Instructions of Saab Service Bulletin SAAB 2000–28–012, dated October 1, 2001, except as provided by paragraph (c) of this AD.

(c) For cases where it is not possible to repair the chafed and/or opened area with a new piece of Viton shrinkable tubing: Before further flight, install a new electrical wire harness per paragraph 2.E.(1) of the Accomplishment Instructions of Saab Service Bulletin SAAB 2000–28–012, dated October 1, 2001.

Modification (for Certain Airplanes)

(d) For airplanes having serial numbers SAAB 2000–007 through −063 inclusive: Within 18 months after the effective date of this AD, modify the collector tank walls by accomplishing all the actions specified in paragraph 2.D. of the Accomplishment Instructions of Saab Service Bulletin SAAB 2000–28–012, dated October 1, 2001.

Installation

(e) *For all airplanes:* Within 18 months after the effective date of this AD, install new electrical wire harnesses by accomplishing all the actions specified in paragraph 2.E. of the Accomplishment Instructions of Saab Service Bulletin SAAB 2000–28–012, dated October 1, 2001.

Alternative Methods of Compliance

(f) 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, Transport Airplane Directorate, FAA. 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) 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 4: The subject of this AD is addressed in Swedish airworthiness directive 1–168, dated October 1, 2001.

Issued in Renton, Washington, on July 15, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–18419 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, and –200C series airplanes, that currently requires repetitive inspections to detect discrepancies in the upper and lower skins of the fuselage lap joint, and repair if necessary. This action would add new inspections, reduce the repetitive inspection intervals for certain airplanes, and mandate a terminating modification. The actions specified by the proposed AD are intended to detect and correct discrepancies in the upper and lower skins of the fuselage lap joint and circumferential joint, which could result in sudden fracture and failure of a lap joint or circumferential joint and rapid decompression of the airplane fuselage.

DATES: Comments must be received by September 4, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002-NM–150-AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6452; fax (425) 917–6590.

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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–150–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. 2002–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 18, 2000, the FAA issued AD 2000–17–04, amendment 39–11878 (65 FR 51750, August 25, 2000), applicable to certain Boeing Model 737–100, –200, and –200C series airplanes, to require repetitive inspections to detect discrepancies in the upper and lower skins of the fuselage lap joint, and repair if necessary. That action was prompted by a report indicating in-flight rapid decompression of a Boeing Model 737 series airplane. The requirements of that AD are intended to detect and correct such discrepancies, which could result in sudden fracture and failure of a lap joint and rapid decompression of the airplane fuselage.

Actions Since Issuance of Previous Rule

In the preamble to AD 2000–17–04, we indicated that the actions required by that AD were considered ''interim action'' and that the manufacturer was developing a modification to address the unsafe condition. The manufacturer now has developed such a modification, and we have determined that further rulemaking action is indeed necessary; this proposed AD follows from that determination.

Additionally, we have determined that the inspections for cracking as specified in paragraph (a) of the existing AD do not provide the crack detection necessary to support the compliance time for the repetitive inspection intervals. Therefore, we are proposing to reduce the compliance time for the

repetitive inspections for airplanes with more than 70,000 total flight cycles.

Also, since the issuance of AD 2000–17–04, we have received damage reports on 75 percent of the airplanes on which the inspections required by that AD had been done, and almost half of the reports indicated that damage was found. The reports indicate that 18 airplanes had cracking damage on the upper and lower rows of the lap joint, and 19 airplanes had corrosion damage with some of the corrosion extending the entire length of the lap joint. On one airplane, a 25-inch section of the lap joint was very corroded. Other corrosion damage of the lap joints, which was due to improper repairs, was also reported. Skin corrosion of the circumferential joints was also found. Such conditions, if not detected and corrected, could result in sudden fracture and failure of a lap joint or circumferential joint and rapid decompression of the airplane fuselage.

Explanation of Relevant Service Information

We have reviewed and approved Boeing Alert Service Bulletin 737–53A1224, Revision 1, dated March 14, 2002, which describes procedures for inspections (eddy current, nondestructive test, and detailed) to detect discrepancies (*i.e.*, cracks, pillowing, corrosion, delamination, or loose or missing fasteners) in the upper and lower skins of the fuselage lap joint and circumferential joint, and repair of any discrepancies. The service bulletin also describes procedures for a terminating modification, which includes removal of the upper and lower skins along the full length of the three-row lap joint and repair of the production joint. To ensure that the lap joint repair is structurally sound, the service bulletin describes procedures to inspect to find any additional existing skin damage and repair damage (corrosion, cracking, excessive blendouts, disbonding). The terminating modification involves repair of the entire length of all lap joints between body stations 259.5 and 1016. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–17–04 to continue to require inspections to detect discrepancies in the upper and lower skins of the fuselage lap joint, and repair if necessary. This new action would add new inspections, reduce the repetitive inspection intervals for certain airplanes, and mandate a terminating modification. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Difference Between Alert Service Bulletin and This AD

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD; therefore, paragraph (d) and Note 1 of AD 2000–17–04 are not included in this proposed AD. However, this proposed AD identifies the office authorized to approve alternative methods of compliance.

Cost Impact

There are approximately 291 airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 2000–17–04 take approximately 575 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $2,070,000, or $34,500 per airplane.

The new inspections that are proposed in this AD action would take approximately 341 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $1,227,600, or $20,460 per airplane.

The terminating modification that is proposed in this AD action would take approximately 15,000 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $54,000,000, or $900,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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 removing amendment 39–11878 (65 FR 51750, August 25, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2002–NM–150–AD. Supersedes AD 2000–17–04, Amendment 39–11878.

Applicability: Model 737–100, -200, and -200C series airplanes; line numbers 1 through 291 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct discrepancies in the upper and lower skins of the fuselage lap joint and circumferential joint, which could result in sudden fracture and failure of a lap joint or circumferential joint and rapid decompression of the airplane fuselage, accomplish the following:

Requirements of AD 2000–17–04

Initial and Repetitive Inspections

(a) Perform the applicable (initial and repetitive) inspections as specified in Figures 1 through 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1224, dated August 17, 2000, to detect discrepancies (*i.e.*, cracks, pillowing, corrosion, delamination, or loose or missing fasteners) in the upper and lower skins of the fuselage lap joint. Perform the inspections at the applicable times specified in Tables 1 and 2 of Section 1.E. ''Compliance'' of the alert service bulletin, in accordance with the alert service bulletin; except that where Table 1 specifies a compliance time of ''airplane flight cycles at time of service bulletin release,'' this AD requires a compliance time of ''airplane flight cycles as of September 11, 2000 (the effective date of AD 2000–17–04, amendment 39–11878).''

Repair

(b) Prior to further flight: Repair any discrepancies detected during any inspection required by paragraph (a) of this AD in accordance with Boeing Alert Service Bulletin 737–53A1224, dated August 17, 2000; repair any discrepancies detected during any inspection required by paragraph (c) of this AD in accordance with Boeing Alert Service Bulletin 737–53A1224, Revision 1, dated March 14, 2002. If any discrepancy is detected and the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repairs, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

New Requirements of This AD

Compliance Times

(c) Where the compliance times in Section 1.E. ''Compliance'' of Boeing Alert Service Bulletin 737–53A1224, Revision 1, dated March 14, 2002, specify a compliance time interval calculated ''from release of service bulletin,'' this AD requires compliance within the interval specified in the service bulletin ''after the effective date of this AD.'' In addition, where the compliance time for the initial and repetitive inspections in Tables 1 through 3 of Section 1.E. ''Compliance'' of the service bulletin specifies ''airplane flight cycles at time of service bulletin release,'' this AD requires a compliance time of ''airplane flight cycles as of the effective date of this AD.''

Initial and Repetitive Inspections

(d) Except as provided by paragraph (e) of this AD: Perform the applicable (initial and repetitive) inspections as specified in Figures 1 through 9 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1224, Revision 1, dated March 14, 2002, to detect discrepancies (*i.e.*, cracks, pillowing, corrosion, delamination, or loose or missing fasteners) in the upper and lower skins of the fuselage lap joint and circumferential joint. Perform the inspections at the applicable times specified in Tables 1 and 2 of Section 1.E. ''Compliance'' of the alert service bulletin, in accordance with the alert service bulletin, until accomplishment of paragraph (f) of this AD. Accomplishment of this paragraph terminates the inspections required by paragraph (a) of this AD.

(e) For airplanes that have accumulated more than 70,000 total flight cycles as of the effective date of this AD: Do the first repeat inspection at the earlier of the times specified in paragraph (e)(1) or (e)(2) of this AD, and repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles.

(1) Within 2,000 flight cycles after the last inspection done per AD 2000–17–04.

(2) Within 1,000 flight cycles after the last inspection done per AD 2000–17–04, or within 500 flight cycles after the effective date of this AD, whichever is later.

Terminating Modification

(f) Perform the modification of the skin of all fuselage lap joints between body stations 259.5 and 1016 per Part IV of the Work Instructions of Boeing Alert Service Bulletin 737–53A1224, Revision 1, dated March 14, 2002; at the applicable times specified in Table 3 of Section 1.E. ''Compliance'' of the alert service bulletin; in accordance with the alert service bulletin. Accomplishment of this paragraph terminates the repetitive inspection requirements of this AD.

Alternative Methods of Compliance

(g)(1) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, is authorized to approve alternative methods of compliance (AMOC) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Issued in Renton, Washington, on July 15, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–18420 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–138499–02]

RIN 1545–BB05

Changes in Use Under Section 168(i)(5)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the depreciation of property subject to section 168 of the Internal Revenue Code (MACRS property). Specifically, these proposed regulations provide guidance on how to depreciate MACRS property for which the use changes in the hands of the same taxpayer. The proposed regulations reflect changes to the law made by the Tax Reform Act of 1986. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 20, 2003. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for Wednesday, December 3, 2003, at 10 a.m., must be received by November 12, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–138499–02), room 5226, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–138499–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the IRS Internet site at: *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Sara Logan, (202) 622–3110; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garrett, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 to provide regulations under section 168(i)(5) of the Internal Revenue Code (Code). In addition, these proposed amendments provide change-in-use rules for assets in a general asset account under section 168(i)(4). Sections 168(i)(4) and 168(i)(5) were amended by section 201 of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2121).

Explanation of Provisions

Scope

The proposed regulations provide the rules for determining the annual depreciation allowance under section 168 for property for which the use changes in the hands of the taxpayer. Changes in use include a conversion of personal use property to a business or income-producing use, a conversion of MACRS property to personal use, or a change in use of MACRS property that results in a different recovery period, depreciation method, or both.

Conversion to Business or Personal Use

The proposed regulations provide that personal use property converted to business or income-producing use is treated as being placed in service by the taxpayer on the date of the conversion. Thus, the property is depreciated by using the applicable depreciation method, recovery period, and convention prescribed under section 168 for the property beginning in the taxable year the change of use (''year of change'') occurs. The depreciable basis of the property for the year of change is the lesser of its fair market value or adjusted depreciable basis at the time of the conversion.

A conversion of MACRS property from business or income-producing use to personal use is treated as a disposition of the property. Depreciation for the year of change is computed by taking into account the applicable convention. No gain, loss, or depreciation recapture is recognized upon the conversion. See Rev. Rul. 69–487 (1969–2 C.B. 165).

MACRS Property

Use Changes After Placed-In-Service Year

The proposed regulations provide rules for MACRS property if a taxpayer changes the use of the property after the property's placed-in-service year but the property continues to be MACRS property in the hands of the taxpayer.

In general, the proposed regulations provide that a change in the use of MACRS property occurs when the primary use of the MACRS property in the taxable year is different from its primary use in the immediately preceding taxable year. A change in the use of MACRS property also occurs when a taxpayer begins or ceases to use MACRS property predominantly outside the United States, when the property changes to tax-exempt bond financed property, or when the property changes to or from tax-exempt use property or imported property covered by an Executive order, during the taxable year. If a change in the use of MACRS property has occurred, the depreciation allowance for the MACRS property for the year of change is determined as though the change in the use of the MACRS property occurred on the first day of the year of change. The IRS and Treasury Department believe that this rule will help to simplify the computation of depreciation allowances in the year of change and subsequent taxable years. The IRS and Treasury Department invite comments on this rule and on a potential alternative rule that would treat a change in the use of MACRS property as occurring on the first day of the month in which the use changes and would allocate the depreciation allowance for that MACRS property for the year of change based on the number of full months of the old use and of the new use of the MACRS property during the year of change.

The proposed regulations also provide rules for determining the applicable depreciation method, recovery period, and convention used to determine the depreciation allowances for the MACRS property for the year of change and subsequent taxable years. If a change in the use of MACRS property results in a shorter recovery period and/or a more accelerated depreciation method (for example, MACRS property ceases to be used predominantly outside the United States), the adjusted depreciable basis of the property as of the beginning of the year of change is depreciated over the shorter recovery period and/or by the more accelerated depreciation method beginning with the year of change as though the MACRS property is first placed in service in the year of change. Under certain circumstances, this rule may adversely affect taxpayers. For example, under this rule, if a change in the use of MACRS property results in a shorter recovery period, a taxpayer must depreciate that MACRS property over the new shorter recovery period even if the remaining portion of the original longer recovery period is less than the new shorter recovery period. To avoid this adverse effect, the proposed regulations allow a taxpayer to elect to continue to depreciate the MACRS property for which the new recovery period is shorter or a more accelerated method is allowed as though the change in use had not occurred.

If a change in the use of MACRS property results in a longer recovery period and/or slower depreciation method (for example, MACRS property begins to be used predominantly outside the United States), the adjusted depreciable basis of the property is depreciated over the longer recovery period and/or by the slower depreciation method beginning with the year of change as though the taxpayer originally placed the MACRS property in service with the longer recovery period and/or slower depreciation method. Accordingly, the adjusted depreciable basis of the MACRS property as of the beginning of the year of change is depreciated over the remaining portion of the new, longer recovery period as of the beginning of the year of change.

For MACRS property depreciated under the optional depreciation tables in Rev. Proc. 87–57 (1987–2 C.B. 687) before the change in use, the taxpayer may continue to depreciate the property under the tables after the change in use. However, the taxpayer is not required to do so. If the taxpayer desires to use the optional depreciation tables after a change in the use instead of the formulas (for example, *see* section 6 of Rev. Proc. 87–57 (1987–2 C.B. at 692)), the proposed regulations provide guidance on choosing the applicable optional depreciation table. If the change in use results in a longer recovery period and/or a slower depreciation method, the proposed regulations also provide guidance on how to modify the calculation involved to compute the depreciation allowances beginning in the year of change.

If a change in the use of MACRS property results in a shorter recovery period and/or more accelerated depreciation method, the taxpayer may use the optional depreciation table that corresponds to the applicable depreciation method, recovery period, and convention, determined as though the property is placed in service in the year of change. Taxpayers should be aware that using this table will result in less depreciation than using the formulas, because the convention is factored into the optional depreciation tables, and taken into account in determining depreciation in the year of change. However, if the formulas are used, the convention is not taken into

account in the year of change. The IRS and Treasury Department invite comments on this matter.

Use Changes During Placed-In-Service Year

The proposed regulations provide rules for MACRS property if a change in the use occurs during the taxable year the property is placed-in-service and the property continues to be MACRS property in the hands of the taxpayer. If the use of MACRS property changes during its placed-in-service year, the depreciation allowance generally is determined by the primary use of the property during that taxable year. However, in determining whether MACRS property is used within or outside the United States during the placed-in-service year, the predominant use, instead of the primary use, of the MACRS property governs. Further, in determining whether MACRS property is tax-exempt use property or imported property covered by an Executive order during the placed-in-service year, the use of the property at the end of the placed-in-service year governs. Moreover, MACRS property is tax-exempt bond financed property during the placed-in-service year if a tax-exempt bond for the MACRS property is issued during that year.

General Asset Accounts

Finally, the proposed regulations amend the final regulations under section 168(i)(4) (TD 8566, 59 FR 51369 (1994)) for property accounted for in a general asset account for which the use changes, resulting in a different recovery period and/or depreciation method. While this change in use does not cause or permit the revocation of the election to account for the property in a general asset account, the property generally is removed from its existing general asset account and placed in a separate general asset account. Because this rule would require taxpayers to track each property in a general asset account, the IRS and Treasury Department request comments on whether the IRS and Treasury should adopt a rule that disregards any change in the use of any MACRS property accounted for in a general asset account, except for a conversion to personal use.

Proposed Effective Date

These regulations are proposed to be applicable for any changes in the use of MACRS property in taxable years ending on or after the date of publication of the final regulations in the **Federal Register**. For any changes in use of MACRS property after December 31, 1986, in taxable years ending before the date of publication of the final regulations in the **Federal Register**, the IRS will allow any reasonable method of depreciating the property under section 168 in the year of change and the subsequent taxable years that is consistently applied to the MACRS property that changed use in the hands of the taxpayer.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 3, 2003, beginning at 10 a.m., in room number 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by November 12, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Sara Logan, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.168(i)–1 also issued under 26 U.S.C. 168(i)(4).

§ 1.168(i)–4 also issued under 26 U.S.C. 168(i)(5).

2. Sections 1.168(a)–1 and 1.168(b)–1 are added to read as follows:

§ 1.168(a)–1 Modified accelerated cost recovery system.

Section 168 determines the depreciation allowance for tangible property that is of a character subject to the allowance for depreciation provided in section 167(a) and that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143). Except for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule, the provisions of section 168 are mandatory for all eligible property. The allowance for depreciation under section 168 constitutes the amount of depreciation allowable under section 167(a). The determination of whether tangible property is property of a character subject to the allowance for depreciation is made under section 167 and the regulations thereunder. This section is effective as of the date of publication of the final regulations in the **Federal Register**.

§ 1.168(b)–1 Definitions.

(a) *Definitions.* For purposes of section 168 and the regulations thereunder, the following definitions apply:

(1) *Depreciable property* is property that is of a character subject to the allowance for depreciation as determined under section 167 and the regulations thereunder.

(2) *MACRS property* is tangible, depreciable property that is placed in service after December 31, 1986 (or after July 31, 1986, if the taxpayer made an election under section 203(a)(1)(B) of the Tax Reform Act of 1986; 100 Stat. 2143), and subject to section 168, except for property excluded from the application of section 168 as a result of section 168(f) or as a result of a transitional rule.

(3) *Unadjusted depreciable basis* is the basis of property for purposes of section 1011 without regard to any adjustments described in section 1016(a)(2) and (3). This basis reflects the reduction in basis for the percentage of the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income), for any portion of the basis the taxpayer properly elects to treat as an expense under section 179, and for any adjustments to basis provided by other provisions of the Internal Revenue Code and the regulations thereunder (other than section 1016(a)(2) and (3)) (for example, a reduction in basis by the amount of the disabled access credit pursuant to section 44(d)(7)). For property subject to a lease, *see* section 167(c)(2).

(4) *Adjusted depreciable basis* is the unadjusted depreciable basis of the property less the adjustments described in section 1016(a)(2) and (3).

(b) *Effective date.* This section applies as of the date of publication of the final regulations in the **Federal Register**.

3. Section 1.168(i)–0 is amended by revising the entry for § 1.168(i)–1(h)(2) to read as follows:

§ 1.168(i)–0 Table of contents for the general asset account rules.

* * * * *

§ 1.168(i)–1

* * * * *

(h) * * *

(2) Change in use results in a different recovery period and/or depreciation method.

* * * * *

4. Section 1.168(i)–1 is amended by:

1. Revising paragraph (b)(1).

2. Amending paragraph (c)(2)(ii) by:

a. Removing the language ''and'' from the end of paragraph (c)(2)(ii)(C).

b. Removing the period ''.'' from the end of paragraph (c)(2)(ii)(D) and adding ''; and'' in its place.

c. Adding paragraph (c)(2)(ii)(E).

3. Removing the language ''(h)(1) (conversion to personal use)'' from paragraphs (d)(2) and (i) and adding ''(h) (changes in use)'' in its place.

4. Removing the language ''the change in use occurs and'' from the last sentence of paragraph (h)(1) and adding ''the change in use occurs (the year of change) and'' in its place.

5. Revising paragraph (h)(2).

6. Removing the language ''(h)(1)'' from paragraph (j) and adding ''(h)'' in its place.

7. Removing the language ''(h)(1)'' from paragraph (k)(1) and adding ''(h)'' in its place.

8. Revising paragraph (l).

The addition and revisions read as follows:

§ 1.168(i)–1 General asset accounts.

* * * * *

(b) * * *

(1) *Unadjusted depreciable basis* is the basis of an asset for purposes of section 1011 without regard to any adjustments described in section 1016(a)(2) and (3). This basis reflects the reduction in basis for the percentage of the taxpayer's use of property for the taxable year other than in the taxpayer's trade or business (or for the production of income), for any portion of the basis the taxpayer properly elects to treat as an expense under section 179, and for any adjustments to basis provided by other provisions of the Internal Revenue Code and the regulations thereunder (other than section 1016(a)(2) and (3)) (for example, a reduction in basis by the amount of the disabled access credit pursuant to section 44(d)(7)). For property subject to a lease, *see* section 167(c)(2).

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(E) Assets subject to paragraph (h)(2)(iii)(A) of this section (change in use results in a shorter recovery period and/or a more accelerated depreciation method) for which the depreciation allowance for the year of change is not determined by using an optional depreciation table must be grouped into a separate general asset account.

* * * * *

(h) * * *

(2) *Change in use results in a different recovery period and/or depreciation method*—(i) *No effect on general asset account election.* A change in the use described in § 1.168(i)–4(d) (change in use results in a different recovery period and/or depreciation method) of an asset in a general asset account shall not cause or permit the revocation of the election made under this section.

(ii) *Asset is removed from the general asset account.* Upon a change in the use described in § 1.168(i)–4(d), the taxpayer must remove the asset from the general asset account as of the first day of the year of change and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section. If, however, the result of the change in use is described in § 1.168(i)–4(d)(3) (change in use results in a shorter recovery period and/or a more accelerated depreciation method) and the taxpayer elects to treat the asset as though the change in use had not occurred pursuant to § 1.168(i)–4(d)(3)(ii), no adjustment is made to the general asset account upon the change in use.

(iii) *New general asset account is established*—(A) *Change in use results in a shorter recovery period and/or a more accelerated depreciation method.* If the result of the change in use is described in § 1.168(i)–4(d)(3) (change in use results in a shorter recovery period and/or a more accelerated depreciation method) and adjustments to the general asset account are made pursuant to paragraph (h)(2)(ii) of this section, the taxpayer must establish a new general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the adjusted depreciable basis of the asset as of the first day of the year of change is included in the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)–4(d)(3)(i).

(B) *Change in use results in a longer recovery period and/or a slower depreciation method.* If the result of the change in use is described in § 1.168(i)–4(d)(4) (change in use results in a longer recovery period and/or a slower depreciation method), the taxpayer must establish a separate general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable basis of the asset, and the greater of the depreciation of the asset allowed or allowable in accordance with section 1016(a)(2), as of the first day of the year of change are included in the newly established general asset account. Consequently, this general asset account as of the first day of the year of change will have a beginning balance for both the unadjusted depreciable basis and the

depreciation reserve of the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)–4(d)(4)(ii).

* * * * *

(l) *Effective date*—(1) *In general.* Except as provided in paragraph (l)(2) of this section, this section applies to depreciable assets placed in service in taxable years ending on or after October 11, 1994. For depreciable assets placed in service after December 31, 1986, in taxable years ending before October 11, 1994, the Internal Revenue Service will allow any reasonable method that is consistently applied to the taxpayer's general asset accounts.

(2) *Exceptions*—(i) *In general.* Paragraphs (c)(2)(ii)(E) and (h)(2) of this section apply to any changes in the use of depreciable assets pursuant to § 1.168(i)–4(d) in taxable years ending on or after the date of publication of the final regulations in the **Federal Register**. For any changes in the use of depreciable assets as described in § 1.168(i)–4(d) after December 31, 1986, in taxable years ending before the date of publication of the final regulations in the **Federal Register**, the Internal Revenue Service will allow any reasonable method that is consistently applied to the taxpayer's general asset accounts.

(ii) *Change in method of accounting.* If a taxpayer adopted a method of accounting for general asset account treatment due to a change in the use of depreciable assets and the method is not in accordance with the method of accounting provided in paragraphs (c)(2)(ii)(E) and (h)(2) of this section, a change to the method of accounting provided in paragraphs (c)(2)(ii)(E) and (h)(2) of this section is a change in method of accounting to which the provisions of sections 446(e) and 481 apply. For any taxable year ending on or after the date of publication of the final regulations in the **Federal Register**, a taxpayer changing its method of accounting in accordance with this paragraph (l)(2)(ii) must follow the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, for example, *see* Rev. Proc. 2002–9 (2002–1 C.B. 327) and § 601.601(d)(2)(ii)(*b*) of this chapter). Because this change does not change the adjusted depreciable basis of the asset, the method change is made on a cut-off basis and, therefore, no adjustment under section 481(a) is required or allowed.

5. Section 1.168(i)–4 is added to read as follows:

§ 1.168(i)–4 Changes in use.

(a) *Scope.* This section provides the rules for determining the depreciation allowance for MACRS property for which the use changes in the hands of the same taxpayer. The allowance for depreciation under this section constitutes the amount of depreciation allowable under section 167(a) for the year of change and any subsequent taxable year. For purposes of this section, the year of change is the taxable year in which a change in the use occurs.

(b) *Conversion to business or income-producing use*—(1) *Depreciation deduction allowable.* This paragraph (b) applies to property that is converted from personal use to use in a taxpayer's trade or business, or for the production of income, during a taxable year. This conversion includes property that was previously used by the taxpayer for personal purposes, including real property (other than land) that is acquired before 1987 and converted from personal use to business or income-producing use after 1986, and depreciable property that was previously used by a tax-exempt entity before it changed to a taxable entity. Upon a conversion to business or income-producing use, the depreciation allowance for the year of change and any subsequent taxable year is determined as though the property is placed in service by the taxpayer on the date on which the conversion occurs. Thus, the taxpayer may choose any applicable depreciation method, recovery period, and convention prescribed under section 168 for the property in the year of change, consistent with any election made under section 168 by the taxpayer for that year (*see,* for example, section 168(b)(5)). The depreciable basis of the property for the year of change is the lesser of its fair market value or its adjusted depreciable basis, as applicable, at the time of the conversion to business or income-producing use.

(2) *Example.* The application of this paragraph (b) is illustrated by the following example:

Example. A, a calendar-year taxpayer, purchases a house in 1985 that she occupies as her principal residence. In February 2003, *A* ceases to occupy the house and converts it to residential rental property. At the time of the conversion to residential rental property, the house's fair market value (excluding land) is $130,000 and adjusted depreciable basis attributable to the house (excluding land) is $150,000. Pursuant to this paragraph (b), *A* is considered to have placed in service residential rental property in February 2003 with a depreciable basis of $130,000. *A* depreciates the residential rental property under the general depreciation system by using the straight-line method, a 27.5-year recovery period, and the mid-month convention. This property is not eligible for the additional first year depreciation deduction provided by section 168(k) or section 1400L(b). Thus, the depreciation allowance for the house for 2003 is $4,137, after taking into account the mid-month convention (($130,000 adjusted depreciable basis multiplied by the applicable depreciation rate of 3.636% (1/27.5)) multiplied by the mid-month convention fraction of 10.5/12). The amount of depreciation computed under section 168, however, may be limited under other provisions of the Internal Revenue Code, such as, section 280A.

(c) *Conversion to personal use.* The conversion of MACRS property from business or income-producing use to personal use during a taxable year is treated as a disposition of the property in that taxable year. The depreciation allowance for MACRS property for the year of change in which the property is treated as being disposed of is determined by first multiplying the adjusted depreciable basis of the property as of the first day of the year of change by the applicable depreciation rate for that taxable year (for further guidance, for example, see section 6 of Rev. Proc. 87–57 (1987–2 C. B. 687, 692), and § 601.601(d)(2)(ii)(*b*) of this chapter). This amount is then multiplied by a fraction, the numerator of which is the number of months (including fractions of months) the property is deemed to be placed in service during the year of change (taking into account the applicable convention) and the denominator of which is 12. No depreciation deduction is allowable for MACRS property placed in service and disposed of in the same taxable year. Upon the conversion to personal use, no gain, loss, or depreciation recapture under section 1245 or section 1250 is recognized. However, the provisions of section 1245 or section 1250 apply to any disposition of the converted property by the taxpayer at a later date.

(d) *Change in use results in a different recovery period and/or depreciation method*—(1) *In general.* This paragraph (d) applies to a change in the use of MACRS property during a taxable year subsequent to the placed-in-service year, if the property continues to be MACRS property owned by the same taxpayer and, as a result of the change in use, has a different recovery period, a different depreciation method, or both. For example, this paragraph (d) applies to MACRS property that—

(i) Begins or ceases to be used predominantly outside the United States;

(ii) Results in a reclassification of the property under section 168(e) due to a change in the use of the property; or

(iii) Begins or ceases to be tax-exempt use property (as defined in section 168(h)).

(2) *Determination of change in use*—(i) *In general.* Except as provided in paragraph (d)(2)(ii) of this section, a change in the use of MACRS property occurs when the primary use of the MACRS property in the taxable year is different from its primary use in the immediately preceding taxable year. The primary use of MACRS property may be determined in any reasonable manner that is consistently applied to the taxpayer's MACRS property.

(ii) *Alternative depreciation system property*—(A) *Property used within or outside the United States.* A change in the use of MACRS property occurs when a taxpayer begins or ceases to use MACRS property predominantly outside the United States during the taxable year. The determination of whether MACRS property is used predominantly outside the United States is made in accordance with the test in § 1.48–1(g)(1)(i) for determining predominant use.

(B) *Tax-exempt bond financed property.* A change in the use of MACRS property occurs when the property changes to tax-exempt bond financed property, as described in section 168(g)(1)(C) and (g)(5), during the taxable year. For purposes of this paragraph (d), MACRS property changes to tax-exempt bond financed property when a tax-exempt bond is first issued after the MACRS property is placed in service. MACRS property continues to be tax-exempt bond financed property in the hands of the taxpayer even if the tax-exempt bond (including any refunding issue) is no longer outstanding or is redeemed.

(C) *Other mandatory alternative depreciation system property.* A change in the use of MACRS property occurs when the property changes to, or changes from, property described in section 168(g)(1)(B) (tax-exempt use property) or (D) (imported property covered by an Executive order) during the taxable year.

(iii) *Change in use deemed to occur on first day of year.* If a change in the use of MACRS property occurs under this paragraph (d)(2), the depreciation allowance for that MACRS property for the year of change is determined as though the use of the MACRS property changed on the first day of the year of change.

(3) *Change in use results in a shorter recovery period and/or a more accelerated depreciation method*—(i) *Treated as placed in service in year of change*—(A) *In general.* If the change in use results in the MACRS property changing to a shorter recovery period and/or a depreciation method that is more accelerated than the method used for the MACRS property before the change in use, the depreciation allowances beginning in the year of change are determined as though the MACRS property is placed in service by the taxpayer in the year of the change in use.

(B) *Computation of depreciation allowance.* The depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are determined by multiplying the adjusted depreciable basis of the MACRS property as of the first day of each taxable year by the applicable depreciation rate for each taxable year. In determining the applicable depreciation rate for the year of change and subsequent taxable years, the taxpayer may choose any applicable depreciation method and recovery period prescribed under section 168 for the MACRS property in the year of change, consistent with any election made under section 168 by the taxpayer for that year (*see,* for example, section 168(b)(5)). If there is a change in the use of MACRS property, the applicable convention that applies to the MACRS property is the same as the convention that applied before the change in the use of the MACRS property. However, the depreciation allowance for the year of change for the MACRS property is determined without applying the applicable convention, unless the MACRS property is disposed of during the year of change. *See* paragraph (d)(5) of this section for the rules relating to the computation of the depreciation allowance under the optional depreciation tables. If the year of change or any subsequent taxable year is less than 12 months, the depreciation allowance determined under this paragraph (d)(3)(i) must be adjusted for a short taxable year (for further guidance, for example, *see* Rev. Proc. 89–15 (1989–1 C.B. 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(C) *Special rules.* MACRS property affected by this paragraph (d)(3)(i) is not eligible in the year of change for the election provided under section 168(f)(1), 179, or 1400L(f), or for the additional first-year depreciation deduction provided in section 168(k) or 1400L(b). For purposes of determining whether the mid-quarter convention applies to other MACRS property placed in service during the year of change, the unadjusted depreciable basis or the adjusted depreciable basis of MACRS property affected by this paragraph (d)(3)(i) is not taken into account.

(ii) *Option to disregard change in use.* In lieu of applying paragraph (d)(3)(i) of this section, the taxpayer may elect to determine the depreciation allowance as though the change in use had not occurred. The taxpayer elects this option by claiming on the taxpayer's timely filed (including extensions) income tax return for the year of change the depreciation allowance for the property as though the change in use had not occurred. *See* paragraph (g)(2) of this section for the manner for revoking this election.

(4) *Change in use results in a longer recovery period and/or a slower depreciation method*—(i) *Treated as originally placed in service with longer recovery period and/or slower depreciation method.* If the change in use results in a longer recovery period and/or a depreciation method for the MACRS property that is less accelerated than the method used for the MACRS property before the change in use, the depreciation allowances beginning with the year of change are determined as though the MACRS property had been originally placed in service by the taxpayer with the longer recovery period and/or the slower depreciation method.

(ii) *Computation of the depreciation allowance.* The depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are determined by multiplying the adjusted depreciable basis of the MACRS property as of the first day of each taxable year by the applicable depreciation rate for each taxable year. If there is a change in the use of MACRS property, the applicable convention that applies to the MACRS property is the same as the convention that applied before the change in the use of the MACRS property. If the year of change or any subsequent taxable year is less than 12 months, the depreciation allowance determined under this paragraph (d)(4)(ii) must be adjusted for a short taxable year (for further guidance, for example, *see* Rev. Proc. 89–15 (1989–1 C.B. 816) and § 601.601(d)(2)(ii)(b) of this chapter). *See* paragraph (d)(5) of this section for the rules relating to the computation of the depreciation allowance under the optional depreciation tables. In determining the applicable depreciation rate for the year of change and any subsequent taxable year—

(A) The applicable depreciation method is the depreciation method that

would apply in the year of change and any subsequent taxable year for the MACRS property had the taxpayer used the longer recovery period and/or the slower depreciation method in the placed-in-service year of the property. If the 200- or 150-percent declining balance method would have applied in the placed-in-service year but the method would have switched to the straight line method in the year of change or any prior taxable year, the applicable depreciation method beginning with the year of change is the straight line method; and

(B) The applicable recovery period is either—

(*1*) The longer recovery period resulting from the change in use if the applicable depreciation method is the 200- or 150-percent declining balance method (as determined under paragraph (d)(4)(ii)(A) of this section) unless the recovery period did not change as a result of the change in use, in which case the applicable recovery period is the same recovery period that applied before the change in use; or

(*2*) The number of years remaining as of the beginning of each taxable year (taking into account the applicable convention) had the taxpayer used the longer recovery period in the placed-in-service year of the property if the applicable depreciation method is the straight line method (as determined under paragraph (d)(4)(ii)(A) of this section) unless the recovery period did not change as a result of the change in use, in which case the applicable recovery period is the number of years remaining as of the beginning of each taxable year (taking into account the applicable convention) based on the recovery period that applied before the change in use.

(5) *Using optional depreciation tables*—(i) *Taxpayer not bound by prior use of table.* If a taxpayer used an optional depreciation table for the MACRS property before a change in the use, the taxpayer is not bound to use the appropriate new table for that MACRS property after the change in use (for further guidance, for example, *see* section 8 of Rev. Proc. 87–57 (1987–2 C.B. 687, 693) and § 601.601(d)(2)(ii)(*b*) of this chapter). If the taxpayer chooses not to continue to use the optional depreciation table, the depreciation allowances for the MACRS property beginning in the year of change are determined under paragraph (d)(3)(i) or (4) of this section, as applicable.

(ii) *Taxpayer chooses to use optional depreciation table after change in use.* If the taxpayer chooses to continue to use an optional depreciation table for the MACRS property after a change in the use, the depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are determined as follows:

(A) *Change in use results in a shorter recovery period and/or a more accelerated depreciation method.* If the change in use results in a shorter recovery period and/or a more accelerated depreciation method (as described in paragraph (d)(3)(i) of this section), the depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are determined by multiplying the adjusted depreciable basis of the MACRS property as of the first day of the year of change by the annual depreciation rate for each recovery year (expressed as a decimal equivalent) specified in the appropriate optional depreciation table. The appropriate optional depreciation table for the MACRS property is based on the depreciation system, depreciation method, recovery period, and convention applicable to the MACRS property in the year of change as determined under paragraph (d)(3)(i) of this section. The depreciation allowance for the year of change for the MACRS property is determined by taking into account the applicable convention (which is already factored into the optional depreciation tables). If the year of change or any subsequent taxable year is less than 12 months, the depreciation allowance determined under this paragraph (d)(5)(ii)(A) must be adjusted for a short taxable year (for further guidance, for example, *see* Rev. Proc. 89–15 (1989–1 C.B. 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(B) *Change in use results in a longer recovery period and/or a slower depreciation method*—(*1*) *Determination of the appropriate optional depreciation table.* If the change in use results in a longer recovery period and/or a slower depreciation method (as described in paragraph (d)(4)(i) of this section), the depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are determined by choosing the optional depreciation table that corresponds to the depreciation system, depreciation method, recovery period, and convention that would have applied to the MACRS property in the placed-in-service year had that property been originally placed in service by the taxpayer with the longer recovery period and/or the slower depreciation method. If there is a change in the use of MACRS property, the applicable convention that applies to the MACRS property is the same as the convention that applied before the change in the use of the MACRS property. If the year of change or any subsequent taxable year is less than 12 months, the depreciation allowance determined under this paragraph (d)(5)(ii)(B) must be adjusted for a short taxable year (for further guidance, for example, *see* Rev. Proc. 89–15 (1989–1 C.B. 816) and § 601.601(d)(2)(ii)(*b*) of this chapter).

(*2*) *Computation of the depreciation allowance.* The depreciation allowances for the MACRS property for any 12-month taxable year beginning with the year of change are computed by first determining the appropriate recovery year in the table identified under paragraph (d)(5)(ii)(B)(*1*) of this section. The appropriate recovery year for the year of change is the year that corresponds to the year of change. For example, if the recovery year for the year of change would have been Year 4 in the table that applied before the change in the use of the MACRS property, then the recovery year for the year of change is Year 4 in the table identified under paragraph (d)(5)(ii)(B)(*1*) of this section. Next, the annual depreciation rate (expressed as a decimal equivalent) for each recovery year is multiplied by a transaction coefficient. The transaction coefficient is the formula $(1/(1-x))$ where x equals the sum of the annual depreciation rates from the table identified under paragraph (d)(5)(ii)(B)(*1*) of this section (expressed as a decimal equivalent) for the taxable years beginning with the placed-in-service year of the MACRS property through the taxable year immediately prior to the year of change. The product of the annual depreciation rate and the transaction coefficient is multiplied by the adjusted depreciable basis of the MACRS property as of the beginning of the year of change.

(6) *Examples.* The application of this paragraph (d) is illustrated by the following examples:

Example 1. Change in use results in a shorter recovery period and/or a more accelerated depreciation method and optional depreciation table is not used—(i) *X,* a calendar-year corporation, places in service in 1998 equipment at a cost of $100,000 and uses this equipment from 1998 through 2002 primarily in its *A* business. *X* depreciates the equipment for 1998 through 2002 under the general depreciation system as 7-year property by using the 200-percent declining balance method (which switched to the straight-line method in 2002), a 7-year recovery period, and a half-year convention. Beginning in 2003, *X* primarily uses the equipment in its *B* business. As a result, the classification of the equipment under section 168(e) changes from 7-year property to 5-year property and the recovery period of the equipment under the general depreciation

system changes from 7 years to 5 years. The depreciation method does not change. On January 1, 2003, the adjusted depreciable basis of the equipment is $22,311. *X* depreciates its 5-year recovery property placed in service in 2003 under the general depreciation system by using the 200-percent declining balance method and a 5-year recovery period. *X* does not use the optional depreciation tables.

(ii) Under paragraph (d)(3)(i) of this section, *X's* allowable depreciation deduction for the equipment for 2003 and subsequent taxable years is determined as though *X* placed the equipment in service in 2003 for use primarily in its *B* business. The depreciable basis of the equipment as of January 1, 2003, is $22,311 (the adjusted depreciable basis at January 1, 2003). Because *X* does not use the optional depreciation tables, the depreciation allowance for 2003 (the deemed placed-in-service year) for this equipment only is computed without taking into account the half-year convention. This equipment is not eligible for the additional first year depreciation deduction provided by section 168(k) or section 1400L(b). Thus, *X's* allowable depreciation deduction for the equipment for 2003 is $8,924 ($22,311 adjusted depreciable basis at January 1, 2003, multiplied by the applicable depreciation rate of 40% (200/5)). *X's* allowable depreciation deduction for the equipment for 2004 is $5,355 ($13,387 adjusted depreciable basis at January 1, 2004 multiplied by the applicable depreciation rate of 40% (200/5)).

(iii) Alternatively, under paragraph (d)(3)(ii) of this section, *X* may elect to disregard the change in use and, as a result, may continue to treat the equipment as though it is used primarily in its *A* business. If the election is made, *X's* allowable depreciation deduction for the equipment for 2003 is $8,924 ($22,311 adjusted depreciable basis at January 1, 2003, multiplied by the applicable depreciation rate of 40% (1/2.5 years remaining at January 1, 2003)). *X's* allowable depreciation deduction for the equipment for 2004 is $8,925 ($13,387 adjusted depreciable basis at January 1, 2004 multiplied by the applicable depreciation rate of 66.67% (1/1.5 years remaining at January 1, 2004)).

Example 2. Change in use results in a shorter recovery period and/or a more accelerated depreciation method and optional depreciation table is used—(i) Same facts as in *Example 1,* except that *X* used the optional depreciation tables for computing depreciation for 1998 through 2002. Pursuant to paragraph (d)(5) of this section, *X* chooses to continue to use the optional depreciation table for the equipment. *X* does not make the election provided in paragraph (d)(3)(ii) of this section to disregard the change in use.

(ii) In accordance with paragraph (d)(5)(ii)(A) of this section, *X* must first identify the appropriate optional depreciation table for the equipment. This table is table 1 in Rev. Proc. 87–57 because the equipment will be depreciated in the year of change (2003) under the general depreciation system using the 200-percent declining balance method, a 5-year recovery period, and the half-year convention (which is the convention that applied to the equipment in 1998). This equipment is not eligible for the additional first year depreciation deduction provided by section 168(k) or section 1400L(b). For 2003, *X* multiplies its adjusted depreciable basis in the equipment as of January 1, 2003, of $22,311, by the annual depreciation rate in table 1 for recovery year 1 for a 5-year recovery period (.20), to determine the depreciation allowance of $4,462. For 2004, *X* multiplies its adjusted depreciable basis in the equipment as of January 1, 2003, of $22,311, by the annual depreciation rate in table 1 for recovery year 2 for a 5-year recovery period (.32), to determine the depreciation allowance of $7,140.

Example 3. Change in use results in a longer recovery period and/or a slower depreciation method—(i) *Y,* a calendar-year corporation, places in service in January 2001, equipment at a cost of $100,000 and uses this equipment in 2001 and 2002 only within the United States. *Y* depreciates the equipment for 2001 and 2002 under the general depreciation system by using the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. Beginning in 2003, *Y* uses the equipment predominantly outside the United States. As a result of this change in use, the equipment is subject to the alternative depreciation system beginning in 2003. Under the alternative depreciation system, the equipment is depreciated by using the straight-line method and a 9-year recovery period. The adjusted depreciable basis of the equipment at January 1, 2003, is $48,000.

(ii) Pursuant to paragraph (d)(4) of this section, *Y*'s allowable depreciation deduction for 2003 and subsequent taxable years is determined as though the equipment had been placed in service in January 2001, as property used predominantly outside the United States. In determining the applicable depreciation rate for 2003, the applicable depreciation method is the straight-line method and the applicable recovery period is 7.5 years, which is the number of years remaining at January 1, 2003, for property placed in service in 2001 with a 9-year recovery period (taking into account the half-year convention). Thus, the depreciation allowance for 2003 is $6,398 ($48,000 adjusted depreciable basis at January 1, 2003, multiplied by the applicable depreciation rate of 13.33% (1/7.5 years)). The depreciation allowance for 2004 is $6,398 ($41,602 adjusted depreciable basis at January 1, 2004, multiplied by the applicable depreciation rate of 15.38% (1/6.5 years remaining at January 1, 2004)).

Example 4. Change in use results in a longer recovery period and/or a slower depreciation method and optional depreciation table is used—(i) Same facts as in Example 3, except that *Y* used the optional depreciation tables for computing depreciation in 2001 and 2002. Pursuant to paragraph (d)(5) of this section, *Y* chooses to continue to use the optional depreciation table for the equipment.

(ii) In accordance with paragraph (d)(5)(ii)(B) of this section, *Y* must first determine the appropriate optional depreciation table for the equipment pursuant to paragraph (d)(5)(ii)(B)(*1*) of this section. This table is table 8 in Rev. Proc. 87–57, which corresponds to the alternative depreciation system, the straight-line method, a 9-year recovery period, and the half-year convention (because *Y* depreciated 5-year property in 2001 using a half-year convention). Next, *Y* must determine the appropriate recovery year in table 8. Because the year of change is 2003, the depreciation allowance for the equipment for 2003 is determined using recovery year 3 of table 8. For 2003, *Y* multiplies its adjusted depreciable basis in the equipment as of January 1, 2003, of $48,000, by the product of the annual depreciation rate in table 8 for recovery year 3 for a 9-year recovery period (.1111) and the transaction coefficient [1/(1-(.0556+.1111)), which equals 1.200], to determine the depreciation allowance of $6,399. For 2004, *Y* multiplies its adjusted depreciable basis in the equipment as of January 1, 2003, of $48,000, by the product of the annual depreciation rate in table 8 for recovery year 4 for a 9-year recovery period (.1111) and the transaction coefficient (1.200), to determine the depreciation allowance of $6,399.

(e) *Change in the use of MACRS property during the placed-in-service year*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, if a change in the use of MACRS property occurs during the placed-in-service year and the property continues to be MACRS property owned by the same taxpayer, the depreciation allowance for that property for the placed-in-service year is determined by its primary use during that year. The primary use of MACRS property may be determined in any reasonable manner that is consistently applied to the taxpayer's MACRS property. For purposes of this paragraph (e), the determination of whether the mid-quarter convention applies to any MACRS property placed in service during the year of change is made in accordance with § 1.168(d)–1.

(2) *Alternative depreciation system property*—(i) *Property used within and outside the United States.* The depreciation allowance for the placed-in-service year for MACRS property that is used within and outside the United States is determined by its predominant use during that year. The determination of whether MACRS property is used predominantly outside the United States during the placed-in-service year shall be made in accordance with the test in § 1.48–1(g)(1)(i) for determining predominant use.

(ii) *Tax-exempt bond financed property.* The depreciation allowance for the placed-in-service year for MACRS property that changes to tax-exempt bond financed property, as described in section 168(g)(1)(C) and (g)(5), during that taxable year is determined under the alternative depreciation system. For purposes of

this paragraph (e), MACRS property changes to tax-exempt bond financed property when a tax-exempt bond is first issued after the MACRS property is placed in service. MACRS property continues to be tax-exempt bond financed property in the hands of the taxpayer even if the tax-exempt bond (including any refunding issue) is not outstanding at, or is redeemed by, the end of the placed-in-service year.

(iii) *Other mandatory alternative depreciation system property.* The depreciation allowance for the placed-in-service year for MACRS property that changes to, or changes from, property described in section 168(g)(1)(B) (tax-exempt use property) or (D) (imported property covered by an Executive Order) during that taxable year is determined under—

(A) The alternative depreciation system if the MACRS property is described in section 168(g)(1)(B) or (D) at the end of the placed-in-service year; or

(B) The general depreciation system if the MACRS property is not described in section 168(g)(1)(B) or (D) at the end of the placed-in-service year.

(3) *Examples.* The application of this paragraph (e) is illustrated by the following examples:

Example 1. (i) *Z,* a utility and calendar-year corporation, places in service on January 1, 2003, equipment at a cost of $100,000. *Z* uses this equipment in its combustion turbine production plant for 4 months and then uses the equipment in its steam production plant for the remainder of 2003. *Z*'s combustion turbine production plant assets are classified as 15-year property and are depreciated by *Z* under the general depreciation system using a 15-year recovery period and the 150-percent declining balance method of depreciation. *Z*'s steam production plant assets are classified as 20-year property and are depreciated by *Z* under the general depreciation system using a 20-year recovery period and the 150-percent declining balance method of depreciation. *Z* uses the optional depreciation tables. The equipment is qualified property for purposes of section 168(k)(1).

(ii) Pursuant to this paragraph (e), *Z* must determine depreciation based on the primary use of the equipment during the placed-in-service year. *Z* has consistently determined the primary use of all of its MACRS property by comparing the number of full months in the taxable year during which a MACRS property is used in one manner with the number of full months in that taxable year during which that MACRS property is used in another manner. Applying this approach, *Z* determines the depreciation allowance for the equipment for 2003 is based on the equipment being classified as 20-year property because the equipment was used by *Z* in its steam production plant for 8 months in 2003. If the half-year convention applies in 2003, the appropriate optional depreciation table is table 1 in Rev. Proc. 87–57, which is the table for MACRS property subject to the general depreciation system, the 150-percent declining balance method, a 20-year recovery period, and the half-year convention. Thus, the depreciation allowance for the equipment for 2003 is $32,625, which is the total of $30,000 for the additional 30-percent first-year depreciation deduction allowable (the unadjusted depreciable basis of $100,000 multiplied by .30), plus $2,625 for the 2003 depreciation allowance on the remaining basis of $70,000 [(the unadjusted depreciable basis of $100,000 less the additional first-year depreciation deduction of $30,000) multiplied by the annual depreciation rate of .0375 in table 1 for recovery year 1 for a 20-year recovery period].

Example 2. T, a calendar year corporation, places in service on January 1, 2003, several computers at a total cost of $100,000. *T* uses these computers within the United States for 3 months in 2003 and then moves and uses the computers outside the United States for the remainder of 2003. Pursuant to § 1.48–1(g)(1)(i), the computers are considered as used predominantly outside the United States in 2003. As a result, for 2003, the computers are required to be depreciated under the alternative depreciation system of section 168(g) with a recovery period of 5 years pursuant to section 168(g)(3)(C). *T* uses the optional depreciation tables. If the half-year convention applies in 2003, the appropriate optional depreciation table is table 8 in Rev. Proc. 87–57, which is the table for MACRS property subject to the alternative depreciation system, the straight-line method, a 5-year recovery period, and the half-year convention. Thus, the depreciation allowance for the computers for 2003 is $10,000, which is equal to the unadjusted depreciable basis of $100,000 multiplied by the annual depreciation rate of .10 in table 8 for recovery year 1 for a 5-year recovery period. Because the computers are required to be depreciated under the alternative depreciation system in their placed-in-service year, the computers are not eligible for the additional first year depreciation deduction provided by section 168(k).

(f) *No change in accounting method.* A change in computing the depreciation allowance in the year of change for property subject to this section results from a change in underlying facts and, thus, is not a change in method of accounting under section 446(e).

(g) *Effective date*—(1) *In general.* This section applies to changes in the use of MACRS property in taxable years ending on or after the date of publication of the final regulations in the **Federal Register**. For changes in the use of MACRS property after December 31, 1986, in taxable years ending before the date of publication of the final regulations in the **Federal Register**, the Internal Revenue Service will allow any reasonable method of depreciating the property under section 168 in the year of change and the subsequent taxable years that is consistently applied to any property that changed use in the hands of the taxpayer.

(2) *Change in method of accounting*—(i) *In general.* If a taxpayer adopted a method of accounting for depreciation due to a change in the use of MACRS property and the method is not in accordance with the method of accounting for depreciation provided in this section, a change to the method of accounting for depreciation provided in this section is a change in method of accounting to which the provisions of sections 446(e) and 481 and the regulations thereunder apply. Also, a revocation of the election provided in paragraph (d)(3)(ii) of this section to disregard a change in the use is a change in method of accounting to which the provisions of sections 446(e) and 481 and the regulations thereunder apply.

(ii) *Automatic consent to change method of accounting.* For any taxable year ending on or after the date of publication of the final regulations in the **Federal Register**, a taxpayer changing its method of accounting in accordance with this paragraph (g)(2) must follow the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, for example, *see* Rev. Proc. 2002–9 (2002–1 C.B. 327) and § 601.601(d)(2)(ii)(*b*) of this chapter). Any change in method of accounting made under this paragraph (g)(2) must be made using an adjustment under section 481(a).

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–18325 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–162625–02]

RIN 1545–BB73

Real Estate Mortgage Investment Conduits; Application of Section 446 With Respect To Inducement Fees

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the

proper timing and source of income from fees received to induce the acquisition of noneconomic residual interests in Real Estate Mortgage Investment Conduits (REMICs). The proposed regulations would apply to taxpayers who receive inducement fees in connection with becoming the holder of a noneconomic REMIC residual interest. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written or electronic comments must be received by October 20, 2003. Outlines of topics to be discussed at the public hearing scheduled for November 18, 2003, at 10 a.m. must be received by October 28, 2003.

ADDRESSES: Send submissions to CC:PA:RU (REG–162625–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–162625–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments via the IRS Internet site at: *http://www.irs.gov/regs.* The public hearing will be held in the IRS Auditorium, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John W. Rogers III at (202) 622–3950; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garrett, at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 446(b) (relating to general rules for methods of accounting), 860C (relating to other definitions and special rules applicable to REMICs), and 863(a) (relating to special rules for determining source) of the Internal Revenue Code of 1986 (Code). The proposed regulations prescribe certain accounting rules for taking an inducement fee into income over a period that is related to the period during which the applicable REMIC is expected to generate taxable income or net loss allocable to the holder of the noneconomic residual interest. The proposed regulations set forth two safe harbor methods of accounting for inducement fees. The proposed regulations also contain a rule clarifying that an inducement fee is income from sources within the United States.

Explanation of Provisions

Final regulations governing REMICs, issued in 1992, contain rules governing the transfer of noneconomic residual interests. Those regulations do not, however, contain rules that address the transferee's treatment of the fee received to induce the acquisition of a REMIC noneconomic residual interest.

An inducement fee is paid to a transferee of a noneconomic residual interest because, under sections 860C(a)(1) and 860E(a)(1) of the Code, the holder of a REMIC residual interest must take into account the REMIC's taxable income or net loss. The holder of a noneconomic residual interest will receive insufficient distributions to cover the resulting tax liabilities, and a transferee will, therefore, require an inducement fee to become the holder of the noneconomic residual interest.

In its earlier years, a REMIC typically accrues more taxable interest income than deductible interest expense. As a result, in its earliest years, the REMIC will have net income (generally referred to as phantom income) taxable to the residual holder. This phenomenon generally will reverse, resulting in REMIC net loss (phantom loss) in later years.

Following release of the final REMIC regulations, the IRS and the Treasury Department received requests for guidance on the proper method of accounting to be used by taxpayers for inducement fee income. The proposed regulations provide rules relating to the proper timing and source of income from an inducement fee received in connection with becoming the holder of a noneconomic residual interest in a REMIC.

The proposed regulations provide that, to clearly reflect income, an inducement fee must be included in income over a period that is reasonably related to the period during which the applicable REMIC is expected to generate taxable income or net loss allocable to the holder of the noneconomic residual interest. The proposed regulations provide that an inducement fee generally may not be taken into account in a single tax year.

The proposed regulations set forth two safe harbor methods of accounting for inducement fees. These safe harbor methods are:

(1) A book method, under which an inducement fee is recognized for federal income tax purposes in the same amounts and over the same period in which that inducement fee is included in income by the taxpayer for financial reporting purposes, provided that the period is not shorter than the period over which the applicable REMIC is expected to generate taxable income; and

(2) A method under which the inducement fee is recognized for federal income tax purposes ratably over the remaining anticipated weighted average life of the REMIC determined as of the time the noneconomic residual interest is transferred to the taxpayer. This method is based on rules in the final REMIC regulations for taking into account a REMIC sponsor's unrecognized gain or loss on a REMIC residual interest upon the formation of a REMIC.

Additionally, the proposed regulations contain a rule that applies if a holder of a residual interest sells or otherwise disposes of the residual interest. Under this rule, the holder must take into account, at the time of the sale or other disposition, any unrecognized portion of the inducement fee for that residual interest. Transactions to which section 381(c)(4) applies are excluded from this rule because section 381 and the regulations thereunder provide for the carryover of tax attributes, including methods of accounting. The IRS and the Treasury Department considered excluding other non-recognition transactions, such as contributions under sections 351 or 721. These other transactions, however, do not provide for the carryover of tax attributes. The proposed regulations, therefore, do not permit continued deferral of the unrecognized portion of an inducement fee following these other transactions.

The proposed regulations also contain a rule clarifying that an inducement fee is income from sources within the United States.

The IRS and the Treasury Department request comments on other possible safe harbor methods of accounting for these inducement fees. In particular, comments are requested on whether a safe harbor method that recognizes inducement fees proportionally to the anticipated future financing costs for funding the net tax liabilities of the noneconomic residual interest would be of general use to taxpayers and, if so, what factors should be used under that safe harbor method for determining a taxpayer's anticipated future financing costs.

The proposed regulations state that the treatment of inducement fees is a method of accounting that must be applied consistently to all inducement fees received in connection with noneconomic REMIC residual interests. Thus, if a taxpayer uses a safe harbor

method, the taxpayer must use that same safe harbor method for all inducement fees received in connection with any noneconomic REMIC residual interests held by the taxpayer.

The proposed regulations regarding the timing for inclusion of inducement fees in income, if finalized as proposed, would apply for taxable years ending on or after publication of the final regulations in the **Federal Register**. The IRS and the Treasury Department request comments with respect to whether the applicability of the regulations should be limited to transactions arising on or after the effective date of these regulations and whether some delay in the effective date of these regulations is warranted.

The proposed regulations clarifying the source of inducement fees, if finalized as proposed, would apply for taxable years ending on or after publication of the final regulations in the **Federal Register**.

A taxpayer may not change its method of accounting for inducement fees without securing the prior consent of the Commissioner. The Commissioner may prescribe terms and conditions necessary to obtain the Commissioner's consent to effect a change in method of accounting and to prevent amounts from being duplicated or omitted. *See* sections 446 and 481; § 1.446–1(e)(3). The terms and conditions that may be prescribed by the Commissioner may include terms and conditions that require the change in method of accounting to be effected on a cut-off basis or with an adjustment under section 481(a). The IRS and the Treasury Department request comments on how best to effect any change in method of accounting necessitated by these regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. The IRS and the Treasury Department also specifically request comments on the safe harbor methods provided in the regulations and suggestions for other possible safe harbor methods of accounting for these inducement fees. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 18, 2003, beginning at 10 a.m. in the IRS Auditorium, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by October 28, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are John W. Rogers III, Office of Associate Chief Counsel (Financial Institutions & Products), and Courtney L. Shepardson, Office of Division Counsel (Large and Midsize Business). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.446–6 also issued under 26 U.S.C 446 and 26 U.S.C. 860G * * *

Par. 2. Section 1.446–6 is added to read as follows:

§ 1.446–6 REMIC inducement fees.

(a) *Purpose.* This section provides specific timing rules for the clear reflection of income from an inducement fee received in connection with becoming the holder of a noneconomic REMIC residual interest. An inducement fee must be included in income over a period reasonably related to the period during which the applicable REMIC is expected to generate taxable income or net loss allocable to the holder of the noneconomic residual interest.

(b) *Definitions.* For purposes of this section—(1) *Applicable REMIC.* The applicable REMIC is the REMIC that issued the noneconomic residual interest with respect to which the inducement fee is paid.

(2) *Inducement fee.* An inducement fee is the amount paid to induce a person to become the holder of a noneconomic residual interest in an applicable REMIC.

(3) *Noneconomic residual interest.* A REMIC residual interest is a noneconomic residual interest if it is a noneconomic residual interest within the meaning of § 1.860E–1(c)(2).

(4) *Remaining anticipated weighted average life.* The remaining anticipated weighted average life is the anticipated weighted average life determined using the methodology set forth in § 1.860E–1(a)(3)(iv) applied as of the date of acquisition of the noneconomic residual interest.

(5) *REMIC.* The term REMIC has the same meaning in this section as given in § 1.860D–1.

(c) *General rule.* All taxpayers, regardless of their overall method of accounting, must recognize an inducement fee over the remaining expected life of the applicable REMIC in a manner that reasonably reflects, without regard to this paragraph, the after-tax costs and benefits of holding that noneconomic residual interest.

(d) *Special rule on disposition of a residual interest.* If any portion of an

inducement fee received with respect to the acquisition of a noneconomic residual interest in an applicable REMIC has not been recognized in full by the holder as of the time the holder sells, or otherwise disposes of, that residual interest in the applicable REMIC (in a transaction other than a transaction to which section 381(c)(4) applies), then the holder must include the unrecognized portion of the inducement fee in income at that time.

(e) *Safe harbors.* If inducement fees are recognized in accordance with a method described in this paragraph (e), that method complies with the requirements of paragraph (c) of this section.

(1) *The book method.* Under the book method, an inducement fee is recognized in accordance with the method of accounting, and over the same period, that is used by the taxpayer for financial reporting purposes (including consolidated financial statements to shareholders, partners, beneficiaries, other proprietors and for credit purposes), provided that the inducement fee is included in income for financial reporting purposes over a period that is not shorter than the period during which the applicable REMIC is expected to generate taxable income.

(2) *The modified REMIC regulatory method.* Under the modified REMIC regulatory method, the inducement fee is recognized ratably over the remaining anticipated weighted average life of the applicable REMIC as if the inducement fee were unrecognized gain being included in gross income under § 1.860F–2(b)(4)(iii).

(3) *Additional safe harbor methods.* The Commissioner, by revenue ruling or revenue procedure published in the Internal Revenue Bulletin, may provide additional safe harbor methods for recognizing inducement fees on noneconomic REMIC residual interests.

(f) *Method of accounting.* The treatment of inducement fees is a method of accounting to which the provisions of sections 446 and 481 and the regulations thereunder apply. A taxpayer is generally permitted to adopt a method of accounting for inducement fees that satisfies the requirements of paragraph (c) of this section. Once a taxpayer adopts a method of accounting for inducement fees, that method must be applied consistently to all inducement fees received in connection with noneconomic REMIC residual interests and may be changed only with the consent of the Commissioner, as provided by section 446(e) and the regulations and procedures thereunder.

(g) *Effective date.* This section is applicable for taxable years ending on or after the date this document is published as a final regulation in the **Federal Register**.

Par. 3. Section 1.860A–0 is amended by adding an entry in the outline for § 1.860C–1(d) to read as follows:

§ 1.860A–0 Outline of REMIC provisions.

* * * * *

§ 1.860C–1 Taxation of holders of residual interests.

* * * * *

(d) Treatment of REMIC inducement fees.

* * * * *

Par. 4. Section 1.860C–1 is amended by adding paragraph (d) to read as follows:

§ 1.860C–1 Taxation of holders of residual interests.

* * * * *

(d) For rules on the proper accounting for income from inducement fees, *see* § 1.446–6.

Par. 5. Section 1.863–0 is amended by:

1. Adding an entry for § 1.863–1(d).
2. Redesignating the entry for § 1.863–1(e) as § 1.863–1(f).
3. Adding a new entry for § 1.863–1(e).

The additions read as follows:

§ 1.863–0 Table of contents.

* * * * *

§ 1.863–1 Allocation of gross income.

* * * * *

(d) Scholarships, fellowship grants, grants, prizes and awards.

(e) REMIC inducement fees.

* * * * *

Par. 6. Section 1.863–1 is amended as follows:

1. Paragraph (e) is revised.
2. Paragraph (f) is added.

The revision and addition reads as follows:

§ 1.863–1 Allocation of gross income under section 863(a).

* * * * *

(e) *REMIC inducement fees.* An inducement fee (as defined in § 1.446–6(b)(2)) shall be treated as income from sources within the United States.

(f) *Effective dates.* The rules of paragraphs (a), (b) and (c) of this section will apply to taxable years beginning after December 30, 1996. However, taxpayers may apply the rules of paragraphs (a), (b) and (c) of this section for taxable years beginning after July 11, 1995, and on or before December 30, 1996. For years beginning before December 30, 1996, *see* § 1.863–1 (as contained in 26 CFR part 1 revised as of April 1, 1996). *See* paragraph (d)(4) of this section for rules regarding the applicability date of paragraph (d) of this section. Paragraph (e) of this section is applicable for taxable years ending on or after the date this document is published as a final regulation in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–18212 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–129709–03]

RIN 1545–BC34

Prohibited Allocations of Securities in an S Corporation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register,** the IRS is issuing temporary regulations that provide guidance on identifying disqualified persons and determining whether a plan year is a nonallocation year under section 409(p) and on the definition of synthetic equity under section 409(p)(5). These proposed regulations would generally affect plan sponsors of, and participants in, ESOPs holding stock of Subchapter S corporations. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 20, 2003.

Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for November 20, 2003, at 10 a.m. must be received by October 30, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–129709–03), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–129709–03), Courier's Desk, Internal Revenue

Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at *http://www.irs.gov/regs.* The public hearing will be held in room 6718.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Ricotta at 622–6060; concerning submissions of comments, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 409(p). The temporary regulations contain rules relating to the identification of disqualified persons and determination whether a plan year is a nonallocation year under section 409(p) and the definition of synthetic equity under section 409(p)(5). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because § 1.409(p)-1 imposes no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

Comments are requested with respect to issues raised by S corporation ESOPs established by March 14, 2001, that will need to comply with the requirements of section 409(p) beginning in 2005. For these ESOPs, the inclusion of deferred compensation as synthetic equity can be avoided by distributing such deferred compensation before 2005. Some employers may prefer other transition approaches. For example, a preferable transition approach may be to spin off and terminate the portion of a plan benefitting disqualified persons. Comments are requested on whether guidance is needed to address these possible transition approaches.

Comments are also requested on issues that are reserved in the regulations with respect to whether certain interests in an S corporation should be treated as synthetic equity, including the extent to which rights to acquire assets of the S corporation or another person are established for reasonable business purposes and should not be treated as synthetic equity. While comments can be filed as late as October 20, 2003, commentators are encouraged to file comments as early as possible because the IRS and Treasury intend to move forward to address these issues as early as 2003.

Commentators may also wish to comment on section 409(p)-related issues that are not directly raised in the proposed regulations. For example, commentators may wish to comment on the extent to which administrative guidance may be needed on an interim basis to deal with specific structures used to avoid or evade the purpose of section 409(p).

A public hearing has been scheduled for November 20, 2003, at 10 a.m. in room 6718 of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts at the Constitution Avenue entrance. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 30, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is John Ricotta of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

1. The authority citation for part 1 is amended by an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.409(p)–1 also issued under 26 U.S.C. 409(p)(7)(A). * * *

2. Section 1.409(p)–1 is added to read as follows:

§ 1.409(p)-1 Prohibited allocation of securities in an S corporation.

[The text of proposed § 1.409(p)–1 is the same as the text of § 1.409(p)–1T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–18211 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–132483–03]

RIN 1545–BC40

Remedial Actions for Tax-exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that amend the final regulations that provide certain permitted remedial actions for tax-exempt bonds issued by State and local governments. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 14, 2003.

Outlines of topics to be discussed at the public hearing scheduled for November 4, 2003, at 10 a.m., must be received by October 14, 2003.

ADDRESSES: Send submissions to CC:PA:RU (REG–132483–03), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG–132483–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically to the IRS Internet site at *http://www.irs.gov/regs.* The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Gary W. Bornholdt, (202) 622–3980; concerning submissions of comments, the hearing, and requests to be placed on the building access list to attend the meeting, Sonya M. Cruse, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 103(a) of the Internal Revenue Code (Code) provides that, generally, interest on any State or local bond is not included in gross income. However, this exclusion does not apply to any private activity bond that is not a qualified bond.

A. Governmental Bonds

Under section 141, a bond is a private activity bond if the bond is issued as part of an issue that meets either (1) the private business use test and the private security or payment test (the private business tests), or (2) the private loan financing test.

The private business use test is met if more than 10 percent of the proceeds of an issue are to be used for any private business use. Section 141(b)(6) defines private business use as use directly or indirectly in a trade or business that is carried on by any person other than a governmental unit.

The private security or payment test is met if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of an issue is directly or indirectly (1) secured by an interest in property used or to be used for a private business use, (2) secured by an interest in payments in respect of such property, or (3) to be derived from payments, whether or not to the issuer, in respect of property, or borrowed money, used or to be used for a private business use.

The private loan financing test is satisfied if more than the lesser of $5 million or 5 percent of the proceeds of an issue are to be used to make or finance loans to persons other than governmental units.

Under § 1.141–2(d) of the Income Tax Regulations, an issue is an issue of private activity bonds if the issuer reasonably expects, as of the issue date, that the issue will meet either the private business tests or the private loan financing test. Under § 1.141–2(d), an issue is also an issue of private activity bonds if the issuer takes a deliberate action, subsequent to the issue date, that causes the conditions of either the private business tests or the private loan financing test to be met.

Section 1.141–12 sets forth certain remedial actions that prevent a deliberate action with respect to property financed by an issue from causing that issue to meet the private business use test or the private loan financing test. Specifically, if an issuer satisfies certain conditions, an issuer may take one of the following three remedial actions to cure a deliberate action. First, the issuer may redeem or defease the nonqualified bonds. However, a defeasance is not a permitted remedial action if the period between the issue date and the first call date of the bonds is more than 10½ years (the 10½ year limitation). Second, if the deliberate action is a disposition of the bond-financed property for which the consideration is exclusively cash, and certain other requirements are met, the issuer may use the cash for an alternative qualifying use. Third, in certain cases, the facility with respect to which the deliberate action occurs may be used in an alternative qualifying manner (for example, the facility may be used for a qualifying purpose by a nongovernmental person or used by a 501(c)(3) organization rather than a governmental person). The second and third types of remedial action may cause a deemed reissuance of the nonqualified bonds (that is, a deemed issuance of new bonds to refund the nonqualified bonds) for certain purposes of the Code.

Section 1.141–12(j) provides that the percentage of outstanding bonds that are nonqualified bonds equals the highest percentage of private business use in any 1-year period commencing with the deliberate action. In addition, § 1.141–12(j) provides that the determination of the bonds of an issue that are treated as the nonqualified bonds must be made on a pro rata basis, except that, for purposes of the remedial action that involves the redemption or defeasance of the nonqualified bonds, an issuer may treat bonds with longer maturities (determined on a bond-by-bond basis) as the nonqualified bonds.

In general, § 1.141–15 provides that § 1.141–12 applies to bonds issued on or after May 16, 1997, that are subject to section 1301 of the Tax Reform Act of 1986. However, issuers may apply the remedial action provisions in § 1.141–12 to any bonds to which § 1.141–12 does not otherwise apply.

B. Qualified 501(c)(3) Bonds

Under section 141(e), a qualified 501(c)(3) bond issued under section 145 may be a qualified bond. Section 145(a) provides that, in general, a qualified 501(c)(3) bond is any private activity bond issued as part of an issue if: (1) All of the property that is to be provided by the net proceeds of the issue is to be owned by a 501(c)(3) organization or a governmental unit; and (2) such bond would not be a private activity bond if section 501(c)(3) organizations were treated as governmental units with respect to their activities that do not constitute unrelated trades or businesses, determined by applying section 513(a). For this purpose, the private business tests are applied by using ''5 percent'' instead of ''10 percent'' each place it appears and ''net proceeds'' for ''proceeds'' each place it appears. Section 1.145–2 provides, in general, that §§ 1.141–0 through 1.141–15 apply to section 145(a).

C. Exempt Facility Bonds

Under section 141(e), an exempt facility bond issued under section 142 may be a qualified bond. Under section 142(a), an exempt facility bond is any bond issued as part of an issue if 95 percent or more of the net proceeds are to be used to provide certain exempt facilities.

Under § 1.142–2, if less than 95 percent of the net proceeds of an exempt facility bond are actually used to provide an exempt facility, and for no other purpose, the issue will be treated as meeting the use of proceeds requirement of section 142(a) if the issue meets a reasonable expectations test, and the issuer takes the remedial action described § 1.142–2. The reasonable expectations test requires that the issuer must have reasonably expected on the issue date of the bonds that at least 95 percent of the net proceeds of the issue would be used to provide an exempt facility and for no other purpose for the entire term of the bonds (disregarding any redemption provisions). The remedial action provided in § 1.142–2 requires that the issuer redeem or defease the

nonqualified bonds of the issue. However, a defeasance is not a permitted remedial action if it does not satisfy the 10½ year limitation on defeasances.

For purposes of § 1.142–2, the nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the failure to properly use the proceeds occurs, at least 95 percent of the net proceeds of the remaining bonds would be used to provide an exempt facility. If no proceeds have been spent to provide an exempt facility, all of the outstanding bonds are nonqualified bonds. The nonqualified bonds must be determined on a pro rata basis, except that an issuer may treat bonds with longer maturities (determined on a bond-by-bond basis) as the nonqualified bonds.

In general, § 1.141–16 provides that § 1.142–2 applies to bonds issued on or after May 16, 1997. However, § 1.142–2, together with certain other regulations, may be applied in whole, but not in part, to bonds outstanding on May 16, 1997.

D. Prior Remedial Action Rules

Prior to the release of §§ 1.141–12 and 1.142–2, Rev. Proc. 93–17 (1993–1 C.B. 507), provided remedial action rules. Rev. Proc. 93–17 does not contain the 10½ year limitation on defeasances. The preamble to the regulations that include §§ 1.141–12 and 1.142–2 provides that for actions that occur on or after May 16, 1997, Rev. Proc. 93–17 is obsolete.

Explanation of Provisions

Comments have been received suggesting that the definition of the amount of nonqualified bonds contained in § 1.141–12 be limited to the excess of the actual amount of the private business use or private loans over the permitted amount of private business use or private loans under section 141. The comments note that this approach is consistent with the statutory language of section 141, which permits certain *de minimis* amounts of private business use and private loans without jeopardizing the tax-exempt status of bonds, and with the definition of the amount of nonqualified bonds contained in § 1.142–2.

The comments also suggest simplifying the rules for determining the bonds to be treated as the nonqualified bonds. The comments recommend granting an issuer greater discretion in its selection of bonds, to the extent that the issuer, through such selection, does not effectively extend the remaining weighted average maturity of the bond issue with respect to which the deliberate action occurred.

Finally, the comments request clarification of the remedial action rules applicable to bonds issued prior to May 16, 1997. In particular, the comments request that issuers be permitted to apply §§ 1.141–12 and 1.142–2 to bonds issued before May 16, 1997, without regard to the 10½ year limitation on defeasances contained in those regulations. The comments indicate that it is unfair to require issuers to comply with the 10½ year limitation for bonds issued prior to the release of §§ 1.141–12 and 1.142–2 because issuers could not have known about the limitation when structuring those bonds.

The proposed regulations generally adopt these suggestions.

First, the proposed regulations reduce the amount of outstanding bonds that are nonqualified bonds under § 1.141–12. The proposed regulations provide that the nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test or private loan financing test, as applicable. For this purpose, the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the deliberate action.

Second, the proposed regulations amend the provisions of § 1.141–12 relating to redemption or defeasance and the provisions of § 1.142–2 relating to allocations of nonqualified bonds. Under the proposed regulations, allocations of nonqualified bonds must be made on a pro rata basis, except that an issuer may treat any bonds of an issue as the nonqualified bonds so long as (i) the remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer, is not greater than (ii) the remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

Finally, the proposed regulations amend §§ 1.141–15(e) and 1.141–16(c) to provide that for bonds issued before May 16, 1997, issuers may apply §§ 1.141–12 and 1.142–2 without regard to the 10½ year limitation on defeasances contained in those regulations.

Proposed Effective Dates

The proposed regulations that amend §§ 1.141–12 and 1.142–2 will apply to deliberate actions or failures to properly use proceeds, as applicable, that occur on or after the date of publication of final regulations in the **Federal Register**, to the extent § 1.141–12 or 1.142–2, as applicable, applies to the bonds. The proposed regulations that amend §§ 1.141–15(e) and 1.141–16(c) will apply to bonds issued before May 16, 1997, that are subject to §§ 1.141–12 or 1.142–2, as applicable, for purposes of deliberate actions or failures to properly use proceeds, as applicable, that occur on or after April 21, 2003. Issuers may apply the proposed regulations to deliberate actions or failures to properly use proceeds, as applicable, that occur on or after April 21, 2003, and before the date of publication of final regulations in the **Federal Register**, to the extent (1) § 1.141–12 or § 1.142–2, as applicable, applies to the bonds, and (2) with respect to the amendments to § 1.141–15(e) and 1.141–16(c), the bonds were issued before May 16, 1997.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 4, 2003, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access

restrictions, visitors will not be admitted beyond the lobby more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by October 14, 2003, and submit an outline of the topics to be discussed and the amount of time to be devoted to each topic by October 14, 2003.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Comments are requested on all aspects of the proposed regulations.

Drafting Information

The principal authors of these regulations are Rebecca L. Harrigal and Gary W. Bornholdt, Office of Associate Chief Counsel (Tax-exempt and Government Entities), IRS, and Bruce M. Serchuk, Office of Tax Policy, Treasury Department. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

2. Section 1.141–0 is amended by adding an entry to the table for § 1.141–16(d) to read as follows:

§ 1.141–0 Table of contents.

* * * * *

§ 1.141–16 Effective dates for qualified private activity bond provisions.

* * * * *

(d) Certain remedial actions.

* * * * *

3. In § 1.141–12, paragraphs (j) and (k) *Example 8* are revised to read as follows:

§ 1.141–12 Remedial actions.

* * * * *

(j) *Nonqualified bonds*—(1) *Amount of nonqualified bonds.* The nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test or private loan financing test, as applicable. For this purpose, the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the deliberate action.

(2) *Allocation of nonqualified bonds.* Allocations of nonqualified bonds must be made on a pro rata basis, except that, for purposes of paragraph (d) of this section (relating to redemption or defeasance), an issuer may treat any bonds of an issue as the nonqualified bonds so long as—

(i) The remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer in accordance with this section, is not greater than

(ii) The remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

(k) * * *

Example 8. Compliance after remedial action. In 2000, City G issues bonds with proceeds of $10 million to finance a courthouse. The bonds have a weighted average maturity that does not exceed 120 percent of the reasonably expected economic life of the courthouse. G uses $1 million of the proceeds for a private business use and more than 10 percent of the debt service on the issue is secured by private security or payments. In 2004, in a bona fide and arm's length arrangement, G enters into a management contract with a nongovernmental person that results in private business use of 40 percent of the courthouse per year during the remaining term of the bonds. G immediately redeems the nonqualified bonds, or 44.44 percent of the outstanding bonds. This is the portion of the outstanding bonds that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test, if the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the deliberate action (50 percent). This percentage is computed by dividing the percentage of the facility used for a government use (50 percent) by the minimum amount of government use required (90 percent), and subtracting the resulting percentage (55.56 percent) from 100 percent (44.44 percent). For purposes of subsequently applying section 141 to the issue, G may continue to use all of the proceeds of the outstanding bonds in the same manner (that is, for the courthouse and the private business use) without causing the issue to meet the private business use test. The issue, however, continues to meet the private security or payment test. The result would be the same if G, instead of redeeming the bonds, established a defeasance escrow for those bonds, provided that the requirement of paragraph (d)(4) of this section was met.

4. Section 1.141–15 is amended as follows:

1. Paragraph (b)(4) is added.
2. Paragraph (e) is revised.

The amendments read as follows:

§ 1.141–15 Effective dates.

* * * * *

(b) *Effective dates.* * * *

(4) *Certain remedial actions.* For bonds subject to § 1.141–12, the provisions of §§ 1.141–12(j) and 1.141–12(k), *Example 8,* apply to deliberate actions that occur on or after the date of publication of final regulations in the **Federal Register** and may be applied by issuers to deliberate actions that occur on or after April 21, 2003 and before the date of publication of final regulations in the **Federal Register**.

* * * * *

(e) *Permissive application of certain sections*—(1) *In general.* Except as otherwise provided in paragraph (b)(4) of this section and this paragraph (e), the following sections may each be applied by issuers to any bonds—

(i) Section 1.141–3(b)(4);

(ii) Section 1.141–3(b)(6); and

(iii) Section 1.141–12.

(2) *Transition rule for pre-effective date bonds.* For purposes of paragraphs (e)(1) and (h) of this section, issuers may apply § 1.141–12 to bonds issued before May 16, 1997, without regard to paragraph (d)(4) thereof with respect to deliberate actions that occur on or after April 21, 2003.

* * * * *

5. Section 1.141–16 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 1.141–16 Effective dates for qualified private activity bond provisions.

* * * * *

(c) *Permissive application.* The regulations designated in paragraph (a) of this section may be applied by issuers in whole, but not in part, to bonds outstanding on the effective date. For this purpose, issuers may apply § 1.142–2 without regard to paragraph (c)(3) thereof to failures to properly use

proceeds that occur on or after April 21, 2003.

(d) *Certain remedial actions.* For bonds subject to § 1.142–2, the provisions of § 1.142–2(e) apply to failures to properly use proceeds that occur on or after the date of publication of final regulations in the **Federal Register** and may be applied by issuers to failures to properly use proceeds that occur on or after April 21, 2003 and before the date of publication of final regulations in the **Federal Register**.

6. Section 1.142–0 is amended by revising the entries to the table for § 1.142–2 paragraph (d), (d)(1) and (d)(2) to read as follows:

§ 1.142–0 Table of contents.

* * * * *

§ 1.142–2 Remedial actions.

* * * * *

(d) * * *

(1) Amount of nonqualified bonds.

(2) Allocation of nonqualified bonds.

* * * * *

7. Section 1.142–2 is amended by revising paragraph (e) to read as follows:

§ 1.142–2 Remedial actions.

* * * * *

(e) *Nonqualified bonds*—(1) *Amount of nonqualified bonds.* The nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the failure to properly use the proceeds occurs, at least 95 percent of the net proceeds of the remaining bonds would be used to provide an exempt facility. If no proceeds have been spent to provide an exempt facility, all of the outstanding bonds are nonqualified bonds.

(2) *Allocation of nonqualified bonds.* Allocations of nonqualified bonds must be made on a pro rata basis, except that an issuer may treat any bonds of an issue as the nonqualified bonds so long as—

(i) The remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer in accordance with this section, is not greater than

(ii) The remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–18327 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–249–FOR]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendments.

SUMMARY: We are announcing receipt of a proposed amendment to the Ohio regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the Ohio Administrative Code (OAC) to incorporate a variety of changes related to the certification of blasters. The amendment is intended to facilitate the certification of blasters in the State's non-coal regulatory program as well as to upgrade the coal surface mining blaster certification program.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on August 20, 2003. If requested, we will hold a public hearing on the amendment on August 15, 2003. We will accept requests to speak at a hearing until 4 p.m. (local time), on August 5, 2003.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to Mr. George Rieger, at the address listed below.

You may review copies of the Ohio program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Appalachian Regional Coordinating Center.

Mr. George Rieger, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220, (412) 937–2153.

Mr. Michael Sponsler, Chief, Ohio Department of Natural Resources, Division of Mineral Resources Management, 1855 Fountain Square Court, Columbus, OH 43224, (614) 265–6893.

FOR FURTHER INFORMATION CONTACT: Mr. George Rieger, Telephone: (412) 937–2153. Internet: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 10, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 10, 1982, **Federal Register** (47 FR 34687). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated June 11, 2003, Ohio sent us a proposed amendment to its program (Administrative Record Number OH–2183–00) under SMCRA (30 U.S.C. 1201 *et seq.*). Ohio sent the amendment to include changes made at its own initiative. By electronic mail dated June 18, 2003, Ohio sent us a revised version of the original submittal (Administrative Record Number OH–2183–01)

The provision of the OAC that Ohio proposes to revise is: OAC 1501:13–9–10, concerning training, examination, and certification of blasters. In its original submittal of this amendment, Ohio stated that it has passed legislation extending the requirement for blasting operations to be conducted by a certified blaster to apply to non-coal surface mining as well as coal surface

mining. Therefore, Ohio is now proposing to extend OAC Section 1501:13–9–10 to also apply to non-coal surface mining as well as coal surface mining. Ohio is also proposing other amendments to OAC 1501:13–9–10. The specific amendments to OAC 1501:13–9–10 are identified below.

The regulation at 13–9–10(A), General, is amended at 13–9–10(A)(1) by adding the word ''surface'' and by adding the phrase ''in coal and industrial minerals mines'' to the first sentence. As amended, 13–9–10(A)(1) provides as follows:

(1) All surface blasting operations in coal and industrial minerals mines, including surface blasting operations incident to underground mining and blasting operations on coal exploration operations, shall be conducted by a certified blaster who has obtained certification pursuant to the requirements of this rule.

The regulation at 13–9–10(A), General, is amended by adding new 13–9–10(A)(3) to provide as follows:

(3) The chief may grant reciprocity to any blaster who holds a valid certification issued under any state or federal blaster certification program approved by the U.S. Department of the Interior's Office of Surface Mining. However, to obtain certification under this rule, the blaster must apply for and pass an examination on Ohio blasting regulations pertaining to coal and industrial minerals mines, and meet any other requirement deemed necessary by the chief.

The regulation at 13–9–10(B), Training, is amended by deleting the word ''coal'' immediately before the words ''mining operations'' in the first sentence. As amended, the sentence provides that ''[t]he chief shall conduct workshops, as necessary, to inform blasters of changes in blasting rules and certification procedures, and shall ensure that courses are available to train persons responsible for the use of explosives in mining operations.''

The regulation at 13–9–10(B)(7), Training, is amended by adding the words ''in coal and non-coal surface mines.'' As amended, 13–9–10(B)(7) provides as follows: ''(7) All federal and state rules applicable to the use of explosives in coal and non-coal surface mines:''

The regulation at 13–9–10(B)(9), Training, is amended by deleting the word ''Schedules'' and replacing that word with the words ''Blast schedules.''

The regulation at 13–9–10(B)(14), Training, is amended by deleting the word ''Unpredictable'' immediately before the word ''hazards,'' and replacing that word with the word ''Potential.'' In addition, a new item at 13–9–10(B)(14)(e) is added to read as follows: ''(e) Toxic gases.'' The word ''and'' is deleted at the end of subdivision (14)(c), and the word ''and'' is added at the end of subdivision (14)(d). As amended, 13–9–10(B)(14) provides as follows:

(14) Potential hazards, including:
(a) Lightning;
(b) Stray currents;
(c) Radio waves;
(d) Misfires; and
(e) Toxic gases.

The regulation at 13–9–10(C)(1), concerning minimum training for certification, is amended by adding the words ''a minimum of 30 hours of'' immediately before the word ''training.'' The word ''in'' immediately following the word ''training'' is deleted and replaced with the word ''covering.'' The words ''division of reclamation'' are deleted and are replaced with the word ''chief.'' As amended, 13–9–10(C)(1) provides as follows:

(1) Received a minimum of 30 hours of training covering all the topics set forth in paragraph (B) of this rule in a course taught under the supervision of the chief, or in a course, or series of courses, deemed equivalent by the chief;

The regulation at 13–9–10(C)(2), concerning experience required for certification, is amended by deleting most of the existing language and adding language to provide as follows:

(2) Worked on a blasting crew or directly supervised a blasting crew for at least two years in mining, excavation, or an equivalent working environment;

The regulation at 13–9–10(C)(3), concerning on-the-job training is new and provides as follows:

(3) Received direction and on-the-job training from a certified blaster;

The regulation at 13–9–10(C)(5) ((C)(4) prior to the addition of new (C)(3)), concerning written examination, is amended by correcting a typographical error. The word ''if'' is deleted and replaced by the word ''of.''

The regulation at 13–9–10(D)(1), concerning certification, is amended by deleting the words ''or a certifying authority designated by the chief,'' and replacing those words with the words ''or an authorized representative.'' The phrase ''to accept responsibility for blasting operations'' is amended to read ''to accept responsibility for surface blasting operations in mines.'' The words ''under this rule and rule 1501:13–9–06 of the Administrative Code'' are deleted. As amended, 13–9–10(D)(1) provides as follows:

(1) The chief, or an authorized representative, shall certify for three years those persons examined and found to be competent and to have the necessary experience to accept responsibility for surface blasting operations in mines.

The regulation at 13–9–10(D)(2)(b), concerning recertification, is deleted in its entirety and replaced with new language to provide as follows:

(b) Received a minimum of 24 hours of continuing education by attending blasting-related courses, seminars or conferences approved by the chief or an authorized representative, with at least 8 hours obtained from an organization or person other than the blaster's employer or its parent company or explosives supplier.

The regulation at 13–9–10(E)(1), concerning conditions of certification, is amended by adding the word ''mine'' immediately before the words ''permit area.'' As amended, 13–9–10(E)(1) provides as follows:

(1) A certificate of blaster certification, shall be carried by a blaster, or shall be on file at the mine permit area, during blasting operations.

The regulation at 13–9–10(E)(2), concerning conditions of certification, is amended by deleting the words ''division of reclamation'' and adding in their place the word ''chief.'' As amended, 13–9–10(E)(2) provides as follows:

(2) Upon request by an authorized representative of the chief or other regulatory authority having jurisdiction over the use of explosives, a blaster shall immediately exhibit his or her certificate to the authorized representative.

The regulation at 13–9–10(E)(5), concerning conditions of certification, is amended by deleting the words ''and certifying authority designated by the chief.'' As amended, 13–9–10(E)(5) provides as follows:

(5) A certified blaster shall take every reasonable precaution to protect his or her certificate from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to the chief.

The regulation at 13–9–10(F)(1), concerning suspension and revocation, is amended by deleting the words ''or a certifying authority designated by the chief.'' As amended, 13–9–10(F)(1) provides as follows:

(1) Following written notice and opportunity for a hearing, the chief may, and upon a finding of willful conduct shall, suspend or revoke the certification of a blaster during the term of the certification, or take other necessary action for any of the following reasons:

The regulation at 13–9–10(F)(1)(b), concerning suspension and revocation, is amended by adding the words ''a blasting-related permit condition'' immediately following the words ''laws or regulations.'' As amended, 13–9–10(F)(1)(b) provides as follows:

(b) Violation of any provision of State or Federal explosives laws or regulations, a blasting-related permit condition, or any condition of certification;

The regulation at 13–9–10(F)(1)(f), concerning suspension and revocation, is new and provides as follows:

(f) Conducting a blast where flyrock was cast beyond the permit boundary of any mine.

The regulation at 13–9–10(F)(3), concerning suspension and revocation, is amended by deleting the words ''or a designated certifying authority,'' and adding in their place the words ''and may work on a blasting crew only under the direct supervision of a certified blaster.'' As amended, 13–9–10(F)(3) provides as follows:

(3) Upon notice of a suspension or revocation, the blaster shall immediately surrender the suspended or revoked certificate and all copies thereof to the chief, and may work on a blasting crew only under the direct supervision of a certified blaster.

The regulation at 13–9–10(F)(4), concerning suspension and revocation, is amended by deleting the phrase ''during the term of the suspension,'; deleting paragraph (4)(a); paragraph (4)(b) becomes (4)(a); paragraph 4(c) becomes paragraph 4(b) and then replacing the word ''a'' with the word ''the'' at (4)(b); and adding a new paragraph (4)(c). As amended 13–9–10(F)(4) provides as follows:

(4) To repossess a suspended certificate the blaster must:
(a) Exhibit a pattern of conduct consistent with the acceptance of responsibility for blasting operations;
(b) Pass the written examination administered under paragraph (C) of this rule; and
(c) Meet any other requirements imposed by the chief under the terms of the suspension.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Ohio program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Appalachian Regional Coordinating Center may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII, Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS NO. OH–249–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Appalachian Regional Coordinating Center at (412) 937–2153.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. (local time), on August 5, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse

effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 7, 2003.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–18468 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD09–03–215]

RIN 1625–AA09

Drawbridge Operation Regulations; Milwaukee, Menomonee, and Kinnickinnic Rivers and South Menomonee and Burnham Canals, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the drawbridge operating regulation for the Canadian Pacific (formerly Chicago, Milwaukee, St. Paul & Pacific) railroad bridge over the Burnham Canal in Milwaukee, WI, allowing the bridge to remain closed to navigation due to infrequent use. This will allow the bridge owners to reduce maintenance and operation costs at a location where there is no known need for drawbridge openings.

DATES: Comments and related material must reach the Coast Guard on or before September 19, 2003.

ADDRESSES: You may mail comments and related material to Commander (obr), Ninth Coast Guard District, 1240 E. 9th Street, room 2019, Cleveland, Ohio, 44199–2060. Commander (obr), Ninth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration Branch, Ninth Coast Guard District, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot Striffler, Bridge Administration Branch, at the address above or phone (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD09–03–215], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound

format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Ninth Coast Guard District, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Canadian Pacific Railway bridge at mile 1.74 over Burnham Canal is a swing type bridge with a vertical clearance of approximately eight feet. In accordance with 33 CFR 117.1093, it is currently required to open for vessels if at least two-hours advance notice is provided prior to passing. Canadian Pacific Railway requested the Coast Guard allow the bridge to be maintained in the closed to navigation position since there have been no requests from vessels to open the bridge since June 13, 1997. There are no active marine facilities along the canal, and the area in Milwaukee Harbor where the bridge is located is part of a city re-development project. The City of Milwaukee Commissioner of Public Works and Commissioner of City Development offices have notified Canadian Pacific Railway in writing that they support this action.

Burnham Canal is a federal waterway. The waterway is reportedly no longer actively maintained by the Corps of Engineers. This rulemaking would allow the bridge to be untended and maintained in the closed to navigation position as per 33 CFR 117.39. However, the Coast Guard will retain the authority, should conditions make such an action necessary, to order the bridge owner to restore the bridge to an operable condition within 12 months of notification from Commander, Ninth Coast Guard District.

In addition to the regulation for the railroad bridge, the current regulation refers to ''all other bridges across the Burnham Canal''. The only other bridge on the canal that falls within the jurisdiction of the Coast Guard Bridge Administration Program is the Interstate 94 bridge at mile 1.79, which is a fixed bridge, and should not be referred to in the drawbridge regulations. Therefore, the Coast Guard proposes removing this section from 33 CFR 117.1093.

Discussion of Proposed Rule

This proposed rule will allow the railroad bridge to remain closed, as it has been, and still be in compliance with Coast Guard requirements. With no requests to open the bridge since 1997, accordingly there is arguably no need and no known effects on navigation if this bridge is allowed to remain closed. If conditions change and commercial navigation resumes on Burnham Canal, the Coast Guard will require the railroad to restore the bridge to operation within 12 months.

An additional change that would result from this proposed rule is the elimination of a section of a drawbridge regulation that is obsolete. In addition to the Canadian Pacific bridge, only the I–94 bridge crosses Burnham Canal. This is a hi-level fixed bridge that does not require drawbridge regulations.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Our preliminary investigation revealed no need for the bridge to be operable since 1997, with no vessels desiring an opening of the bridge. The owners of the land adjacent to the canal do not currently have plans to use the land for marine or commercial purposes. As stated, if these conditions were to change, then the bridge would be required to be operational again within 12 months of notification from the Coast Guard.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

With no requests to open the bridge since 1997, the Coast Guard is unaware of any entities that may be affected by this proposed rule. If the bridge remains closed, only vessels that require less than eight feet vertical clearance may pass, which potentially could affect some entities. If this condition changes and there is a future need for greater clearances, the Coast Guard will require the bridge to be made operational again.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Ninth Coast Guard District, at the address above.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This action is categorically excluded under paragraph 32(e) as it is for the purpose of revising an operation regulation for this drawbridge. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.1093, revise paragraph (f) to read as follows:

§ 117.1093 Milwaukee, Menomonee, and Kinnickinnic Rivers and South Menomonee and Burnham Canals.

* * * * *

(f) The draw of the Canadian Pacific Railway bridge, mile 1.74 over Burnham Canal, need not be opened for the passage of vessels.

Dated: June 14, 2003.

R.F. Silva,

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

[FR Doc. 03–18379 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

The Negotiated Rule Making Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings of the Negotiated Rule Making Committee.

SUMMARY: Notice is hereby given in accordance with Federal Advisory Committee Act (Pub. L. 92–463, 83 Stat. 770, 5 U.S.C. App 1, section 10), of two upcoming meetings of the Negotiated Rule Making Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore (36 CFR 7.20).

DATES: The Committee members will meet on: Saturday, August 16 and Friday, August 22, 2003.

ADDRESSES: Saturday meeting, (Aug. 16) will begin at 9 a.m. and will be held at Dowling College, Dowling/Brookhaven Campus, New York.

Friday's meeting, (Aug. 22) will be at 9 a.m. and will be held at the Saltaire Fire House, on Fire Island, N.Y.

FOR FURTHER INFORMATION CONTACT: Dave Spirtes, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772 (631) 289–4810 Ext. 225.

SUPPLEMENTARY INFORMATION: Meetings will be held for the following reasons:

May 9, 2003—Friday

1. Discussion of Proposed Agenda.
2. Discussion of Progress since last meeting.
3. Review of Proposed Draft Consensus Agreement.
4. Public Participation Period.
5. Adjournment.

May 10, 2003—Saturday

1. Continued Review of Draft Consensus Agreement.
2. Public Participation Period.
3. Vote on Draft Consensus Agreement.
4. Adjournment.

The meeting is open to the public. It is expected that 25 persons will be able to attend the meeting in addition to the Committee members.

The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Fire Island National Seashore.

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Such presentations may be made to the Committee during the public participation period the day of the meeting, or in writing to the Park Superintendent at least seven days prior to the meeting.

David Spirtes,

Acting Regional Director, Northeast Region.

[FR Doc. 03–18203 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN157–1b; FRL–7517–6]

Approval and Promulgation of State Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on January 7, 2003. The revised SIP pertains to certain miscellaneous metal coating operations and the control of gasoline Reid vapor pressure in Clark and Floyd Counties, Indiana. The purpose of this action is to approve amendments to the applicable Indiana rules, assuring that certain controls in the two counties remain in effect even after the counties' redesignation to attainment. In addition, EPA is proposing to approve minor changes to the rules, which are administrative in nature and intended to enhance the rules' clarity. In the Final Rules section of this **Federal Register**, EPA is approving as described herein, the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further action in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: EPA must receive written comments on this proposed rule by August 20, 2003.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA.

Table of Contents

I. What action is EPA taking today?
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I. What Action Is EPA Taking Today?

In this action, we are proposing to approve changes to Indiana's Miscellaneous metal coatings operations and Control of gasoline Reid vapor pressure requirements contained in 326 IAC 8–2–9 and 326 IAC 13–3–1. Our approval makes the changes to the Indiana rules part of the federally enforceable SIP.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register.**

Dated: June 9, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 03–18299 Filed 7–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY60–257b; FRL–7519–9]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New York. This revision consists of source-specific reasonably available control technology (RACT) determinations for controlling oxides of nitrogen (NO_X) emissions from eighteen units at three facilities owned by Tenneco Gas Corporation in New York. This rule proposes to approve the source-specific RACT determinations that were made by New York in accordance with provisions of its regulation. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal, as a direct final rule without prior proposal because the Agency views it as a noncontroversial submittal and anticipates no adverse comments.

A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, the Agency will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 20, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866. Electronic comments could be sent either to *Werner.Raymond@epa.gov* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. Please follow the on-line instructions for submitting comments.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella (*Gardella.Anthony@epa.gov)* or Richard Ruvo *(Ruvo.Richard@epa.gov),* Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 17, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–18300 Filed 7–18–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Dockets 99–200, 96–98 and 95–116; FCC 03–126]

Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission invites comment on whether to extend the thousands-block number pooling exemption established herein to carriers operating in rate centers with two service providers. In light of the Commission's prior finding that pooling provides the greatest benefit when participation is maximized, commenters that support extending the exemption should provide specific information on the number of carriers that would be affected by such an extension, so the Commission can determine how pooling deployment will be affected. Commenters advocating an extension of the current exemption should provide specific, per carrier, pooling cost information to enable the Commission to properly balance the benefits of pooling against the costs to carriers and their customers.

DATES: Comments are due on or before August 20, 2003. Reply comments are due on or before September 4, 2003.

ADDRESSES: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7705.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 99–200 released on June 18, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Further Notice of Proposed Rulemaking

1. In its comments, AT&T Wireless proposes that carriers, regardless of their size, operating in rate centers with fewer than three service providers, be exempt from the pooling requirement. AT&T also suggests that if a state commission believes that significant number optimization benefits could be obtained in rate centers with only two carriers, the state commission could petition the Commission to require those carriers to participate in pooling. In the accompanying Fourth Report and Order, the Commission exempts carriers from the pooling requirement if they are the only carrier in a rate center receiving numbering resources, but there is insufficient evidence in the record to determine whether rate centers with two competing service providers should also be exempt from pooling, as AT&T suggests.

2. The Commission therefore seeks comment on whether to extend the exemption established in the accompanying Fourth Report and Order to carriers operating in rate centers with two service providers. In light of the Commission's prior finding that pooling provides the greatest benefit when participation is maximized, commenters that support extending the exemption should provide specific information on the number of carriers that would be affected by such an extension, so the Commission can determine how pooling deployment will be affected. Commenters advocating an extension of the current exemption should provide specific, per carrier, pooling cost information to enable the Commission to properly balance the benefits of pooling against the costs to carriers and their customers.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Fourth Report and Order in CC Docket No. 99–200, Fourth Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 99–200, and Fourth Report and Order in CC Docket No. 95–116. Written public comments are requested on this IFRA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, this FNPRM (or a summary) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

4. The Commission is issuing this FNPRM to seek comment on a proposal to exempt carriers, regardless of size, from the Commission's pooling requirement if they are in rate centers with only two service providers. We also ask commenters that support extending the exemption to provide specific information on the number of carriers that would be affected by such an extension, so the Commission can determine how pooling deployment will be affected. Commenters advocating an extension of the current exemption should provide specific, per carrier, pooling cost information to enable the Commission to properly balance the benefits of pooling against the costs to carriers and their customers. Thus, we request a cost-benefit analysis showing how the benefits of pooling can be achieved without undue burden on carriers. In doing so, we seek to ensure that the limited numbering resources of the NANP are used efficiently.

2. Legal Basis

5. The authority for actions proposed in this FNPRM may be found in sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

6. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules proposed herein. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''

The term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes bi-annually in its Trends in Telephone Service Report. According to data in the most recent report, there are 5,679 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

8. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted previously, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

9. Local Exchange Carriers and Competitive Access Providers. Neither the Commission nor the SBA has developed a definition specifically for small providers of local exchange services. The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the most recent Commission data there are 1,619 local services providers with 1,500 or fewer employees. Because it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Of the 1,619 local service providers, 1,024 are incumbent local exchange carriers, 411 are Competitive Access Providers (CAPs) and competitive LECs, 131 are resellers and 53 are other local exchange carriers. Consequently, we estimate that fewer than 1,619 providers of local exchange service are small entities or small incumbent local exchange carriers that may be affected.

10. Cellular and Wireless Telephony. Neither the Commission nor the SBA has developed a definition of small entities specifically for wireless telephony. The closest definition is the SBA definition for cellular and other wireless telecommunications. Under this definition, a cellular licensee is a small entity if it employs no more than 1,500 employees. According to the most recent Commission data, 580 providers classified themselves as providers of wireless telephony, including cellular telecommunications, Personal Communications Service, and Specialized Mobile Radio (SMR) Telephony Carriers. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 580 wireless telephony carriers that may be affected.

11. Other Wireless Services. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to wireless services other than wireless telephony. The closest applicable definition under the SBA rules is again that of cellular and other wireless telecommunications, under which a service provider is a small entity if it employs no more than 1,500 employees. According to the most recent Commission data, 595 providers classified themselves as paging services, wireless data carriers or other mobile service providers. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireless service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 595 wireless service providers that may be affected.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. No new recording, recordkeeping or other compliance requirements are proposed. The proposal, if adopted, would create an exemption from regulation for carriers operating in areas where there are only two competing service providers.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

14. The Commission's action in this FNPRM will benefit certain small entities by exempting them from the pooling requirement under certain circumstances. Specifically, we seek comment on whether carriers, regardless of size, in rate centers with only two service providers should be exempted from thousands-block number pooling. Thus, we seek to further minimize the burden on small carriers.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

15. None.

B. Comment Filing Procedures

16. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before August 20, 2003 and reply comments on or before September 4, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24,121 (1998).

17. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the

comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <get form <your e-mail address>.'' A sample form and directions will be sent in reply. After filing your comments electronically, please notify Sheryl Todd at *stodd@fcc.gov* that comments have been filed.

18. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

19. In addition, one copy of each pleading must be sent to the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; e-mail: *qualexint@aol.com;* facsimile: (202) 863–2898; phone: (202) 863–2893.

20. Comments in this proceeding will be available on ECFS. They will also be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* Documents may also be purchased from the Commission's duplicating contractor. Alternative formats (computer diskette, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau, at (202) 418–7426 (voice) or (202) 418–7365 (TTY), or at *bmillin@fcc.gov.* This Public Notice can also be downloaded in Text and ASCII formats at: *http://www.fcc.gov/cib/dro.*

III. Ordering Clauses

21. Pursuant to the authority contained in sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251, this Fourth Report and Order is hereby adopted and part 52 of the Commission's rules are amended and adopted as set forth in the Final rule document (Published elsewhere in this issue).

22. Pursuant to the authority contained in sections 1, 2, 3, 4, 251(e), 254(e), and 405 of the Communications Act of 1934, as amended, 47 U.S.C 151, 152, 153, 154, 251(e), 254(e), and 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the petition for reconsideration filed by AT&T on May 6, 2002 is denied.

23. It is further ordered that, pursuant to the authority contained in Sections 1, 3, 4, 201–205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, and 251, this FNPRM of proposed rulemaking is hereby adopted.

24. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Fourth Report and Order in CC Docket No. 99–200 and CC Docket No. 95–116, and Further Notice of Proposed Rulemaking in CC Docket No. 99–200, including the Final Regulatory Flexibility Analysis and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration.

List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–18364 Filed 7–18–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 071003A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP) and the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (Highly Migratory Species (HMS) FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs in response to an application submitted by the East Coast Tuna Association (ECTA) that would allow five purse seine vessels to fish for giant Atlantic bluefin tuna (Thunnus thynnus) in NE multispecies year-round Closed Area I, where use of purse seine gear is currently prohibited. The EFP would exempt these vessels from the gear restrictions for the Georges Bank Regulated Mesh Area. The purpose of the study is to collect information regarding bycatch of, and interactions of purse seine gear with, groundfish species, other species, and marine mammals, and to record contact with the ocean bottom or with any Essential Fish Habitat (EFH). The results of this EFP would allow NMFS and the New England Fishery Management Council (Council) to evaluate the feasibility of allowing purse seine gear in Closed Area I as an exempted gear on a permanent basis. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the

opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before August 5, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

Copies of the draft Environmental Assessment (EA) are available from the Northeast Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Management Specialist, 978–281–9141.

SUPPLEMENTARY INFORMATION:

Background

The Georges Bank and Southern New England (GB/SNE) NE multispecies year-round closed areas were established under the FMP to provide protection to concentrations of regulated multispecies--particularly cod, haddock, and yellowtail flounder. Consequently, all fishing in these year-round closed areas was prohibited, with a few exceptions. The only exceptions allowing access to the closed areas were fishing activities known to have a very low incidence of NE multispecies bycatch. For example, pelagic midwater trawl gear was determined to have a negligible catch of NE regulated multispecies because the gear fishes well off the ocean floor. As a result, it is an allowed gear in the GB/SNE NE multispecies closed areas.

Purse seine gear is typically used to target pelagic species such as herring, mackerel, and tuna that are concentrated at or near the surface of the ocean. This type of gear is not designed or intended to fish for species at or near the ocean floor, and is typically considered to have very little interaction with bottom-dwelling species such as groundfish.

Observer data from the 1996 tuna purse seine fishery, the last year the fishery carried full-time observers, documented a small catch of NE regulated groundfish, other demersal species, and bottom debris (i.e., sponges and empty shells) in 20 out of 39 observed sets. Out of these 20 sets, only 4 occurred inside Closed Area I, in depths ranging from 28 to 35 fathoms (fm) (51 - 64 meters (m)). In 2000, EFPs were issued to four purse seine vessels to collect information on the interaction between purse seine gear and demersal species and their habitat, specifically in Closed Area I. Data from the five observed trips in Closed Area I from the 2000 tuna purse seine experimental fishery did not show any bycatch of demersal species. These sets occurred in depths ranging from 55 to 86 fm (100 - 157 m). In 2001, EFPs were issued to all five vessels authorized to fish for bluefin tuna with purse seine gear. During this experiment, four trips were made into Closed Area I. On a single trip, one of the participating vessels made three sets inside Closed Area I in depths ranging from 40 to 60 fm (73 - 110 m). Although one basking shark was caught and later released alive, no other interactions with non-target or protected species and no bycatch of NE regulated multispecies occurred during the 2001 experimental fishery. During the 2002 experimental fishery, four of the five purse seine boats issued EFPs made 32 sets in Closed Area I. There was no bycatch of demersal finfish, no interaction with the bottom, and no interaction with either marine mammals or sharks.

A fourth experimental fishery has been requested by ECTA in order to ascertain, definitively, whether there will be any significant interactions between purse seine gear and NE multispecies and EFH. The Council is considering an exemption for tuna purse seine gear within all groundfish closed areas as part of Amendment 13 to the FMP.

Proposed EFP

The proposed EFP would exempt five purse seine vessels fishing for giant Atlantic bluefin tuna under 50 CFR part 635 from the gear restrictions of Closed Area I, as described at 50 CFR 648.81(a). Similar to the 2000, 2001, and 2002 purse seine experimental fisheries in Closed Area I, no more than five vessels would be authorized to participate.

The applicant has requested that the experimental fishery begin on July 15, 2003, and continue through the end of the calendar year on December 31, 2003. However, because of the timing of the application and the length of time required to fully review the application, this EFP, if approved, would be issued as soon as possible, but necessarily after the requested July 15, 2003, date.

The tuna purse seine fishing season is not scheduled to begin until August 15, 2003. However, NMFS is reviewing another request by the ECTA to issue an EFP that would start the tuna purse seine fishing season on July 15, 2003, instead of August 15, 2003. Therefore, the exempted fishery that would allow tuna purse seine vessels into Closed Area I may begin prior to August 15, 2003, contingent upon the approval of the EFP to begin the purse seine fishing season earlier. The EFP would continue in effect until the five vessels have achieved their individual fishing quotas, or the end of the 2003 calendar year, whichever occurs first. Although these individual quotas may be taken prior to December 31, they are typically taken by the middle of October. Because the bluefin tuna fishery takes place throughout the waters off New England, and the concentrations of fish often move between areas, it is likely that the fishery would take place within Closed Area I for only a few weeks, at the most.

Vessel captains would be required to record information on bottom depth, depth of net, mesh size used, location of set, information on any bycatch species, any interactions between the net and the bottom, and any incidental take of marine mammals or protected species. Any NE multispecies that are captured during fishing activities would be required to be discarded after measurement.

EAs that analyzed the impacts of the experimental tuna purse seine fishery on the human environment were prepared for the 2000 and 2001 experimental fisheries. A supplement to the 2001 EA was prepared for the 2002 EFP. These documents concluded that the activities that were conducted under the EFP are consistent with the goals and objectives of the FMP, are consistent with the HMS FMP, and will have no significant environmental impacts. The EAs also considered the impacts of the EFP activities on EFH, marine mammals, and protected species and found that the proposed exempted tuna purse seine fishery would have no significant impact on EFH, marine mammals, or protected species. An EA was prepared for the 2003 experimental fishery, which incorporates the results of the 2001 and 2002 exempted fisheries, addresses the cumulative impacts of the proposed 2003 exempted fishery, and recommends a finding of no significant impact.

NOAA Fisheries believes that one additional EFP will provide the necessary data to determine conclusively that there is minimal interaction between purse seine gear and NE multispecies and EFH. The Regional Administrator, therefore, has made a preliminary determination to issue an Exempted Fishing Permit to ECTA.

If approved, EFPs would be issued to the five participating vessels to exempt them from the restrictions of Closed Area I of the FMP.

Based on the results of this EFP, this action may lead to further rulemaking.

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

Dated: July 15, 2003.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–18488 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 030714172–3172–01; I.D. 063003A]

RIN 0648–AR33

Atlantic Striped Bass Conservation Act; Atlantic Striped Bass Fishery

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

ACTION: Advance Notice of Proposed Rulemaking (ANPR); request for comments.

SUMMARY: NMFS announces that it is considering potential revisions to the Federal Atlantic striped bass regulations for the U.S. Exclusive Economic Zone (EEZ) in response to recommendations from the Atlantic States Marine Fisheries Commission (Commission) to the Secretary of Commerce (Secretary). The Commission recommended that the Secretary remove the moratorium on the harvest of Atlantic striped bass in the EEZ after a 13–year closure; implement a 28–inch (71.1–cm) minimum size limit for the recreational and commercial Atlantic striped bass fisheries in the EEZ; and allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdiction. NMFS is soliciting comments with this notice regarding possible management measures and issues that NMFS should consider relative to these recommendations.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before August 20, 2003.

ADDRESSES: Written comments must be sent to: Anne Lange, Chief, State-Federal Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13317, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713–0596. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Fishery Management Biologist, (301) 713–2334, fax (301) 713–0596.

SUPPLEMENTARY INFORMATION:

Background

This ANPR is promulgated under the Atlantic Striped Bass Conservation Act (Act), Public Law 100–589, reproduced at 16 U.S.C. 1851 note. Section 9 of the Act requires the Secretary to promulgate regulations governing fishing for Atlantic striped bass in the EEZ that the Secretary determines: (1) are consistent with the national standards in Section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1851); (2) are compatible with the fishery management plan for managing Atlantic striped bass and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal state; (3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal state; and (4) are sufficient to assure the long-term conservation of Atlantic striped bass populations. In developing the regulations, the Secretary is to consult with the Commission, the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state and local government entity.

Atlantic Striped Bass management is based on the Commission's Atlantic Striped Bass Interstate Fishery Management Plan (ISFMP), first adopted in 1981. From 1981 - 1994, four ISFMP Amendments were developed that provided a series of management measures that led to the rebuilding of the stocks. In 1995, the Commission declared the Atlantic striped bass population fully restored and implemented Amendment 5 to the ISFMP to perpetuate the stock so as to allow a commercial and recreational harvest consistent with the long-term maintenance of the striped bass stock. Since then the population has expanded to record levels of abundance. To maintain this recovered population, the Commission approved Amendment 6 to the ISFMP (Amendment 6) in February 2003 (copies of Amendment 6 are available via the Commission's website at www.asmfc.org). The Commission believes that the measures contained in Amendment 6 are necessary to prevent the overfishing of the Atlantic striped bass resource while allowing growth in both the commercial and recreational fishery. Development of Amendment 6 took almost four years and involved extensive input from technical and industry advisors, and provided numerous opportunities for the public to comment on the future management of the species.

Amendment 6 incorporates results of the most recent Atlantic striped bass stock assessment, developed by the Atlantic Coast States, the Commission, NMFS, and the U.S. Fish and Wildlife Service (see section 1.2.2 of Amendment 6). In summary, the 2001 stock assessment concluded that the overall abundance of the stock is very high and fishing mortality remains below the target rate. The stock's abundance increased steadily between 1982 and 1997 and since then has remained stable. The fishing mortality rate increased steadily until 1999, but decreased slightly in 2000. Amendment 6 also includes recommendations to the Secretary on the development of complementary measures in the EEZ. Management of Atlantic striped bass in the EEZ was one of the issues that was considered throughout development of Amendment 6.

Recommendation to the Secretary

On April 24, 2003, the Secretary received a letter from the Commission with the following three recommendations for implementation of regulations in the EEZ: (1) Remove the moratorium on the harvest of Atlantic striped bass in the EEZ; (2) implement a 28–inch (71.1 cm) minimum size limit for recreational and commercial Atlantic striped bass fisheries in the EEZ; and (3) allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdictions.

In support of its request, the Commission provided a number of reasons to justify opening the EEZ to striped bass fishing. These reasons include:

(1) In 1995, due in part to a closure of the EEZ in 1990 to striped bass harvest, the population of this species was declared fully restored by the Commission. The purpose of closing the EEZ was to protect strong year classes entering the population and to promote rebuilding of the overfished population.

(2) The commercial harvest is controlled by hard quotas; when they are reached the fishery is closed; and overages are taken out of next year's quotas. The Commercial quota will be landed regardless of whether or not the EEZ is opened.

(3) Currently, recreational and commercial catches are occurring in the EEZ and these fish are required to be discarded. Opening the EEZ will convert discarded bycatch of striped bass to landings.

(4) Because of management measures implemented since 1990, the striped

bass population has recovered to a point where further examination of whether this fishery should occur in the EEZ is appropriate. There are expectations among a number of fishing industry stakeholders that their past sacrifices would result in future opportunities to harvest striped bass, and therefore, there are potential credibility issues associated with keeping the EEZ closed, especially in light of the current status of the Atlantic striped bass stock.

(5) The recommendation to open the EEZ is part of Amendment 6 which incorporates new management standards to ensure stock conservation including targets and thresholds for both mortality and spawning stock biomass. Fishing mortality is currently below the target level, and spawning stock biomass is 1.5 times the target level.

(6) Amendment 6 includes monitoring requirements and triggers that will allow the Commission to respond quickly to increased mortality.

(7) The bulk of the public comment (greater than 75 percent) received in opposition cited expansion of the commercial fishery as rationale not to open the EEZ. The Commission believes the rationale is incorrect because the commercial fishery is controlled by a hard quota.

The Commission stated that its Atlantic Striped Bass Technical Committee would monitor annually the Atlantic striped bass population, and, if at some point in the future the Commission determines that the Atlantic striped bass population is overfished or that overfishing is occurring, it may recommend further management measures for the EEZ.

NMFS is considering proposed rulemaking to revise the Federal Atlantic striped bass regulations to be compatible with Amendment 6 and is seeking comments on implementation of the Commission's recommendations in the EEZ. After review of comments received from this notice, NMFS will decide whether to initiate a lengthy review and decision-making process, which would include preparation of either an Environmental Impact Statement or an Environmental Assessment, and the development of management measures to revise current Federal regulations for Atlantic striped bass in the EEZ.

Authority: 16 U.S.C. 1851 note.

Dated: July 15, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–18491 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 139

Monday, July 21, 2003

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

Office of the Secretary

Notice of the Research, Education, and Economics Task Force Meeting

AGENCY: Research, Education, and Economics; USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the Research, Education, and Economics Task Force.

DATES: The Research, Education, and Economics Task Force will meet on July 31, 2003.

The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: On July 31, the meeting will take place at the Phoenix Park Hotel (TENTATIVE), 20 North Capitol Street, NW., Washington, DC 20001.

Written comments from the public may be sent to the contact person identified in this notice at: The Research, Education, and Economics Task Force; Office of the Under Secretary, Room 214–W, Jamie L. Whitten Building, United States Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Kathryn Boots, Executive Director, Research, Education, and Economics Task Force; telephone: (202) 690–0826; fax: (202) 690–2842; or email: *katie.boots@usda.gov*.

SUPPLEMENTARY INFORMATION: On Thursday, July 31, 2003, the Research, Education, and Economics Task Force will hold a general meeting at the Phoenix Park Hotel (TENTATIVE). The Task Force will begin its evaluation of the merits of establishing one or more National Institutes focused on disciplines important to the progress of food and Agricultural science. In the morning there will be welcoming remarks made by the Chairman of the Task Force, Dr. William Danforth, Chancellor Emeritus, Vice Chairman, Board of Trustees, Washington University in St. Louis, as well as the USDA Under Secretary for Research, Education, and Economics (REE), Dr. Joseph J. Jen. Welcoming remarks will be followed by a presentation by Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences, National Science Foundation (NSF), about how research is conducted at NSF. Dr. Anthony Fauci, Director of the National Institute of Allergy and Infections Diseases, National Institutes of Health (NIH), will follow Dr. Clutter's presentation, with a presentation about how research is conducted at NIH. Following Dr. Fauci's presentation, a representative from each of the four REE Agencies, including the Agricultural Research Service (ARS), the Economic Research Service (ERS), the Cooperative State Research, Education, and Extension Service (CSREES), and the National Agricultural Statistics Service (NASS), will give a brief presentation of how research is conducted in each agency. There will be a working lunch, followed by an afternoon session consisting of a general discussion among Task Force members where they will begin their evaluation of the merits of establishing one or more National Institutes focused on disciplines important to the progress of food and Agricultural science. The Task Force Meeting will adjourn on Thursday, July 31, 2003 around 4 p.m. This meeting is open to the public. Due to a delay, this notice could not be published at least 15 days prior to the meeting date. The meeting will be held as scheduled because of the significant sacrifice rescheduling would require of Task Force members who have adjusted their schedules to accommodate the proposed meeting date.

Written comments for the public record will be welcomed before and up to two weeks following the Task Force meeting (by close of business Thursday, August 14, 2003). All statements will become part of the official record of the Research, Education, and Economics Task Force and will be kept on file for public review in the Office of the Under Secretary for Research, Education, and Economics.

Dated Washington, DC, this 15 day of July 2003.

Joseph J. Jen,

Under Secretary, Research, Education, and Economics.

[FR Doc. 03–18446 Filed 7–18–03; 8:45 am]

BILLING CODE 3401–03–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

Notice of Intent To Seek Approval to Collect Information

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the Economic Research Service's (ERS) intention to request approval for a new information collection from School Food Authorities, public primary and secondary school administrators, students, and parents of students. The study will collect information on school meal program operations, costs, and outcomes, and on the characteristics of participating schools and both participating and non-participating students.

DATES: Written comments on this notice must be received by September 24, 2003 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Requests for additional information or to comment regarding this notice should be directed to Joanne Guthrie, Food Assistance and Nutrition Research Program, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street, NW., Room N2154, Washington, DC 20036–5831; Telephone: 202–694–5373. Submit electronic comments to *jguthrie@ers.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Integrated Study of School Meal Costs and Outcomes.

OMB Number: Not yet assigned.

Expiration Date: Three years from date of issuance.

Type of Request: Approval to collect information from School Food Authorities (SFAs), public primary and secondary school administrators, students, and parents of students.

Abstract: USDA's Economic Research Service (ERS) has the responsibility to provide social and economic intelligence on consumer, food marketing, and rural issues, including food security status of the poor; domestic food assistance programs; low-income assistance programs; economic food consumption determinations and trends; consumer demand for food quality, safety, and nutrition; food market competition and coordination; and food safety regulation. In carrying out this overall mission, ERS seeks approval of information gathering activities to conduct an integrated study of school meal costs and outcomes for the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

The integrated study will collect data in five domains: policies and practices of schools and School Food Authorities (SFAs) affecting school meal programs; characteristics of USDA-reimbursable meals as offered, served, and consumed; costs and revenues of providing school meals; student participation and satisfaction; and students' dietary intakes and other student/family outcomes. Data will also be collected on the demographic characteristics of participating SFAs and schools, and on the characteristics of participating and non-participating students and their families.

This study will update national studies of program costs and outcomes that were conducted prior to the School Meal Initiative (SMI) of 1995. It will extend research findings from the School Nutrition Dietary Assessment Study II and the School Meals Initiative Implementation Study and explore, in a nationally representative study, the implications of their findings for program costs and outcomes. In addition, because of its integrated design and data collection, it will allow an unprecedented level of analysis of the relationship among key operating characteristics (such as menu planning systems), costs, and students' participation, consumption and quality of diet.

The sample frame for the study will include public school districts in the 48 contiguous States, the District of Columbia, and, for data to be collected by mail, Alaska and Hawaii. At all levels of sampling for the study, school districts will be elected randomly with probability proportional to size, and the sample will be nationally representative. A preliminary survey will collect data on school district characteristics, menu planning method, program operations, and foodservice costs and revenues. Respondents to the preliminary survey will comprise the sampling frame for the ''main study.'' A multi-level design will be implemented to avoid overburdened individual SFAs with excessive data collection requirement. All SFAs and schools sampled for the main study (Level 1) will be asked to provide data on school meal program operations and information on reimbursable meals offered and served during a randomly assigned school week. A subset of SFAs and schools (Level 2) will be asked to provide detailed information on reported and unreported food service costs. Student and parent interviews will be conducted in a separate subset of SFAs and schools (Level 3) to obtain information on students' dietary intakes and other student/family outcomes.

The study and its data collection methodologies have been designed to minimize respondent between wherever possible without compromising data quality. Responses to all surveys will be voluntary and confidential. to ensure confidentiality, data will be reported only in tabular form, with analysis cells large to prevent identification of individual agencies, schools, or persons. The data will not be used to evaluate individual schools, school districts, or States. All respondents will be notified to these confidentiality assurances by letter (SFA and school respondents) or Informed Consent/Assent Forms (parents and children).

Estimate of Burden: For the preliminary mail survey, burden for the SFA Directors is estimated to be 90 minutes per response. (All burden estimates include time to prepare for and complete surveys of interview.) For all Level 1 sites, the burden estimates per response are as follows: SFA Director mail survey, 77 minutes; Kitchen Manager mail survey, 20 minutes; School Principal mail survey, 25 minutes. For the Level 1-only and Level 3 SFAs, the burden estimates for the self-administered, mail-based Menu Survey are: 330 minutes per SFA director, and 510 minutes per Kitchen Manager. For Level 1 in-person cost interviews, the burden estimates are as follows: SFA Director, 165 minutes; SFA Business Manager, 60 minutes; Kitchen Manager, 30 minutes; School Principal Interview, 55 minutes. For the Level 1 self-administered, mail-based Menu Survey, the burden estimates are: 330 minutes per SFA director and 690 minute per Kitchen Manager. The burden of Level 3 in-person CAPI interviews with students is 40 minutes for younger children and 55 minutes for youth. The burden for in-person CAPI interviews with parents of younger children (interview plus assisting in the child's 24-hour dietary recall) is estimated at 50 minutes; the CATI telephone interview with parents of youth will require 20 minutes. The burden for in-person CAPI second recalls is 25 minutes in school and 30 minutes at home for younger children, and 35 minutes for youth. Parents of younger children will spend 30 minutes on in-person CAPI secondary recall interviews.

Estimated Number of Respondents: SFA directors for Preliminary SFA survey, 2,079; for Level 1 questionnaire, 672; for Level 1 and 3 menu survey, 280; for cost interview and Level 2 menu survey, 392.

Kitchen Managers: For Level 1 questionnaire, 2,016; for Level 1 and 3 menu survey, 840; for cost interview and Level 2 menu survey, 1,176.

School Principals: For Level questionnaire: 2,016, for cost interview, 1,176, SFA Business Managers, 392; Children and Youth, 2,812; Parents, 2,250.

Estimated Total Annual Burden on Respondents: Total of 37,140 hours, including 8,751 hours for SFA Directors; 21,924 hours for Kitchen Manager; 1,918 hours for Principals; 392 hours for SFA Business Managers; 716 hours for younger children; 2,393 hours for youth; and 1,046 hours for parents.

Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used; (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 those who are to respond, including the use of appropriate, automated, electronic, mechanical or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

Dated: June 30, 2003.

Susan Offutt,

Administrator, Economic Research Service, USDA.

[FR Doc. 03–18445 Filed 7–18–03; 8:45 am]

BILLING CODE 3410–78–M

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta County Resource Advisory Committee (RAC)

AGENCY: USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Shasta County Resource Advisory Committee (RAC) will meet on July 30, 2003, in Anderson, CA. The purpose of the meeting will be to review project proposals, receive reports from working committees, and discuss the future of RAC appointments.

DATES: The meeting will be held on July 30, 2003, from 8 a.m. to noon.

ADDRESSES: The meeting will be held at Sierra Pacific Industries, 19794 Riverside Avenue, Anderson, CA—off Oxyoke Road between Interstate-5 and Highway 273.

FOR FURTHER INFORMATION CONTACT: Rebeca Franco, coordinator, USDA Forest Service, (530) 242–2322. E-mail: *rfranco@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Discussion is limited to Forest Service staff and committee members. However, time will be provided for public input, giving individuals the opportunity to address the committee.

Dated: July 14, 2003.

J. Sharon Heywood,

Forest Supervisor.

[FR Doc. 03–18416 Filed 7–18–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Current Population Survey, October 2003 School Enrollment and Computer Use Supplement.

Form Number(s): None. All interviewing is done in person or over the telephone using laptop computers and an automated survey instrument.

OMB Approval Number: 0607–0464.

Type of Review: Regular submission.

Burden Hours: 11,400.

Number of Respondents: 57,000.

Average Hours Per Response: 12 minutes.

Needs and Uses: The purpose of this request for review is to obtain clearance for the supplemental inquiry concerning school enrollment and computer use to be conducted in conjunction with the October 2003 Current Population Survey (CPS). The school enrollment supplement is the only source of National data on the age distribution and family characteristics of college students and the only source of demographic data on pre-primary school enrollment. As part of the federal government's efforts to collect data and provide timely information to local governments for policy-making decisions, the survey provides National trends in enrollment and progress in school. The Computer Use Supplement will provide a source of National and state level data on the demographic, social, and economic characteristics of Internet users and non-users. The development of statistical profiles of disadvantaged groups will permit public-private partnerships to target assistance to those that are most in need. It will provide information on where users access the Internet (at home, work, school, or other facility), the features used, and the reasons for non-use of the Internet. The data from this supplement will provide policy-relevant information on the U.S. population's access to, and use of, these technologies. Such information is essential for tracking the rapidly changing trends, understanding the nature of the changes, and planning policies and programs that will help make information technologies even more accessible across demographic groups and geographic regions.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182 and Title 29 U.S.C., Sections 1–9.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: July 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18408 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Current Industrial Reports (Wave I Mandatory & Voluntary Surveys).

Form Number(s): MQ325B, MQ327D, MA311D, MA325F, MA327C, MA331A, MA331B, MA331E, MA332Q, MA333A, MA333M, MA333N, MA334B, MA335A, MA335F, MA335H and MA335K.

OMB Approval Number: 0607–0392.

Type of Request: Regular submission.

Burden Hours: 9,519.

Number of Respondents: 9,309.

Average Hours Per Response: 54 minutes.

Needs and Uses: The Census Bureau conducts a series of monthly, quarterly, and annual surveys as part of the Current Industrial Reports (CIR) program. The CIR program focuses primarily on the quantity and value of shipments of particular products and occasionally with data on production and inventories; unfilled orders, receipts, stocks and consumption; and comparative data on domestic production, exports, and imports of the products they cover.

Primary users of these data are government agencies, business firms, trade associations, and private research and consulting organizations. The Federal Reserve Board uses CIR data in its monthly index of industrial production as well as its annual revision to the index. The Bureau of Economic Analysis (BEA) and the Bureau of Labor Statistics (BLS) use the CIR data in the estimate of components of gross domestic product (GDP) and the estimate of output for productivity analysis, respectively. Many

government agencies, such as the International Trade Commission, Department of Agriculture, Food and Drug Administration, Department of Energy, Federal Aviation Administration, BEA, and International Trade Administration use the data for industrial analysis, projections, and monitoring import penetration. Private business firms and organizations use the data for trend projections, market analysis, product planning, and other economic and business-oriented analysis.

Due to the large number of surveys in the CIR program, for clearance purposes, the CIR surveys are divided into ''waves.'' There are three waves that include the mandatory and voluntary surveys. Mandatory and voluntary surveys historically have been divided into separate clearance requests, making six separate clearances. Each year, one wave (or two clearance requests) is submitted for OMB review. We are now combining the mandatory and voluntary surveys of each wave into one clearance request, reducing the total number of clearance requests from six to three, and the number of OMB submissions annually from two to one. This year we are submitting the mandatory and voluntary surveys contained in Wave I for OMB review.

Also, in this request, we are converting the MA311D, ''Confectionery'' and MA333N, ''Fluid Power Products'' from mandatory collections to voluntary. Due to a lack of funding, we are discontinuing M336L, ''Truck Trailers'' and MQ332E, ''Plumbing Fixtures.''

Affected Public: Business or other for-profit organizations.

Frequency: Wave I contains surveys that are conducted quarterly and annually.

Respondent's Obligation: Wave I contains both mandatory and voluntary surveys.

Legal Authority: Title 13 U.S.C., Sections 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: July 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18409 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Survey of Income and Program Participation (SIPP) Wave 1 of the 2004 Panel

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 19, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Judith H. Eargle, U.S. Census Bureau, FOB 3, Room 3387, Washington, DC 20233–8400, (301) 763–3819.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the SIPP which is a household-based survey designed as a continuous series of national panels. New panels are introduced every few years with each panel usually having durations of one to four years. Respondents are interviewed at 4-month intervals or ''waves'' over the life of the panel. The survey is molded around a central ''core'' of labor force and income questions that remain fixed throughout the life of the panel. The core is supplemented with questions designed to address specific needs, such as obtaining information on household members participation in government programs as well as prior labor force patterns of household members. These supplemental questions are included with the core and are referred to as ''topical modules.''

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single, unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic-policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983 permitting levels of economic well-being and changes in these levels to be measured over time.

The 2004 panel is currently scheduled for 4 years and will include 12 waves of interviewing beginning February 2004. Approximately 62,000 households will be selected for the 2004 panel, of which, 46,000 are expected to be interviewed. We estimate that each household will contain 2.1 people, yielding 96,600 interviews in Wave 1 and subsequent waves. Interviews take 30 minutes on average. Two waves of interviewing will occur in the 2004 SIPP Panel during FY 2004. The total annual burden for 2004 Panel SIPP interviews would be 96,600 hours in FY 2004.

The topical modules for the 2004 Panel Wave 1 collect information about:

- Recipiency History
- Employment History

Wave 1 interviews will be conducted from February 2004 through May 2004.

A 10-minute reinterview of 3,100 people is conducted at each wave to ensure accuracy of responses. Reinterviews would require an additional 1,035 burden hours in FY 2004.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years with each panel having durations of 1 to 4 years. All household members 15 years old or over are interviewed using regular proxy-respondent rules. During the 2004 panel, respondents are interviewed a total of 12 times (12 waves) at 4-month intervals making the SIPP a longitudinal survey. Sample people (all household

members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit will be followed and interviewed at their new address. Individuals 15 years old or older who enter the household after Wave 1 will be interviewed; however, if these individuals move, they are not followed unless they happen to move along with a Wave 1 sample individual.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 96,600 people per wave.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 97,635.

Estimated Annual Cost to the Public: The only cost to respondents is their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is 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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized or included in the request for the Office of Management and Budget approval of this information collection. They also will become a matter of public record.

Dated: July 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18405 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Quarterly Services Survey

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 19, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to David Lassman, U.S. Census Bureau, Room 2744, FOB 3, Washington, DC 20233–6500, and (301) 763–7202.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau proposes a new quarterly survey of service industry activity called the Quarterly Services Survey (QSS). The QSS will begin a new economic indicator series which will produce, for selected service industries, quarterly estimates of total operating revenue and the percentage of revenue by class of customer. In addition, we also plan to collect total operating expenses from tax-exempt firms in industries that have a large not-for-profit component. Selected service industries include information, professional scientific and technical services, administrative and support and waste management and remediation services. We plan to expand the QSS to include hospitals and nursing and residential care facilities beginning the first quarter 2005.

We will mail the survey at the end of March 2004 and produce estimates for the fourth quarter 2003 and first quarter 2004. The first public data release will be in September 2004 covering the fourth quarter of 2003 and the first two quarters of 2004. We will release estimates no later than 90 days after the end of the quarter for each quarter thereafter. Our eventual goal, however, will be to reduce this period to 75 days after the end of the calendar quarter.

The data will be collected from all of the largest firms and from a sample of small- and medium-sized businesses selected using a stratified sampling procedure. Each quarter the sample will be updated to reflect the addition of new business births and firms and organizations that have gone out of business.

The Bureau of Economic Analysis will use data gathered in this survey to significantly improve its quarterly Gross Domestic Product (GDP) and GDP by industry estimates. The data will provide the Federal Reserve Board and Council of Economic Advisors with timely information to assess current economic performance. Other government and private stakeholders will also benefit from a better understanding of important cyclical components of our economy.

II. Method of Collection

We will collect this information by mail, fax, and a telephone follow-up.

III. Data

OMB Number: None.

Form Number(s): QS–1(A), QS–1(E), QS–2(A), QS–2(E), QS–3(A), QS–3(E).

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations; not-for-profit institutions, and government hospitals.

Estimated Number of Respondents: 6,000.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 6,000 hours.

Estimated Total Annual Cost: The cost to the respondents for fiscal year 2004 is estimated to be $130,920 based on the median hourly salary of $21.82 for accountants and auditors. (Occupational Employment Statistics-Bureau of Labor Statistics ''2001 National Occupational Employment and Wage Estimates'') *http://www.bls.gov/oes/2001/oes132022.htm.*

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is 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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18406 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Coverage Research Follow-up

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(C)(2)(A)).

DATES: Written comments must be submitted on or before September 19, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to Frank Vitrano, U.S. Census Bureau, Building 2, Room 2012, Washington, DC 20233–9200, 301–763–3961.

SUPPLEMENTARY INFORMATION:

I. Abstract

Improved coverage (*See* Definition of Terms) is one of the four major goals for Census 2010. As part of the effort to meet this goal, the Census Bureau is planning a new operation as part of the 2004 Census Test that will be conducted in two sites—Queens, NY, and three rural counties in Georgia (Colquitt, Tift, and Thomas).

The Coverage Research Follow-up Operation (CRFU), which is intended to evaluate the effectiveness of new procedures for improving coverage and reducing duplication, will begin after data capture for the 2004 Census Test has begun. CRFU will gather information regarding the presentation of the residence rules instructions (*See* Definition of Terms) and the usefulness of the coverage questions (*See* Definition of Terms) as presented on the 2004 Census Test questionnaire. In addition, the CRFU results will provide the Census Bureau with the types of possible person duplicates (*e.g.*, cases in which people have the same name but different addresses) that should be contacted in order to resolve residence status. Data from the CRFU operation are intended to help assure that the residence rules instructions and coverage questions are simple and easy to understand.

Approximately 25,000 households will be included in the universe for this operation. Approximately 10,000 households will be chosen based on responses to the 2004 Census Test coverage questions. These households will be drawn both from 2004 Census Test mail returns and the Non-response Follow-up (NRFU—*See Definition of Terms*) returns. In addition, about 15,000 households will be followed-up as a result of computer matching that identifies them as potential duplicates.

II. Method of Collection

After the 2004 Census Test data collection, the Census Bureau plans to evaluate the effectiveness of new procedures for improving coverage and reducing duplication. The two-part CRFU operation will attempt to:

1. Identify potential person and whole-household duplicates (*See Definition of Terms*) from data collected using the 2004 Census questionnaire,
2. Identify coverage problems from the sample of respondents who receive the follow-up questionnaire, and
3. Identify the reasons duplication and coverage problems occurred in the 2004 Census Test.

The Unduplication segment of CRFU will first computer match census data capture files against themselves in order to find potential duplicates. Some of these cases, which are either whole household or partial household duplicates, will be followed-up in the field. The whole household follow-up will be conducted by personal visits since many of these cases are expected to be the result of geocoding problems or form-delivery mix-ups.

Partial household cases will first be interviewed by telephone, and the Census Bureau will use a personal visit to attempt to resolve the ''unable to contact'' cases. The goal for the partial household cases is to attempt to determine which types can be easily and effectively solved using follow-up techniques.

The follow-up interview will be used to determine where the person or household should be counted using Census bureau residence rules guidelines.

The Coverage section of CRFU consists of a sample of the households that responded ''yes'' to the undercount or overcount questions (*See Definition of Terms*) as well as a sample of the households that answer ''no'' to the coverage questions. These households will be contacted either by telephone or personal visit, and the enumerator will conduct an interview using the Coverage Research Followup Questionnaire. The items included in this questionnaire will be probes that are intended to indicate whether respondents understood and properly applied the residence rules instructions included on the 2004 Census Test form (*i.e.*, whether they included all the appropriate persons on their form, and excluded persons who should have been counted elsewhere).

The follow-up questionnaire section of the test will be conducted via telephone or by personal visit beginning in mid-June. Households that refuse to give information over the telephone and households that telephone interviewers are not able to reach will be selected for personal visits. Data gathered as a result of these interviews will be processed at the National Processing Center in Jeffersonville, Indiana.

Definition of Terms

Coverage—How well the Census Bureau counts people and housing units in the census.

Coverage Questions (2004 Census Test)—The undercount coverage question, which is intended to identify people who may have been missed, will ask the respondent if there is anyone other than the individuals already listed who sometimes lives or stays at this address. The overcount coverage question, which is intended to identify people who may have been misreported, asks whether individuals sometimes live or stay at some other place.

Non-response Follow-up (NRFU)—An operation developed to obtain completed questionnaires from housing units for which the Census Bureau did not receive a completed questionnaire in mail census areas (mailout/mailback, update/leave). Enumerators visit addresses to collect the information.

Residence Rules—Rules that respondents and the Census Bureau use to determine where people should be counted. They are meant to insure that everyone is counted once and in the right place. The 2004 Census Test questionnaire will include re-worded instructions to help respondents apply these rules.

Whole-household Duplicates—Everyone living at a specific address is counted more than once.

III. Data

OMB Number: None.

Form Numbers: None.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Response: 18 minutes.

Estimated Total Annual Burden Hours: 7,500.

Estimated Total Annual Cost to the Public: There is no cost to respondents except for their time to respond.

Respondent Obligation: Mandatory.

Legal Authority: Title 13 of the United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is 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 (including hours and cost) of the proposed collection of collected; (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.

Comments submitted in response to this notice will summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 15, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–18407 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee will meet on August 7, 2003, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. 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 materials processing equipment and related technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Approval of minutes from previous meeting.
3. Presentation of papers or comments by the public.
4. Review of MPETAC 5-axis proposal.
5. Update on jig grinder controls.

Closed Session

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

A limited number of seats will be available for the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials, the Committee suggests that presenters forward the materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BIS MS 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 30, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information, contact Lee Ann Carpenter on 202–482–2583.

Dated: July 14, 2003.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 03–18425 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–827]

Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 13, 2003, the Department of Commerce (the Department) published the preliminary results and rescission in part of the administrative review of the antidumping duty order on pencils from the People's Republic of China (PRC). The merchandise covered by this order is certain cased pencils (pencils). The period of review (POR) is December 1, 2000, through November 30, 2001. Based on our analysis of comments received, these final results differ from the preliminary results. For details regarding these changes, see the section of the notice entitled ''Changes Since the Preliminary Results.'' The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Crystal Crittenden, Office of AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4474 or (202) 482–0989, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 2003, the Department published the preliminary results and rescission in part of the administrative review of the antidumping duty order on pencils from the PRC. *See Certain Cased Pencils from the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 68 FR 1591 (January 13, 2003) (*Preliminary Results*). We invited parties to comment on our preliminary results of review.

Since the publication of the preliminary results, the following events have occurred. During the months of January and February 2003, we conducted verifications of the questionnaire responses of the exporter/manufacturer Tianjin Custom Wood Processing Co., Ltd. (CalCedar-Tianjin),[1] and the exporter Shandong Rongxin Import & Export Co., Ltd. (Rongxin). We also conducted a verification of Kaiyuan Group Corporation's (Kaiyuan) sales records for the purposes of determining whether to rescind this company's review. On May 7, 2003, the Department extended the time limit for completion of the final results until no later than July 12, 2003. *See Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review*, 68 FR 24434 (May 7, 2003). Interested parties submitted case briefs and rebuttal briefs on June 5 and June 12, 2003, respectively.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.*, with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to this order are classified under item number 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Specifically excluded from the scope of this order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion.

Although the HTSUS item number is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Partial Rescission

We initiated a review on the following companies: China First Pencil Co. Ltd. (CFP), Orient International Holding Shanghai Foreign Trade Co., Ltd (SFTC), CalCedar-Tianjin, and Kaiyuan[2]. In the *Preliminary Results*, the Department rescinded the review with respect to CFP, SFTC, and preliminarily rescinded the review with respect to Kaiyuan.

Subsequent to our initiation of the review, we learned that Kaiyuan and Rongxin are different companies which should have been listed separately in the initiation notice. Rongxin, which is owned in part by Kaiyuan, was the exporter of subject merchandise during the POR, while Kaiyuan did not purchase, manufacture or sell subject merchandise during the POR. For this reason, we preliminarily rescinded the review with respect to Kaiyuan.

Since the Department's preliminary results of this review, we verified Kaiyuan's sales records and established that this company did not export subject merchandise to the United States during the POR. Therefore, we are rescinding this review with respect to Kaiyuan in these final results.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) from Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration, to Jeffrey A. May, Acting Assistant Secretary for Import Administration, dated July 14, 2003, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Record Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the International Trade Administration's Web site at **www.ia.ita.doc.gov**. The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our findings at verification, and our analysis of comments received, we made adjustments to the factors of production and surrogate values used to calculate margins in the preliminary results. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. These adjustments are listed below and discussed in detail in the *Decision Memorandum*.

The Department has determined that South Korea, Thailand, Indonesia, and India maintain broadly available, non-industry specific export subsidies which may benefit all exporters to all export markets. Therefore, for the final results of this review, where applicable, we eliminated the quantities and values of imports from these countries from the import statistics used to calculate surrogate values. *See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) and *Final Determination of Sales at Less Than Fair Value: Certain Ball Bearings and Parts Thereof From the People's Republic of China*, 68 FR 10685 (March 6, 2003).

CalCedar-Tianjin

We adjusted the surrogate value for Chinese lindenwood slats to reflect the actual volumes of slat grades CalCedar-Tianjin used in production. *See* Factors of Production Valuation Memorandum dated July 14, 2003. We also accounted for yield loss based on CalCedar-Tianjin's actual loss incurred in cedar slat production. *See Decision Memorandum* at Comment 3. We made minor corrections to the company's data based on findings at verification. *See* CalCedar-Tianjin's Calculation Memorandum. We adjusted freight distances for certain material inputs in accordance with Department practice resulting from *Sigma Corp. V. United States*, 117 F.3d 1401 (Fed. Cir 1997). Finally, we made adjustments to the constructed export prices (CEP) to account for CEP profit, imputed credit

[1] Tianjin Custom Wood Processing Co., Ltd. is wholly-owned by California Cedar Products Company (CalCedar). CalCedar is a privately held U.S. company incorporated in the State of California. Hereinafter we have referred to the entity CalCedar, including its subsidiary Tianjin Custom Wood Processing Co., Ltd., as CalCedar-Tianjin.

[2] We initiated the review on Kaiyuan believing that the names Kaiyuan and Rongxin, refer to the same company.

and inventory carrying costs, which were inadvertently omitted from the Department's margin calculation in the *Preliminary Results*. For further details, *see* CalCedar-Tianjin's Calculation Memorandum.

Rongxin

We adjusted the surrogate value for Chinese lindenwood slats to account for yield loss based on Rongxin's actual wood loss incurred during pencil production. *See Decision Memorandum* at Comment 3. We made minor corrections to the company's data based on findings at verification. *See* Rongxin's Calculation Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final results. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Final Results of Review

We determine that the following weighted-average percentage margins exist for the period December 1, 2000 through November 30, 2001:

Exporter/Manufacturer	Margin (percent)
CalCedar-Tianjin	0.00
Rongxin	15.76
PRC Wide-Rate	114.90

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 114.90 percent; and 4) the cash deposit rate for non-PRC exporters will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Assessment

The Department will determine, and the U.S. Bureau of Customs and Border Protection (BCBP) will assess, antidumping duties on all entries of subject merchandise in accordance with these final results. For Rongxin, we have calculated exporter-specific duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. We calculated exporter-specific assessment rates because there was no information on the record which identified the importers of record. For CalCedar-Tianjin, we have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sale to the total reported entered value of the sale. The Department will issue appropriate assessment instructions directly to the BCBP within 15 days of publication of these final results of review.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with section 751(a)(1) and 771(i) of the Act.

Dated: July 14, 2003.

Jeffrey A. May,

Acting Assistant Secretary.

Appendix Issues in Decision Memorandum

Comments

Comment 1: Whether the Department Should Value Black Graphite Cores Using Eximkey Data or Data From the Monthly Statistics of the Foreign Trade of India

Comment 2: Whether the Department Used the Correct Grade of American Basswood Lumber to Value Rongxin's Pencil Slats

Comment 3: Whether the Department Properly Accounted for Wood Loss

Comment 4: Whether the Department Should Base Rongxin's Dumping Margin on Partial Adverse Facts Available

Comment 5: Ministerial Errors

Comment 6: Whether the Department Overstated CalCedar-Tianjin's Freight Costs

[FR Doc. 03–18473 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of New Shipper Review

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

EFFECTIVE DATE: July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Paul Stolz, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4162 or (202) 482–4474, respectively.

TIME LIMITS:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930,as amended (the Act) requires the Department of Commerce (the Department) to issue the preliminary results of a new shipper review within 180 days after the date on which the review is initiated. However, if the Department determines the issues are extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the deadline for the preliminary results to up to 300 days

after the date on which the review is initiated.

Background

On February 4, 2003, the Department published a notice of initiation of the new shipper antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 2001, through November 30, 2002. *See Certain Cased Pencils From the People's Republic of China: Initiation of Antidumping New Shipper Review*, 68 FR 5619 (February 4, 2003). The preliminary results are currently due no later than July 27, 2003.

Extension of Time Limit for Preliminary Results of Review

We determine that the issues in this case are extraordinarily complicated. Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days until no later than November 24, 2003. *See* Decision Memorandum from Tom Futtner, Acting Office Director, Group II, Office IV, to Holly A. Kuga, Acting Deputy Assistant Secretary, Import Administration, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the Department's main building. We intend to issue the final results no later than 90 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(2)(B) of the Act.

Dated: July 15, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 03–18474 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Final Results of Antidumping Duty New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

SUMMARY: On February 19, 2003, the Department published the preliminary results of the new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (68 FR 7976). The review covers one producer/exporter, Weishan Zhenyu Foodstuff Co., Ltd. (Weishan Zhenyu), and exports of the subject merchandise to the United States during the period September 1, 2001 through February 28, 2002.

Based on our analysis of the record, including factual information developed since the preliminary results, the only changes we have made to the margin calculations for Weishan Zhenyu were for the purpose of updating surrogate values to achieve contemporaneity. These changes had no impact on the margin as calculated. See ''Final Results of Review'' section below.

EFFECTIVE DATE: July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Douglas Kirby, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–3964 or (202) 482–3782, respectively.

SUPPLEMENTARY INFORMATION:

Background

We published the preliminary results of this new shipper review on February 19, 2003. See *Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China,* 68 FR 7976 (*Preliminary Results*). In the preliminary results, the Department did not address whether the sale made by Weishan Zhenyu in this new shipper review was *bona fide.* At the time of the *Preliminary Results*, we noted that the Department had issued a questionnaire to Weishan Zhenyu's importer, but had not yet received the response. Further, we indicated that we would analyze any information provided by the importer of Weishan Zhenyu's new shipper sale for purposes of the final results of this new shipper review. Consequently, we solicited additional information regarding the totality of circumstances surrounding Weishan Zhenyu's sale, including additional details on the price and quantity, and the details surrounding the business relationship between Weishan Zhenyu and its importer. In the *Preliminary Results*, we invited comments from the parties. We received no comments.

Scope of the Antidumping Duty Order

The product covered by this order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) in 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Analysis

In the *Preliminary Results*, we invited comments from the parties. We received no comments. However, the Crawfish Processors Alliance, the Louisiana Department of Agriculture and Forestry, and Commissioner Bob Odom (collectively the ''Domestic Interested Parties'') provided timely factual information to rebut the importer's May 19 questionnaire response. The information provided in the supplemental questionnaire responses and the Domestic Interested Parties' factual submission is addressed in the *Memorandum to the File through Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III: Freshwater Crawfish Tail Meat from the People's Republic of China: Analysis of Weishan Zhenyu's New Shipper Transaction*, dated July 14, 2003 (*Weishan Zhenyu Memo*), which is on file in the Central Records Unit, room B–099 of the main Commerce Building.

We have now analyzed all of the information provided by interested parties with respect to the question of whether Weishan Zhenyu's sale under review constitutes a *bona fide* sale. As discussed fully in the *Weishan Zhenyu Memo*, we find that, based on the information on the record regarding Weishan Zhenyu's single sale to the U.S., we cannot conclude that the sale was not *bona fide.* However, if, during the conduct of our administrative review or other new shipper reviews of this order, we uncover any information which shows that this was not a legitimate commercial transaction, we may consider whether it is appropriate to initiate a changed circumstances review, or whether it is appropriate to refer the matter to the U.S. Bureau of Customs and Border Protection (BCBP).

Final Results of Review

Based on our analysis of information obtained after the *Preliminary Results* from the importer's questionnaire responses and the Domestic Interested Parties' comments thereon, we have made not made any changes to the margin calculation methodology for Weishan Zhenyu. For factors of production for which more contemporaneous data have become available since the preliminary results, we updated the factor values accordingly. However, these changes had no impact on the margin. Accordingly, we continue to find that a margin of zero percent exists for Weishan Zhenyu for the period September 1, 2001 through February 28, 2002. The Department will issue assessment instructions directly to BCBP.

Assessment of Antidumping Duties

Upon completion of this new shipper review, the Department shall determine, and BCBP shall assess, antidumping duties on all appropriate entries. Since we calculated a margin of zero percent, we will instruct BCBP to liquidate the reviewed entries without regard to antidumping duties. The Department will issue appropriate assessment instructions directly to BCBP within 15 days of publication of the final results of review.

Cash Deposits

Bonding will no longer be permitted to fulfill security requirements for shipments from Weishan Zhenyu of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this notice in the **Federal Register**. Effective upon publication of these final results for this new shipper review, and since we calculated a margin of zero percent, there will be no cash deposit requirement for shipments of freshwater crawfish tail meat that is both produced and exported by Weishan Zhenyu, entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act. However, we will instruct BCBP to continue the suspension of liquidation of entries of freshwater crawfish tail meat that is both produced and exported by Weishan Zhenyu, and entered on or after the date of publication of these final results. For shipments of freshwater crawfish tail meat exported by Weishan Zhenyu, but not produced by Weishan Zhenyu, cash deposits will be required at the PRC-wide rate in effect on the date of entry. The PRC-wide rate is currently 223.01 percent. There are no changes to the rates applicable to any other company under this order.

Notification to Interested Parties

The Department will disclose calculations performed in connection with these final results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: July 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary.

[FR Doc. 03–18472 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–863]

Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of New Shipper Antidumping Duty Review

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

ACTION: Notice of Extension of Time Limit for Preliminary Results of New Shipper Antidumping Duty Review.

EFFECTIVE DATE: July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Abdelali Elouaradia at (202) 482–0182 or (202) 482–1374, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests from Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei) and Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (Sichuan Dubao), in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping dutyorder on honey from the People's Republic of China (PRC), which has a December annual anniversary month and a June semiannual anniversary month. On January 30, 2003, the Department found that the request for review met all the regulatory requirements set forth in section 351.214(b) of the Department's regulations and initiated this new shipper antidumping review covering the period February 10, 2001, through November 30, 2002. *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Reviews*, 68 FR 5868 (February 5, 2003). The preliminary results are currently due no later than July 29, 2003.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(1) of the regulations require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated, and final results of review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. The Department has determined that this case is extraordinarily complicated, and the preliminary results of this new shipper review cannot be completed within the statutory time limit of 180 days. Specifically, the Department needs additional time to research the appropriate surrogate values used to value raw honey. Moreover, the Department is also researching whether the sales that form the basis of the review request are bona fide sales. In this regard, the Department has issued supplemental questionnaires requesting

additional information about the bona fides of the sales under review. Given the issues in this case, the Department finds that this case is extraordinarily complicated, and cannot be completed within the statutory time limit.

Accordingly, the Department is fully extending the time limit for the completion of the preliminary results by 300 days, to November 26, 2003, in accordance with section 751(a)(2)(B)(iv) of the Act and 351.214(i)(2) of the Department's regulations. The final results will in turn be due 90 days after the date of issuance of the preliminary results, unless extended.

Dated: July 14, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–18470 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Notice of Postponement of Final Results of 2001–2002 Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China

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

EFFECTIVE DATE: July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Anthony Grasso at (202) 482–3853 or Andrew Smith at 202–482–1276, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively. Further, the Department may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

Postponement of Final Results

On July 24, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, covering the period June 1, 2001 to May 31, 2002 (67 FR 48435). On February 14, 2003, the Department published the preliminary results and partial rescission of this administrative review of TRBs from the PRC. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2000–2001 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003) (''*Preliminary Results*''). In the *Preliminary Results* we stated that we would make our final determination for the antidumping duty investigation no later than 120 days after the date of publication of the preliminary results (*i.e.,* June 14, 2003). On June 12, 2003, we extended the time limit for completion of the final results to not later than July 16, 2003 in accordance with section 751(a)(3)(A) of the Act.

Due to the complexity of the issues, the Department concludes that these reviews are extraordinarily complicated. *See* Memorandum from Team to Jeffrey May, ''Extension of Time Limit for Final Results,'' dated, July 16, 2003. Therefore, the Department is extending the time limit for completion of these final results to not later than December 11, 2003, in accordance with section 751(a)(3)(A) of the Act.

This extension is in accordance with section 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: July 15, 2003.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–18471 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Codes: Request for Proposals for Revision of Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety codes and standards, and requests proposals from the public to amend existing, or begin the process of developing new, NFPA fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, at above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit proposals, supported by written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office.

Each person must include his or her name and address, identify the document, and give reasons for the proposal. Proposals received before or by 5 p.m. local time on the closing date indicated would be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the code or standard.

At a later date, each NFPA Technical Committee will issue a report, which will include a copy of written proposals

that have been received, and an account of their disposition of each proposal by the NFPA Committee as the Report on Proposals. Each person who has submitted a written proposal will receive a copy of the report.

Document No./edition	Title	Proposal closing date
NFPA 1–2003	Uniform Fire Code™	1/5/2004
NFPA 11–2002	Standard for Low-, Medium-, and High-Expansion Foam Systems	8/1/2003
NFPA 11A–1999	Standard for Medium- and High-Expansion Foam Systems	8/1/2003
NFPA 12–2000	Standard on Carbon Dioxide Extinguishing Systems 6/27/2003	NFPA 12
NFPA 13–2002	Standard for the Installation of Sprinkler Systems	11/5/2004
NFPA 13D–2002	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.	11/5/2004
NFPA 13E–2000	Recommended Practice for Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems.	6/27/2003
NFPA 13R–2002	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height.	11/5/2004
NFPA 15–2001	Standard for Water Spray Fixed Systems for Fire Protection	12/31/2004
NFPA 24–2002	Standard for the Installation of Private Fire Service Mains and Their Appurtenances	11/5/2004
NFPA 35–1999	Standard for the Manufacture of Organic Coatings	8/29/2003
NFPA 55–2003	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks.	6/27/2003
NFPA 59A–2001	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)	6/27/2003
NFPA 76–2002	Recommended Practice for the Fire Protection of Telecommunications Facilities	6/27/2003
NFPA 72®–2002	National Fire Alarm Code®	12/31/2004
NFPA 99–2002	Standard for Health Care Facilities	6/27/2003
NFPA 99B–2002	Standard for Hypobaric Facilities	6/27/2003
NFPA 101®–2003	Life Safety Code®	10/17/2003
NFPA 102–1995**	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures	10/17/2003
NFPA 110–2002	Standard for Emergency and Standby Power Systems	6/27/2003
NFPA 111–2001	Standard on Stored Electrical Energy Emergency and Standby Power Systems	6/27/2003
NFPA 225–P*	Model Manufactured Home Installation Standard	8/1/2003
NFPA 284–P*	Standard Test Method for Mattresses for Correctional Occupancies	1/5/2004
NFPA 291–2002	Recommended Practice for Fire Flow Testing and Marking of Hydrants	11/5/2004
NFPA 326–1999	Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair	8/29/2003
NFPA 329–1999	Recommended Practice for Handling Releases of Flammable and CombustibleLiquids and Gases.	8/29/2003
NFPA 501–2003	Standard on Manufactured Housing	8/1/2003
NFPA 501A–2003	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.	8/1/2003
NFPA 1221–2002	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems.	1/5/2004
NFPA 520–1999	Standard on Subterranean Spaces	6/28/2002
NFPA 600–2000	Standard on Industrial Fire Brigades	6/27/2003
NFPA 601–2000	Standard for Security Services in Fire Loss Prevention	6/27/2003
NFPA 720–2003	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment.	6/27/2003
NFPA 850–2000	Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations.	6/27/2003
NFPA 851–2000	Recommended Practice for Fire Protection for Hydroelectric Generating Plants	6/27/2003
NFPA 909–2001	Code for the Protection of Cultural Resources	6/27/2003
NFPA 914–2001	Code for Fire Protection of Historic Structures	6/27/2003
NFPA 1003–2000	Standard for Airport Fire Fighter Professiona Qualifications	l6/27/2003
NFPA 1035–2000	Standard for Professional Qualifications for Public Fire and Life Safety Educator	6/27/2003
NFPA 1192–2002	Standard on Recreational Vehicles	6/27/2003
NFPA 1194–2002	Standard for Recreational Vehicle Parks and Campgrounds	6/27/2003
NFPA 1410–2000	Standard on Training for Initial Emergency Scene Operations	6/27/2003
NFPA 1452–2000	Guide for Training Fire Service Personnel to Conduct Dwelling Fire Safety Surveys	6/27/2003
NFPA 1581–2000	Standard on Fire Department Infection Control Program	6/27/2003
NFPA 1971–2000	Standard on Protective Ensemble For Structural Fire Fighting	10/31/2003
NFPA 1976–2000	Standard on Protective Ensemble for Proximity Fire Fighting	10/31/2003
NFPA 2010–P*	Standard on Aerosol Fire Extinguishing Systems	8/27/2003
NFPA 5000™–2002	Building Construction and Safety Code™	10/17/2003

P* Proposed NEW drafts may be downloaded from NFPA's Web site at *www.nfpa.org/Codes/Drafts.asp.* They are also available from NFPA Codes and Standards Administration, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101.

**NFPA 102–2006 is scheduled to become mainly an extract document, drawing its requirements from NFPA 1, *Uniform Fire Code®, NFPA 101®, Life Safety Code®,* and *NFPA 5000™, Building Construction and Safety Code™*. Proposals are especially encouraged on subjects not currently addressed in NFPA 1–2003, NFPA 101–2003, and NFPA 5000–2003.

Dated: July 11, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03–18486 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071503A]

Vessel Monitoring Systems (VMS); Certification of New VMS Unit for Use in Northeast Fisheries

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

ACTION: Notice of VMS unit certification.

SUMMARY: NMFS announces the approval and certification of the Boatracs FMCT (Fisheries Mobile Communications Transceiver) VMS unit for use in all fisheries in the northeastern United States in which VMS units are required.

DATES: The new FMCT VMS unit can be used effective July 21, 2003.

FOR FURTHER INFORMATION CONTACT: Northeast Office for Law Enforcement, VMS Program, telephone 978–281–9213.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR 648.9 set forth VMS requirements for fisheries in the northeastern United States that require the use of VMS for fishery monitoring and/or reporting. Specifically, § 648.9(b) lists minimum VMS performance criteria that a VMS unit must meet in order to be certified for use.

NMFS has reviewed all components of the FMCT and other information provided by the vendor and has certified the following unit for use in all Northeast fisheries in which VMS units are required: Boatracs FMCT, available from Boatracs, 1935 Cordell Court, El Cajon, CA 92020–0911, Telephone: (619) 438–6000, 1–800–336–8722.

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

Dated: July 15, 2003.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–18490 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071503E]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council), its Executive Committee, and its Demersal Species Committee meeting as a Council Committee of the Whole with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass Board, and Bluefish Board(s), will hold a public meeting.

DATES: The meetings will be held on Monday, August 4, to Thursday, August 7, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: This meeting will be held at the Wyndham Baltimore Inner Harbor, 101 W. Fayette Street, Baltimore, MD; telephone: 410–752–1100.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: *Monday, August 4, 2003, 1 p.m. - 3 p.m.*–There will be a presentation by NMFS' Office of Sustainable Fisheries

Monday, August 4, 2003, 3 p.m. - 4 p.m.–The Executive Committee will meet. to review congressional correspondence and the status of Council's audits.

Tuesday, August 5, 2003, 8:30 a.m. - 9:30 a.m.–The Council will convene to discuss options concerning Atlantic Mackerel, Squid, and Butterfish Framework 4.

Tuesday, August 5, 2003, 9:30 a.m. - 11 a.m.–There will be a report of the 37th Stock Assessment Review Committee (SARC).

Tuesday, August 5, 2003, 11 a.m. to noon–The Council will discuss Summer, Founder, Scup, and Black Sea Bass Frameworks 3 and 4.

Tuesday, August 5, 2003, 1 p.m. to 4 p.m.–There will be a Council and Public Session on NMFS' Outreach Efforts.

Tuesday, August 5, 2003, 4 p.m. to 5:30 p.m.–The Council will meet jointly with the ASMFC's Bluefish Board regarding 2004 specifications for bluefish.

Tuesday, August 5, 2003 6 p.m. to 8 p.m.–There will be an additional Public Session on NMFS' Outreach Efforts.

Wednesday, August 6, 8:30 a.m. to 5 p.m.–The Council will meet jointly with the ASMFC's Summer Flounder, Scup, and Black Sea Bass Board regarding summer flounder, scup, and black sea bass specifications for 2004.

Thursday, August 7, 9 a.m. to 2 p.m.–Council will meet to receive reports from its committees.

Agenda items for the Council meeting are: On Monday, a presentation by NMFS' regarding Amendment 1 to NMFS' Highly Migratory Species (HMS) Fishery Management Plan (FMP) with particular emphasis on shark management. The Executive Committee will convene to review Congressman Gilchrest's July 8, 2003 letter regarding Individual Fishing Quotas (ITQ), and status of Council's audit (if available) for fiscal years1999, 2000, and 2001. On Tuesday, the Council will review and adopt Atlantic Mackerel, Squid, and Butterfish Framework 4 regarding extending the *Illex* squid moratorium; receive the 37th SARC report on spiny dogfish, surfclams, and *Illex* squid; review and adopt Summer Flounder, Scup, and Black Sea Bass Framework 3 regarding Winter 1 and Winter 2 rollover and April 15 summer period start date; review and adopt Summer Flounder, Scup, and Black Sea Bass Framework 4 regarding transfer of scup at sea. The Council will then receive a report from NMFS' on its Outreach Efforts regarding current NMFS' programs and the agency's future directions and strategies for same. The Council and ASMFC's Bluefish Board will review Monitoring Committee recommendations regarding the 2004 harvest level and commercial management measures, and recommend the 2004 harvest level and commercial management measures for bluefish. On Wednesday, the Council and ASMFC's Summer Flounder, Scup, Black Sea Bass Board(s) will review Monitoring Committee recommendations regarding the 2004 harvest level and commercial management measures, and recommend the 2004 harvest level and commercial management measures for summer flounder, scup, and black sea bass. The Council, on Thursday, will receive and discuss organizational and committee reports including tilefish actions, the New England Council's report, and the South Atlantic Council's report.

Although non-emergency issues not contained in this agenda may come before the Council and ASMFC for discussion, these issues can not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 15, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–18489 Filed 7–18–03; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Wednesday, July 30, 2003.

PLACE: 1155 21st St., NW., Washington, DC, Room 9102.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03–18619 Filed 7–17–03; 1:48 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 19, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Department of the Army, Institute for Water Resources, Corps of Engineers Waterborne Commerce Statistics Center, PO Box 61280 (ATTN: Doug Blakemore), New Orleans, LA 70161–1280.

Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Officer at (703) 695–5509.

Title, Associated Form, and OMB Number: Vessel Operation Report, ENG Forms 3925, 3925B, 3925C, 3925P, OMB Number 0710–0006.

Needs and Uses: The Corps of Engineers uses ENG Forms 3925, 3925B, 3925C and 3925P as the basic instruments to collect waterborne commerce statistics. These data constitute the sole source for domestic vessel movements of freight and passengers on U.S. navigable waterways and harbors. These data are collected from vessel operating companies. These data are essential to plans for maintaining U.S. navigable waterways. These data are also critical to the enforcement of the ''Harbor Maintenance Tax'' authorized under section 1402 of Public Law 99–662.

Affected Public: Business or other for profit.

Annual Burden Hours: 43,213.

Number of Respondents: 1,217.

Responses Per Respondent: 1.

Average Burden Per Response: 18 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The information collected is the basic data from which the Corps of Engineers compiles and published waterborne commerce statistics. The data is used not only to report to Congress, but also to perform cost benefit studies for new projects, rehabilitation projects, and O&M of existing projects. It is also used by other Federal agencies involved in transportation and security. This data collection program is the sole source for domestic navigation statistics.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–18441 Filed 7–18–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for the Caño Martín Peña Rehabilitation Project Being Proposed by the Puerto Rico Highway and Transportation Authority

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Puerto Rico Highway and Transportation Authority (PRHTA) is proposing the rehabilitation of Caño Martín Peña (CMP) in the Municipality of San Juan, Puerto Rico. The proposal includes the dredging of CMP, the establishment of conservation strip and greenway on the CMP banks, the construction of a vehicular, pedestrian, and cyclist transportation corridor parallel to CMP and its conservation strips, relocation of approximately 1,100 structures, construction of a sanitary sewer and storm water system and improvements to existing systems, and improvements to the potable water distribution system. Portions of the project would need a permit under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act permits.

FOR FURTHER INFORMATION CONTACT: Edwin E. Muñiz, (787) 729–6905/6944, Chief, Antilles Regulatory Section, U.S. Army Corps of Engineers, 400 Fernández Juncos Avenue, San Juan, PR 00901.

SUPPLEMENTARY INFORMATION: On May 2001, the Planning Division of Jacksonville, Corps of Engineers (Corps), prepared a report titled Dredging of

Caño Martín Peña, Project Design Report and Environmental Impact Statement (EIS). This study was performed under the Support for Others Program at the request of the Puerto Rico Department of Natural and Environmental Resources (DNER). This report included a description of the study area's problems, several dredging and disposal alternatives, a detailed design for the sponsor's preferred alternative and a preliminary draft EIS of the recommended project. A partial list of relevant previous studies performed by private firms and governmental agencies in the project area is included in the report. The Project Design Report considered four alternatives that would vary in the size and shape of the channel. According to this report, these alternatives were evaluated on the basis of their construction method and cost, environmental impacts, real estate requirements, impacts to bridges and utilities, disposal of dredged material, project operation and maintenance, tidal flow capacity, and the recreation and navigation potential. These alternatives are as follows:

Alternative 1: Considered dredging a trapezoidal earth channel with a width between 150 to 230 feet and 10 feet depth. It would require the dredging of approximately 550,000 cubic yards of mixed materials from the CMP. The proposed channel dredging would follow the existing CMP channel alignment beginning at San José Lagoon and extends for about 11,600 feet to end west of the Luis Muñoz Rivera Avenue Bridge.

Alternative 2: Considered vertical concrete piles with connecting concrete panel walls with earth bottom with a width between 150 to 230 feet and 10 feet depth. It would require the dredging of approximately 750,000 cubic yards of mixed materials from the CMP. The proposed channel dredging would follow the existing CMP channel alignment beginning at San José Lagoon and extends for about 11,600 feet to end west of the Luis Muñoz Rivera Avenue Bridge.

Alternative 3: Consisted of a very limited channel clean up, cutting a trapezoidal channel section of 70 feet width by 3.5 feet deep and constructing a maintenance access road along the eastern half of CMP. It would require the dredging of about 25,000 cubic yards of mixed materials from the CMP. The proposed channel dredging would follow the existing CMP channel alignment beginning at San José Lagoon and extends for about 11,200 feet to end west of the Luis Muñoz Rivera Avenue Bridge.

Alternative 4: Similar to Alternative 2 with some modifications, this was the recommended alternative. It consisted of a rectangular channel with vertical bulkhead system. This project would require the dredging of approximately 750,000 cubic yards of mixed material along the existing channel between the bridge of Luis Muñoz Rivera Avenue and the San José Lagoon to provide a variable width of between 150 and 230 feet, and a depth of 10 feet. A transition from channel depth of 10 feet to a depth of 6 feet would be provided where the channel reaches San José Lagoon. This alternative requires replacement of existing bridges at Luis Muñoz Rivera and Barbosa Avenues.

All of these alternatives would require the relocation of people, houses, and utilities in the area as well as the acquisition and relocation of some structures along the channel alignment. The no-action alternative was also considered in the project Design Report. The report stated that no-action alternative would lead to further environmental degradation of the San Juan Bay Estuary, to a complete blockage of the channel by garbage and debris accumulation and continued construction of structures on the filled up waterway, and to continue the social stress associated with frequent flooding, deteriorated air and water quality, and life threatening health hazards.

The report also evaluated three alternatives for the disposal of the dredged material, in terms of their proximity to the project area, special handling, transportation requirements, environmental benefits, environmental impacts, and their overall cost. The disposal alternatives were as follows: (1) Ocean disposal; (2) land disposal; (3) and in-bay disposal. The study recommended in-bay disposal to fill two of the largest deep holes located at Los Corozos and San José Lagoons.

The PRHTA is now the lead from the Commonwealth of Puerto Rico for the proposed rehabilitation of CMP in the Municipality of San Juan, PR. The firm Moffatt and Nichol Engineers on behalf of the PRHTA prepared the document titled ''Caño Martíin Peña Waterway Improvements'' dated December 2002, where the above-mentioned alternatives presented in the document Dredging of Caño Martíin Peña, Project Design Report and Environmental Impact Statement were also reviewed. This document evaluated an additional alternative, it consisted of a rectangular 10 feet deep channel with realignment and vertical steel bulkhead system. The proposed channel width at straight and minor bends sections is 180 feet. The proposed channel alignment follows the existing CMP channel from the Laguna San José to the existing oxbow, crosses the peninsula and ends west of the Luis Muñoz Rivera Avenue Bridge, a distance of approximately 10,500 feet. The recommended alternative in this report is the same as the recommended alternative presented in the report prepared by the Corps in May 2001.

The PRHTA's proposal includes the following elements:

a. Dredging the CMP in the segment between the bridge on Muñoz Rivera Avenue and the San José Lagoon. Approximately 750,000 cubic yards of dredge material would be removed to widen the CMP to a variable width of between 150 and 250 feet, and a depth of 10 feet.

b. Discharge of fill material over open waters and/or wetlands.

c. A conservation strip and greenway at the CMP banks, which will include mangrove mitigation, trails and recreational areas that will allow pedestrians to interact with the CMP.

d. Construction of a vehicular, pedestrian and cyclist transportation corridor parallel to the CMP and its conservation strips.

e. Relocation of approximately 1,100 structures (family homes and small businesses) that would be affected by the proposed project.

f. Construction of a sanitary sewer and storm water system to eliminate the disposal of wastewater into the CMP. Improvements of existing systems to correct the interconnections between storm water and sewer systems.

g. Improvements to the potable water distribution system within the perimeter of influence of the project.

The primary purpose of this project is the environmental restoration of the eastern portion of CMP, which includes restoring the water flow between the San José Lagoon and the San Juan Bay. It would also benefit eight low-income communities surrounding the CMP. However, the proposed action would cause significant impacts, including individual and cumulative effects to the mangroves-wetlands, and aquatic resources, human environment, and type of land use (residential and commercial). The public health or safety could be affected since the sediments to be dredged in the CMP were determined to be polluted. Also, the proposed project could impact cultural resources. No endangered or threatened species are known to exist within the project area.

Pursuant to Section 10 of the Rivers and Harbors Act the Corps has regulatory authority over structures and/or work in or affecting navigable waters of the United States. Under section 404 of the Clean Water Act, the Corps has

regulatory authority to permit the discharge of dredged or fill material into wetlands and other waters of the United States. The guidelines pursuant to Section 404(b) of the act require that impacts to the aquatic environment be avoided and minimized to the extent practicable.

In determining whether to issue a permit, the Corps must consider the 404(b)(1) guidelines, a public interest review and must also comply with other requirements including, but not limited to: The Endangered Species Act; the National Environmental Policy Act; the Coastal Zone Management Act; the Magnunson-Stevens Fishery Conservation Management Act; section 401 of the Clean Water Act; and other applicable Federal laws. Modifying land for new uses may also involve zoning, land use planning, water management, and other regulatory/planning requirements at the local, commonwealth, and Federal level.

Issues. The EIS will consider impacts on protected species, health, conservation, economics, aesthetics, general environmental concerns, wetlands (and other aquatic resources), historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people, and other issues identified through scoping, public involvement, and interagency coordination.

Scooping: The PRHTA has conducted numerous citizen involvement activities and have held several meetings with representatives of concerned Federal, State, and local agencies. At this time, there are no plans for a public scoping meeting, if the Corps holds a public scoping meeting, it will be announced. In addition Federal, state and local agencies, as well as interested private organizations and individuals are strongly encouraged to suggest additional alternatives for consideration and otherwise submit comments on the scope of the draft EIS.

Public Involvement: We invite the participation of affected Federal, state, and local agencies, and other interested private organizations and individuals by submitting written comments to the contact information provided in this notice.

Coordination: The proposed action is being coordinated with a number of Federal, Commonwealth, and local agencies including but not limited to the following: U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Environmental Protection Agency, U.S. Coast Guard, Puerto Rico Department of Natural and Environmental Resources, Puerto Rico Environmental Quality Board, Puerto Rico Planning Board, Puerto Rico State Historic Preservation Office, and other agencies as identified in scoping, public involvement, and agency coordination.

Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to section 404(b) of the Clean Water Act, public interest review, application for Water Quality Certification pursuant to section 401 of the Clean Water Act, and determination of Coastal Zone Management Act consistency.

Draft EIS Preparation: We estimate that the DEIS will be available to the public on or about January 15, 2004.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–18439 Filed 7–11–03; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 September 19, 2003.

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 Leader, Regulatory 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. 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: July 15, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs (GEAR UP) Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 316.

Burden Hours: 11,060.

Abstract: The purpose of this information collection is accountability for program implementation and student outcomes for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). The information collected enables the U.S. Department of Education to demonstrate its progress in meeting the GEAR UP performance objectives as reflected in the indicators.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2294. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also

be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–18396 Filed 7–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 September 19, 2003.

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 Leader, Regulatory 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.

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: July 15, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: National Early Intervention Longitudinal Study (NEILS).

Frequency: Semi-Annually, Annually, Biennially.

Affected Public: Individuals or households; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 634.

Burden Hours: 267.

Abstract: NEILS will provide the first national picture of the experiences and outcomes of infants/toddlers in early intervention. The study will inform special education policy development and support Government Performance and Results Act (GPRA) measurement and Individuals with Disabilities Education Act (IDEA) reauthorization with data from parents, service providers, and teachers of children who received early intervention services.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2310. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–18397 Filed 7–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory 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 August 20, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Lauren_Wittenberg@omb.eop.gov.*

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 Leader, Regulatory 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.

Dated: July 15, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Lender's Request for Payment of Interest and Special Allowance—LaRS.

Frequency: Quarterly, Annually.

Affected Public: Businesses or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 14,184.

Burden Hours: 34,573.

Abstract: The Lender's Request for Payment of Interest and Special Allowance—LaRS (ED Form 799) is used by approximately 3,546 lenders participating in the Title IV, Part B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from lender's loan portfolio for financial and budgetary projections.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2273. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivan.Reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–18398 Filed 7–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department gives notice that on July 26, 2002, an arbitration panel rendered a decision in the matter of *Illinois Department of Human Services, Office of Rehabilitation Services* v. *U.S. Department of Defense, Department of the Navy (Docket No. R–S/01–02)*. This panel was convened by the U.S. Department of Education, under 20 U.S.C. 107d–1(b), after the Department received a complaint filed by the petitioner, Illinois Department of Human Services, Office of Rehabilitation Services.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged improper awarding of a full food service contract to a nonprofit agency under the Javits-Wagner-O'Day Act (JWOD) by the U.S. Department of Defense, Department of the Navy (Navy), in violation of the Act (20 U.S.C. 107 *et seq.*) and the implementing regulations in 34 CFR part 395.

A summary of the facts is as follows: On March 16, 1998, in response to solicitation N00140–98–R–1159, the State licensing agency (SLA) notified the Navy in writing that it wished to operate the full food service contract for the Naval Training Center and Recruitment Training Center in Great Lakes, Illinois. On May 12, 1998, the Navy responded that the contract was being awarded to Goodwill Services, Inc., of Southern Wisconsin under the provisions of JWOD. A **Federal Register** notice, dated May 8, 1998, announced this pending contract award and allowed 30 days for public comment.

The SLA did not submit any comments pursuant to the **Federal Register** notice. Nearly seven months later, on December 28, 1998, the SLA informed the Navy of its concern that the Navy awarded this contract under JWOD and indicated that it was prepared to take the matter to arbitration under the Act. The SLA also informed the Navy, in an opinion dated November 12, 1998, that the General Counsel for the Department of Defense (DOD) advised that the Act is applicable to military dining facilities. As a result, the SLA indicated that arbitration was unnecessary and that it was eager to enter into negotiations with the Navy for a full food service contract at the facility to be operated by a blind vendor in accordance with the Act. On April 6, 1999, the Navy responded that it had no authority to terminate this contract issued pursuant to JWOD.

There was no further communication between the parties until October 10, 2000, when the SLA requested that the Secretary of Education convene a Federal arbitration panel to hear this complaint. A panel was convened and a hearing on this matter was held on April 9 and 10, 2002.

Arbitration Panel Decision

The issues heard by the panel were—(1) Whether the Navy, in accordance with the Act, must grant priority to the SLA for a contract so that full food services at the Great Lakes Naval Training Center may be provided by a licensed blind vendor; (2) whether the Act, which affords licensed blind vendors statutory priority to operate cafeterias and vending stands on Federal property, including that of DOD/Navy, takes precedence over the JWOD Act; (3) whether an arbitration panel convened under the Act has jurisdiction to determine if the Act takes precedence over the JWOD Act; (4) whether a contracting office has authority to issue a competitive procurement for services that are currently on the JWOD procurement list; and (5) whether the SLA waived any right it may have had to challenge the inclusion of the disputed food services on the JWOD procurement list and the subsequent award of a contract for those services to private vendors.

After considering all of the evidence, including the post-hearing briefs submitted by both parties, the majority of the panel ruled that the dispute should be resolved in favor of the Navy under the laches doctrine because of the SLA's delay in filing for Federal arbitration.

The SLA had alleged that the delay in filing the arbitration request of over 18 months since the time of the last communication from the Navy was not unreasonable because the SLA had program responsibilities under both the Act and JWOD and needed to balance the policy needs under both authorities before determining whether to file for Federal arbitration.

However, the panel determined that there was no reasonable cause for delay by the SLA in seeking Federal arbitration under the Act. The panel's decision was based upon the finding that there are strong reasons to require both timely action and finality in

resolving arbitration disputes under the Act.

The panel also determined that the SLA's delay in seeking arbitration greatly prejudiced the Navy and the facility and its current contractor and that there was no reasonable cause for the delay. Therefore, the panel concluded that the SLA had waived its right to Federal arbitration and dismissed the complaint without ruling on the merits of the case.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3232, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–8536. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large 1 print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Dated: July 15, 2003.

Loretta Petty Chittum,

Acting, Assistant Secretary for Special Education and, Rehabilitative Services.

[FR Doc. 03–18375 Filed 7–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Employees Occupational Illness Compensation Program Act of 2000; Revision to List of Covered Facilities

AGENCY: Department of Energy.

ACTION: Notice of revision of listing of covered facilities.

SUMMARY: Periodically, the Department of Energy (''Department'' or ''DOE'') publishes a list of facilities covered under the Energy Employees Occupational Illness Compensation Program Act of 2000 (''Act''), Title 36 of Public Law 106–398. (66 FR 4003; 66 FR 31218). The Act establishes a program to provide compensation to individuals who developed illnesses as a result of their employment in nuclear weapons production-related activities and at certain federally owned facilities in which radioactive materials were used. This notice revises the previous lists and provides additional information about the covered facilities, atomic weapons employers, and beryllium vendors. The original notice provides detailed background information about this matter. Previous lists were published on January 17, 2001, June 11, 2001 and December 27, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Worker Advocacy, 1–877–447–9756.

ADDRESSES: The Department welcomes comments on this list. Individuals who wish to suggest additional facilities for inclusion on the list or indicate why one or more facilities should be removed from the list should provide information to the Department. Comments should be addressed to:

Office of Worker Advocacy (EH–8), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, e-mail: *worker_advocacy@eh.doe.gov,* toll free: 1–877–447–9756, URL: *http://tis.eh.doe.gov/advocacy/.*

SUPPLEMENTARY INFORMATION:

Purpose

The Energy Employees Occupational Illness Compensation Program Act of 2000 (''Act''), Title 36 of Public Law 106–398, establishes a program to provide compensation to individuals who developed illnesses as a result of their employment in nuclear weapons production-related activities and at certain federally owned facilities in which radioactive materials were used. On December 7, 2000, the President issued Executive Order 13179 (''Order'') directing the Department of Energy (''Department'' or ''DOE'') to list covered facilities in the **Federal Register.** This notice revises the previous lists and provides additional information about the covered facilities, atomic weapons employers, and beryllium vendors.

Section 2. c. iv of the Order instructs the Department to designate, pursuant to sections 3621(4)(B) and 3622 of the Act, atomic weapons. In addition, section 2. c. vii of the Order instructs the Department to list three types of facilities defined in the Act:

(1) Atomic weapons employer facilities, as defined in section 3621 (4);

(2) Department of Energy facilities, as defined by section 3621 (12); and

(3) Beryllium vendors, as defined by section 3621 (6).

Compensation options and mechanisms are defined differently for each of these facility categories. The atomic weapons employer category includes atomic weapons employer facilities in which the primary work was not related to atomic weapons, and consequently these facilities are not commonly known as atomic weapons facilities. Their inclusion in this list is consistent with the Act, and is not intended as a classification for any other purpose.

The list at the end of this notice represents the Department's best efforts to date to compile a list of facilities under these three categories. This listing includes 362 facilities in 46 jurisdictions. Today's publication of the list includes the designation of 14 additional DOE facilities, including ten Ore Buying Stations. It clarifies one listing, narrows one listing, and changes one AWE to a DOE. Also, for ten facilities previously listed with AWE/DOE dual designations, the DOE designation has been dropped because it was learned that no work occurred at those locations as part of site remediation. Two AWE facilities were dropped entirely, one because it was learned that no radioactivity was used at that location and the other because the type of work, which took place there, was determined not to be covered Atomic Weapons Employer activity.

To assist the public in understanding changes made in this list, the Department has prepared a description of these changes and made it available at the Web site noted. A copy may also be obtained by request to the Office of Worker Advocacy. The Department is continuing its research efforts, and continued revisions to this list should be expected. The public is invited to comment on the list and to provide additional information.

In addition to continuing its research efforts, the Department has developed information dissemination mechanisms

to make facility-specific data available to the public. Information about each listed facility, including the dates and type of work done there, is available by contacting the Office of Worker Advocacy. These descriptions are available in print form and also electronically (via the World Wide Web at *http://tis.eh.doe.gov/advocacy/*).

The list that follows covers facilities under the three categories of employers defined by the Act: atomic weapons employers (''AWE''), Department of Energy facilities (''DOE''), and beryllium vendors (''BE''). Each of the categories has been defined in the original notice and include:

1. Atomic Weapons Employers and Atomic Weapons Employer Facilities

The lines between research, atomic weapons production, and non-weapons production are often difficult to draw. For the purposes of this notice, and as directed by the Act, only those facilities whose work involved radioactive material that was connected to the atomic weapons production chain are included. This includes facilities that received radioactive material that had been used in the production of an atomic weapon, or the ''back end'' of the production cycle, such as waste handling or reprocessing operations. For the purposes of this listing, the Department considers commercial nuclear fuel fabrication facilities to be covered facilities for those periods when they either supplied radioactive materials to the Department or received radioactive materials that had been used in the Department's production reactors.

Corporate information regarding many of the listed facilities is often not readily available. The Department welcomes comments or additional information regarding facilities that may have supported atomic weapons production that are not on this list, as well as information that clarifies the work done at facilities named below.

2. Department of Energy Facilities

The listing of Department of Energy facilities is only intended for the context of implementing this Act and does not create or imply any new Departmental obligations or ownership at any of the facilities named on this list.

3. Beryllium Vendors and Beryllium Vendor Facilities

Section 3621(6) of the Act defines beryllium vendor as the following:

''(A) Atomics International.

''(B) Brush Wellman, Incorporated, and its predecessor, Brush Beryllium Company.

''(C) General Atomics.

''(D) General Electric Company.

''(E) NGK Metals Corporation and its predecessors, Kawecki-Berylco, Cabot Corporation, BerylCo, and Beryllium Corporation of America.

''(F) Nuclear Materials and Equipment Corporation.

''(G) StarMet Corporation, and its predecessor, Nuclear Metals, Incorporated.

''(H) Wyman Gordan, Incorporated.

''(I) Any other vendor, processor, or producer of beryllium or related products designated as a beryllium vendor for purposes of this title under Section 3622.''

The list identifies facilities that processed, produced, or provided beryllium metal for the Department, as defined by the Act.

Jurisdiction and facility name	Location	Facility type	State
AL—Southern Research Institute	Birmingham	AWE	Alabama.
AL—Speedring, Inc	Culman	BE	Alabama.
AL—Tennessee Valley Authority	Muscle Shoals	AWE	Alabama.
AK—Amchitka Nuclear Explosion Site	Amchitka Island	DOE	Alaska.
AK—Project Chariot Site	Cape Thompson	DOE	Alaska.
AZ—Ore Buying Station at Globe	Globe	DOE	Arizona.
CA—Arthur D. Little Co	San Francisco	AWE	California.
CA—Atomics International	Los Angeles County	BE DOE	California.
CA—California Research Corp	Richmond	AWE	California.
CA—Ceradyne, Inc	Costa Mesa	BE	California.
CA—Ceradyne, Inc	Santa Ana	BE	California.
CA—City Tool & Die MFG	Santa Clara	BE	California.
CA—C.L. Hann Industries	San Jose	BE	California.
CA—Dow Chemical Co	Walnut Creek	AWE	California.
CA—EDM Exotics	Hayward	BE	California.
CA—Electro Circuits, Inc	Pasadena	AWE	California.
CA—Electrofusion	Fremont	BE	California.
CA—Energy Technology Engineering Center (ETEC)	Santa Susana, Area IV	DOE	California.
CA—General Atomics	La Jolla	AWE BE DOE	California.
CA—General Electric Vallecitos	Pleasanton	AWE DOE	California.
CA—Hafer Tool	Oakland	BE	California.
CA—Hexcel Products	Berkeley	BE	California.
CA—Hunter Douglas Aluminum Corp	Riverside	AWE	California.
CA—Jerry Carroll Machining	San Carlos	BE	California.
CA—Lab. for Biomedical & Environmental Sciences	Los Angeles	DOE	California.
CA—Lab. for Energy-Related Health Research	Davis	DOE	California.
CA—Lab. of Radiobiology and Environmental Health	San Francisco	DOE	California.
CA—Lawrence Berkeley National Laboratory	Berkeley	DOE	California.
CA—Lawrence Livermore National Laboratory	Livermore	DOE	California.
CA—Lebow	Goleta	BE	California.
CA—Philco-Ford	Newport Beach	BE	California.
CA—Pleasanton Tool & Manufacturing	Pleasanton	BE	California.
CA—Poltech Precision	Fremont	BE	California.
CA—Robin Materials	Mountain View	BE	California.
CA—Ron Witherspoon, Inc	Campbell	BE	California.
CA—Sandia Laboratory, Salton Sea Base	Imperial County	DOE	California.
CA—Sandia National Laboratories—Livermore	Livermore	DOE	California.
CA—Stanford Linear Accelerator	Palo Alto	DOE	California.
CA—Stauffer Metals, Inc	Richmond	AWE	California.
CA—Tapemation	Scotts Valley	BE	California.

Jurisdiction and facility name	Location	Facility type	State
CA—University of California	Berkeley	AWE DOE	California.
CO—Coors Porcelain	Golden	BE	Colorado.
CO—Grand Junction Operations Office	Grand Junction	DOE	Colorado.
CO—Green Sludge Plant	Uraven	DOE	Colorado.
CO—Project Rio Blanco Nuclear Explosion Site	Rifle	DOE	Colorado.
CO—Project Rulison Nuclear Explosion Site	Grand Valley	DOE	Colorado.
CO—Rocky Flats Plant	Golden	DOE	Colorado.
CO—Shattuck Chemical	Denver	AWE	Colorado.
CO—Uranium Mill in Durango	Durango	DOE	Colorado.
CO—University of Denver Research Institute	Denver	AWE BE	Colorado.
CT—American Chain and Cable Co	Bridgeport	AWE	Connecticut.
CT—Anaconda Co	Waterbury	AWE	Connecticut.
CT—Bridgeport Brass Co., Havens Laboratory	Bridgeport	AWE	Connecticut.
CT—Combustion Engineering	Windsor	AWE	Connecticut.
CT—Connecticut Aircraft Nuclear Engine Laboratory	Middletown	BE DOE	Connecticut.
CT—Dorr Corp	Stamford	AWE	Connecticut.
CT—Fenn Machinery	Hartford	AWE	Connecticut.
CT—Machlett Laboratories	Springdale	BE	Connecticut.
CT—New England Lime Co	Canaan	AWE	Connecticut.
CT—Seymour Specialty Wire	Seymour	AWE DOE	Connecticut.
CT—Sperry Products, Inc	Danbury	AWE	Connecticut.
CT—Torrington Co	Torrington	AWE	Connecticut.
DE—Allied Chemical and Dye Corp	North Claymont	AWE	Delaware.
DC—National Bureau of Standards	Washington	AWE	District of Columbia.
DC—Naval Research Laboratory	Washington	AWE DOE	District of Columbia.
FL—American Beryllium Co	Sarasota	BE	Florida.
FL—Armour Fertilizer Works	Bartow	AWE	Florida.
FL—Gardinier, Inc	Tampa	AWE	Florida.
FL—International Minerals and Chemical Corp	Mulberry	AWE	Florida.
FL—Pinellas Plant	Clearwater	DOE	Florida.
FL—University of Florida	Gainesville	AWE	Florida.
FL—Virginia-Carolina Chemical Corp	Nichols	AWE	Florida.
FL—W.R. Grace Co., Agricultural Chemical Div	Ridgewood	AWE	Florida.
HI—Kauai Test Facility	Kauai	DOE	Hawaii.
ID—Argonne National Laboratory—West	Scoville	DOE	Idaho.
ID—Idaho National Engineering Laboratory	Scoville	DOE	Idaho.
ID—Northwest Machining & Manufacturing	Meridian	BE	Idaho.
IL—Allied Chemical Corp. Plant	Metropolis	AWE	Illinois.
IL—American Machine and Metals, Inc	E. Moline	AWE	Illinois.
IL—Argonne National Laboratory—East	Argonne	DOE	Illinois.
IL—Armour Research Foundation	Chicago	AWE	Illinois.
IL—Blockson Chemical Co. (Building 55)	Joliet	AWE	Illinois.
IL—C-B Tool Products Co	Chicago	AWE	Illinois.
IL—Crane Co	Chicago	AWE	Illinois.
IL—ERA Tool and Engineering Co	Chicago	AWE	Illinois.
IL—Fansteel Metallurgical Corp	North Chicago	BE	Illinois.
IL—Fermi National Accelerator Laboratory	Batavia	DOE	Illinois.
IL—Granite City Steel	Granite City	AWE DOE	Illinois.
IL—Great Lakes Carbon Corp	Chicago	AWE	Illinois.
IL—GSA 39th Street Warehouse	Chicago	AWE	Illinois.
IL—International Register	Chicago	AWE	Illinois.
IL—Kaiser Aluminum Corp	Dalton	AWE	Illinois.
IL—Lindsay Light and Chemical Co	W. Chicago	AWE	Illinois.
IL—Dow Chemical (Madison Site)	Madison	AWE	Illinois.
IL—Metallurgical Laboratory	Chicago	AWE BE DOE	Illinois.
IL—Midwest Manufacturing Co	Galesburg	AWE	Illinois.
IL—Museum of Science and Industry	Chicago	AWE	Illinois.
IL—National Guard Armory	Chicago	AWE DOE	Illinois.
IL—Podbeliniac Corp	Chicago	AWE	Illinois.
IL—Precision Extrusion Co	Bensenville	AWE	Illinois.
IL—Quality Hardware and Machine Co	Chicago	AWE	Illinois.
IL—R. Krasburg and Sons Manufacturing Co	Chicago	AWE	Illinois.
IL—Sciaky Brothers, Inc	Chicago	AWE	Illinois.
IL—Swenson Evaporator Co	Chicago	AWE	Illinois.
IL—W.E. Pratt Manufacturing Co	Joliet	AWE	Illinois.
IL—Wyckoff Drawn Steel Co	Chicago	AWE	Illinois.
IN—American Bearing Corp	Indianapolis	AWE	Indiana.
IN—Dana Heavy Water Plant	Dana	DOE	Indiana.
IN—General Electric Plant	Shelbyville	AWE	Indiana.
IN—Joslyn Manufacturing and Supply Co	Ft. Wayne	AWE	Indiana.
IN—Purdue University	Lafayette	AWE	Indiana.
IA—Ames Laboratory	Ames	DOE	Iowa.
IA—Bendix Aviation (Pioneer Division)	Davenport	AWE	Iowa.
IA—Iowa Ordnance Plant	Burlington	DOE	Iowa.

Jurisdiction and facility name	Location	Facility type	State
IA—Titus Metals	Waterloo	AWE	Iowa.
KS—Spencer Chemical Co., Jayhawk Works	Pittsburgh	AWE	Kansas.
KY—Paducah Gaseous Diffusion Plant	Paducah	DOE	Kentucky.
LA—Ethyl Corp	Baton Rouge	BE	Louisiana.
MD—Armco-Rustless Iron & Steel	Baltimore	AWE	Maryland.
MD—W.R. Grace and Company	Curtis Bay	AWE	Maryland.
MA—American Potash & Chemical	West Hanover	AWE	Massachusetts.
MA—C.G. Sargent & Sons	Graniteville	AWE	Massachusetts.
MA—Chapman Valve	Indian Orchard	AWE DOE	Massachusetts.
MA—Edgerton Germeshausen & Grier, Inc	Boston	AWE	Massachusetts.
MA—Fenwal, Inc	Ashland	AWE	Massachusetts.
MA—Franklin Institute	Boston	BE	Massachusetts.
MA—Heald Machine Co	Worcester	AWE	Massachusetts.
MA—La Pointe Machine and Tool Co	Hudson	AWE	Massachusetts.
MA—Massachusetts Institute of Technology	Cambridge	AWE BE	Massachusetts.
MA—Metals and Controls Corp	Attleboro	AWE	Massachusetts.
MA—National Research Corp	Cambridge	AWE	Massachusetts.
MA—Norton Co	Worcester	AWE BE	Massachusetts.
MA—Nuclear Metals, Inc	Concord	AWE BE	Massachusetts.
MA—Reed Rolled Thread Co	Worcester	AWE	Massachusetts.
MA—Shpack Landfill	Norton	AWE	Massachusetts.
MA—Ventron Corporation	Beverly	AWE DOE	Massachusetts.
MA—Watertown Arsenal	Watertown	AWE	Massachusetts.
MA—Winchester Engineering & Analytical Center	Winchester	DOE	Massachusetts.
MA—Woburn Landfill	Woburn	AWE	Massachusetts.
MA—Wyman Gordon Inc	Grayton, North Grafton	BE	Massachusetts.
MI—AC Spark Plug	Flint	AWE BE	Michigan.
MI—Baker-Perkins Co	Saginaw	AWE	Michigan.
MI—Bridgeport Brass Co	Adrian	AWE DOE	Michigan.
MI—Brush Beryllium Co	Detroit	AWE	Michigan.
MI—Carboloy Co	Detroit	AWE	Michigan.
MI—Extruded Metals Co	Grand Rapids	AWE	Michigan.
MI—Gerity-Michigan Corp	Adrian	BE	Michigan.
MI—Mitts & Merrel Co	Saginaw	AWE	Michigan.
MI—Oliver Corp	Battle Creek	AWE	Michigan.
MI—Revere Copper and Brass	Detroit	AWE BE	Michigan.
MI—Speedring Systems, Inc	Detroit	BE	Michigan.
MI—Star Cutter Corp	Farmington	AWE	Michigan.
MI—University of Michigan	Ann Arbor	AWE	Michigan
MI—Wolverine Tube Division	Detroit	AWE BE	Michigan.
MN—Elk River Reactor	Elk River	DOE	Minnesota.
MS—Salmon Nuclear Explosion Site	Hattiesburg	DOE	Mississippi.
MO—Kansas City Plant	Kansas City	DOE	Missouri.
MO—Latty Avenue Properties	Hazelwood	AWE DOE	Missouri.
MO—Mallinckrodt Chemical Co., Destrehan St. Plant	St. Louis	DOE	Missouri.
MO—Medart Co	St. Louis	AWE	Missouri.
MO—Roger Iron Co	Joplin	AWE	Missouri.
MO—St. Louis Airport Storage Site (SLAPS)	St. Louis	AWE	Missouri.
MO—Tyson Valley Powder Farm	St. Louis	AWE	Missouri.
MO—United Nuclear Corp	Hematite	AWE	Missouri.
MO—Weldon Spring Plant	Weldon Spring	DOE	Missouri.
NE—Hallam Sodium Graphite Reactor	Hallam	DOE	Nebraska.
NV—Nevada Test Site	Mercury	DOE	Nevada.
NV—Project Faultless Nuclear Explosion Site	Central Nevada Test Site	DOE	Nevada.
NV—Project Shoal Nuclear Explosion Site	Fallon	DOE	Nevada.
NV—Tonopah Test Range	Tonopah	DOE	Nevada.
NV—Yucca Mountain Site Characterization Project	Yucca Mountain	DOE	Nevada.
NJ—Aluminum Co. of America (Alcoa)	Garwood	AWE	New Jersey.
NJ—American Peddinghaus Corp	Moonachie	AWE	New Jersey.
NJ—Baker and Williams Co	Newark	AWE	New Jersey.
NJ—Bell Telephone Laboratories	Murray Hill	AWE	New Jersey.
NJ—Bloomfield Tool Co	Bloomfield	AWE	New Jersey.
NJ—Bowen Laboratory	North Branch	AWE	New Jersey.
NJ—Callite Tungsten Co	Union City	AWE	New Jersey.
NJ—Chemical Construction Co	Linden	AWE	New Jersey.
NJ—Du Pont Deepwater Works	Deepwater	AWE DOE	New Jersey.
NJ—International Nickel Co., Bayonne Laboratories	Bayonne	AWE	New Jersey.
NJ—J.T. Baker Chemical Co	Philipsburg	AWE	New Jersey.
NJ—Kellex/Pierpont	Jersey City	AWE DOE	New Jersey.
NJ—Maywood Chemical Works	Maywood	AWE	New Jersey.
NJ—Middlesex Municipal Landfill	Middlesex	AWE DOE	New Jersey.
NJ—Middlesex Sampling Plant	Middlesex	DOE	New Jersey.
NJ—National Beryllia	Haskell	BE	New Jersey.
NJ—New Brunswick Laboratory	New Brunswick	DOE	New Jersey.

Jurisdiction and facility name	Location	Facility type	State
NJ—Picatinny Arsenal	Dover	AWE	New Jersey.
NJ—Princeton Plasma Physics Laboratory	Princeton	DOE	New Jersey.
NJ—Rare Earths/W.R. Grace	Wayne	AWE DOE	New Jersey.
NJ—Standard Oil Development Co of NJ	Linden	AWE	New Jersey.
NJ—Stevens Institute of Technology	Hoboken	BE	New Jersey.
NJ—Tube Reducing Co	Wallington	AWE	New Jersey.
NJ—U.S. Pipe and Foundry	Burlington	BE	New Jersey.
NJ—United Lead Co	Middlesex	AWE BE	New Jersey.
NJ—Vitro Corp of America (New Jersey)	West Orange	AWE	New Jersey.
NJ—Westinghouse Electric Corp (New Jersey)	Bloomfield	AWE	New Jersey.
NJ—Wykoff Steel Co	Newark	AWE	New Jersey.
NM—Accurate Machine & Tool	Albuquerque	BE	New Mexico.
NM—Albuquerque Operations Office	Albuquerque	DOE	New Mexico.
NM—Chupadera Mesa	Chupadera Mesa	DOE	New Mexico.
NM—Los Alamos Medical Center	Los Alamos	DOE	New Mexico.
NM—Los Alamos National Laboratory	Los Alamos	DOE	New Mexico.
NM—Lovelace Respiratory Research Institute	Albuquerque	DOE	New Mexico.
NM—Ore Buying Station at Grants	Grants	DOE	New Mexico.
NM—Ore Buying Station at Shiprock	Shiprock	DOE	New Mexico.
NM—Project Gasbuggy Nuclear Explosion Site	Farmington	DOE	New Mexico.
NM—Project Gnome Nuclear Explosion Site	Carlsbad	DOE	New Mexico.
NM—Sandia National Laboratories	Albuquerque	DOE	New Mexico.
NM—South Albuquerque Works	Albuquerque	DOE	New Mexico.
NM—Trinity Nuclear Explosion Site	White Sands Missile Range	DOE	New Mexico.
NM—Waste Isolation Pilot Plant	Carlsbad	DOE	New Mexico.
NY—Allegheny-Ludlum Steel	Watervliet	AWE	New York.
NY—American Machine and Foundry	Brooklyn	AWE	New York.
NY—Ashland Oil	Tonawanda	AWE	New York.
NY—Baker and Williams Warehouses	New York	AWE DOE	New York.
NY—Bethlehem Steel	Lackawanna	AWE	New York.
NY—Bliss & Laughlin Steel	Buffalo	AWE	New York.
NY—Brookhaven National Laboratory	Upton	DOE	New York.
NY—Burns & Roe, Inc	Maspeth	BE	New York.
NY—Carborundum Company	Niagara Falls	AWE	New York.
NY—Colonie Site (National Lead)	Colonie (Albany)	AWE DOE	New York.
NY—Crucible Steel Co	Syracuse	AWE	New York.
NY—Electro Metallurgical	Niagara Falls	DOE	New York.
NY—Environmental Measurements Laboratory	New York	DOE	New York.
NY—Fairchild Hiller Corporation	Farmingdale	BE	New York.
NY—General Astrometals	Yonkers	BE	New York.
NY—Hooker Electrochemical	Niagara Falls	AWE	New York.
NY—International Rare Metals Refinery, Inc	Mt. Kisco	AWE	New York.
NY—Ithaca Gun Co	Ithaca	AWE	New York.
NY—Lake Ontario Ordnance Works	Niagara Falls	DOE	New York.
NY—Ledoux and Co	New York	AWE	New York.
NY—Linde Air Products	Buffalo	AWE	New York.
NY—Linde Ceramics Plant	Tonawanda	AWE DOE	New York.
NY—New York University	New York	AWE	New York.
NY—Peek Street Facility [1]	Schenectady	DOE	New York.
NY—Radium Chemical Co	New York	AWE BE	New York.
NY—Rensselaer Polytechnic Institute	Troy	BE	New York.
NY—Sacandaga Facility [1]	Glenville	DOE	New York.
NY—SAM Laboratories, Columbia University	New York	DOE	New York.
NY—Seaway Industrial Park	Tonawanda	AWE	New York.
NY—Seneca Army Depot	Romulus	AWE	New York.
NY—Separations Process Research Unit (at Knolls Lab.) [1].	Schenectady	DOE	New York.
NY—Simonds Saw and Steel Co	Lockport	AWE	New York.
NY—Staten Island Warehouse	New York	AWE	New York.
NY—Sylvania Corning Nuclear Corp.—Bayside Lab	Bayside	AWE BE	New York.
NY—Sylvania Corning Nuclear Corp.—Hicksville Plant	Hicksville	AWE	New York.
NY—Titanium Alloys Manufacturing	Niagara Falls	AWE	New York.
NY—Trudeau Foundation	Saranac Lake	BE	New York.
NY—University of Rochester Atomic Energy Project	Rochester	DOE	New York.
NY—Utica St. Warehouse	Buffalo	AWE	New York.
NY—West Valley Demonstration Project	West Valley	AWE DOE	New York.
NY—Wolff-Alport Chemical Corp	Brooklyn	AWE	New York.
NC—Beryllium Metals and Chemical Corp	Bessemer City	BE	North Carolina.
NC—University of North Carolina	Chapel Hill	BE	North Carolina.
OH—Ajax Magnethermic Corp	Youngstown	AWE	Ohio.
OH—Alba Craft	Oxford	AWE DOE	Ohio.
OH—Associated Aircraft Tool and Manufacturing Co	Fairfield	AWE DOE	Ohio.
OH—B & T Metals	Columbus	AWE DOE	Ohio.
OH—Baker Brothers	Toledo	AWE DOE	Ohio.

Jurisdiction and facility name	Location	Facility type	State
OH—Battelle Laboratories—King Avenue	Columbus	AWE BE DOE	Ohio.
OH—Battelle Laboratories—West Jefferson	Columbus	AWE DOE	Ohio.
OH—Beryllium Production Plant (Brush Luckey Plant)	Luckey	BE DOE	Ohio.
OH—Brush Beryllium Co. (Cleveland)	Cleveland	AWE BE	Ohio.
OH—Brush Beryllium Co. (Elmore)	Elmore	BE	Ohio.
OH—Brush Beryllium Co. (Lorain)	Lorain	BE	Ohio.
OH—Cincinnati Milling Machine Co	Cincinnati	AWE	Ohio.
OH—Clifton Products Co	Painesville	BE	Ohio.
OH—Copperweld Steel	Warren	AWE	Ohio.
OH—Du Pont-Grasselli Research Laboratory	Cleveland	AWE	Ohio.
OH—Extrusion Plant (Reactive Metals Inc.)	Ashtabula	DOE	Ohio.
OH—Feed Materials Production Center (FMPC)	Fernald	DOE	Ohio.
OH—General Electric Company (Ohio)	Cincinnati/Evendale	AWE BE DOE	Ohio.
OH—Gruen Watch	Norwood	AWE	Ohio.
OH—Harshaw Chemical Co	Cleveland	AWE	Ohio.
OH—Herring-Hall Marvin Safe Co	Hamilton	AWE DOE	Ohio.
OH—Horizons, Inc.	Cleveland	AWE	Ohio.
OH—Kettering Laboratory, University of Cincinnati	Cincinnati	BE	Ohio.
OH—Magnus Brass Co	Cincinnati	AWE	Ohio.
OH—McKinney Tool and Manufacturing Co	Cleveland	AWE	Ohio.
OH—Mitchell Steel Co	Cincinnati	AWE	Ohio.
OH—Monsanto Chemical Co.	Dayton	AWE	Ohio.
OH—Mound Plant	Miamisburg	DOE	Ohio.
OH—Painesville Site (Diamond Magnesium Co.)	Painesville	AWE	Ohio.
OH—Piqua Organic Moderated Reactor	Piqua	DOE	Ohio.
OH—Portsmouth Gaseous Diffusion Plant	Piketon	DOE	Ohio.
OH—R. W. Leblond Machine Tool Co	Cincinnati	AWE	Ohio.
OH—Tech-Art, Inc	Milford	AWE	Ohio.
OH—Tocco Induction Heating Div	Cleveland	AWE	Ohio.
OH—Vulcan Tool Co	Dayton	AWE	Ohio.
OK—Eagle Picher	Quapaw	BE	Oklahoma.
OK—Kerr-McGee	Guthrie	AWE	Oklahoma.
OR—Albany Research Center	Albany	AWE DOE	Oregon.
OR—Wah Chang	Albany	AWE	Oregon.
PA—Aeroprojects, Inc	West Chester	AWE BE	Pennsylvania.
PA—Aliquippa Forge	Aliquippa	AWE DOE	Pennsylvania.
PA—Aluminum Co. of America (Alcoa) (Pennsylvania)	New Kensington	AWE	Pennsylvania.
PA—Beryllium Corp. of America (Hazleton)	Hazleton	BE	Pennsylvania.
PA—Beryllium Corp. of America (Reading)	Reading	BE	Pennsylvania.
PA—Birdsboro Steel & Foundry	Birdsboro	AWE	Pennsylvania.
PA—C.H. Schnoor	Springdale	AWE DOE	Pennsylvania.
PA—Carnegie Institute of Technology	Pittsburgh	AWE	Pennsylvania.
PA—Carpenter Steel Co	Reading	AWE	Pennsylvania.
PA—Chambersburg Engineering Co	Chambersburg	AWE	Pennsylvania.
PA—Foote Mineral Co	East Whiteland Twp	AWE	Pennsylvania.
PA—Frankford Arsenal	Philadelphia	AWE	Pennsylvania.
PA—Heppenstall Co	Pittsburgh	AWE	Pennsylvania.
PA—Jessop Steel Co	Washington	AWE	Pennsylvania.
PA—Koppers Co., Inc	Verona	AWE	Pennsylvania.
PA—Landis Machine Tool Co	Waynesboro	AWE	Pennsylvania.
PA—McDanel Refractory Co	Beaver Falls	BE	Pennsylvania.
PA—Nuclear Materials and Equipment Corp. (NUMEC)	Apollo	AWE BE	Pennsylvania.
PA—Nuclear Materials and Equipment Corp. (NUMEC)	Parks Township	AWE BE	Pennsylvania.
PA—Penn Salt Co	Philadelphia/Wyndmoor	AWE	Pennsylvania.
PA—Philadelphia Naval Yard	Philadelphia	AWE	Pennsylvania.
PA—Shippingport Atomic Power Plant [1]	Shippingport	DOE	Pennsylvania.
PA—Superior Steel Co	Carnegie	AWE	Pennsylvania.
PA—U.S. Steel Co., National Tube Division	McKeesport	AWE	Pennsylvania.
PA—Vitro Manufacturing (Canonsburg)	Canonsburg	AWE BE	Pennsylvania.
PA—Westinghouse Atomic Power Dev. Plant	East Pittsburgh	AWE	Pennsylvania.
PA—Westinghouse Nuclear Fuels Division	Cheswick	AWE	Pennsylvania.
PR—BONUS Reactor Plant	Punta Higuera	DOE	Puerto Rico.
PR—Puerto Rico Nuclear Center	Mayaguez	DOE	Puerto Rico.
RI—C.I. Hayes, Inc	Cranston	AWE	Rhode Island.
SC—Savannah River Site	Aiken	DOE	South Carolina.
SD—Ore Buying Station at Edgemont	Edgemont	DOE	South Dakota.
TN—Clarksville Facility	Clarksville	DOE	Tennessee.
TN—Manufacturing Sciences Corp	Oak Ridge	BE	Tennessee.
TN—Oak Ridge Gaseous Diffusion Plant (K–25)	Oak Ridge	DOE	Tennessee.
TN—Oak Ridge Hospital	Oak Ridge	DOE	Tennessee.
TN—Oak Ridge Institute for Science Education	Oak Ridge	DOE	Tennessee.
TN—Oak Ridge National Laboratory (X–10)	Oak Ridge	DOE	Tennessee.
TN—S–50 Oak Ridge Thermal Diffusion Plant	Oak Ridge	DOE	Tennessee.
TN—Vitro Corporation of America (Tennessee)	Oak Ridge	AWE BE	Tennessee.

Jurisdiction and facility name	Location	Facility type	State
TN—W.R. Grace (Tennessee)	Erwin	AWE	Tennessee.
TN—Y–12 Plant	Oak Ridge	DOE	Tennessee.
TX—AMCOT	Ft. Worth	AWE	Texas.
TX—Mathieson Chemical Co	Pasadena	AWE	Texas.
TX—Medina Facility	San Antonio	DOE	Texas.
TX—Pantex Plant	Amarillo	DOE	Texas.
TX—Sutton, Steele and Steele Co	Dallas	AWE	Texas.
TX—Texas City Chemicals, Inc	Texas City	AWE	Texas.
UT—Ore Buying Station at Marysvale	Marysvale	DOE	Utah.
UT—Ore Buying Station at Moab	Moab	DOE	Utah.
UT—Ore Buying Station at Monticello	Monticello	DOE	Utah.
UT—Ore Buying Station at White Canyon	White Canyon	DOE	Utah.
UT—Uranium Mill in Monticello	Monticello	DOE	Utah.
VA—BWXT	Lynchburg	AWE BE	Virginia.
VA—Thomas Jefferson National Accelerator Facility	Newport News	DOE	Virginia.
VA—University of Virginia	Charlottesville	AWE	Virginia.
WA—Hanford	Richland	DOE	Washington.
WA—Pacific Northwest National Laboratory	Richland	DOE	Washington.
WV—Huntington Pilot Plant	Huntington	DOE	West Virginia.
WI—Allis-Chalmers Co	West Allis, Milwaukee	AWE	Wisconsin.
WI—A.O. Smith	Milwaukee	BE	Wisconsin.
WI—Besley-Wells	South Beloit	AWE	Wisconsin.
WI—LaCrosse Boiling Water Reactor	LaCrosse	DOE	Wisconsin.
WI—Ladish Co	Cudahy	BE	Wisconsin.
WY—Ore Buying Station at Crooks Gap	Crooks Gap	DOE	WY.
WY—Ore Buying Station at Riverton	Riverton	DOE	WY.
MR—Pacific Proving Ground [2]	Marshall Islands	DOE	Marshall Islands.

[1] Consistent with the Act, coverage is limited to activities not performed under the responsibility of the Naval Nuclear Propulsion program.
[2] Pacific Proving Ground includes Bikini Atoll, Enewetak Atoll, Johnston (U.S. nuclear weapons testing activities only), and Christmas Island (U.S. nuclear weapons testing activities only).

Issued in Washington, DC July 15, 2003.

Beverly A. Cook,

Assistant Secretary, Office of Environment, Safety and Health.

[FR Doc. 03–18442 Filed 7–18–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

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), Rocky Flats. 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: Thursday, August 7, 2003, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport, Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

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: 1. Presentation and discussion on the draft Long-Term Stewardship Strategy for Rocky Flats.

2. Follow-up discussion on final approved modifications to the Rocky Flats Cleanup Agreement

3. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer 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 five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 8:30 a.m. to 4:30 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deborah French at the address or telephone number listed above. Board meeting minutes are posted on RFCAB's Web site within one month following each meeting at: *http://www.rfcab.org/Minutes.HTML.*

Issued at Washington, DC on July 15, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–18443 Filed 7–18–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Collection; Comment Request.

SUMMARY: The EIA is soliciting comments on a proposal to request

monthly reporting of natural gas import and export information. This reporting would be in addition to the existing information collection requirements for Form FE–746R, ''Import and Export of Natural Gas.''

DATES: Comments must be filed by September 19, 2003. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Yvonne Caudillo. To ensure receipt of the comments by the due date, submission by FAX (202–586–4062) or e-mail (*yvonne.caudillo@hq.doe.gov*) is recommended. Ms. Caudillo's mailing address is Office of Fossil Energy, FE–34, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Ms. Caudillo may be contacted by telephone at (202) 586–4587.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Ms. Caudillo at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under section 3507(a) of the Paperwork Reduction Act of 1995.

DOE's Office of Fossil Energy (FE) is delegated the authority to regulate natural gas imports and exports under section 3 of the Natural Gas Act of 1938, 15 U.S.C. 717b. In order to carry out its delegated responsibility, FE requires those persons seeking to import or export natural gas to file an application containing basic information about the scope and nature of the proposed import/export activity. Historically FE has collected information on a quarterly basis regarding import and export transactions. That information has been used to ensure compliance with any terms and conditions of authorization. In addition, the data are used to monitor North American natural gas trade, which in turn enables the Federal Government to perform market and regulatory analyses; improve the capability of industry and the Government to respond to any future energy-related supply problems; and keep the general public informed of international natural gas trade.

II. Current Actions

DOE will be requesting a revision of its existing information reporting requirements for imports and exports of natural gas (Form FE–746R). The Department of Energy (DOE) is undertaking an ambitious Natural Gas Data Collection Initiative to improve the way the DOE gathers and disseminates information about the use and origin of natural gas supplies in the U.S. Under this Initiative, DOE plans to collect critical natural gas information (*i.e.*, country of origin, international point of entry/exit, and volume imported/exported) monthly, instead of waiting until the end of each quarter to collect any import/export information. To facilitate timely reporting DOE will establish an Internet-based reporting option for the monthly reporting. Also, DOE will treat all monthly information as confidential.

Over the last decade, demand for natural gas increased significantly and demand is projected to continue increasing. With these increases, there is the possibility of periodic price spikes and market dislocations. In a tight and volatile natural gas market, consumers and producers must have the best information possible regarding the availability of supply and the forces that drive prices in order to make informed decisions about their consumption and production activities.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information to be collected?

B. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

C. Can the information be submitted by the due date?

D. Public reporting burden for the monthly reporting of natural gas imports/exports is estimated to average three hours per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate?

E. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

F. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

G. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. What actions could be taken to help ensure and maximize the quality, objectivity, utility, and integrity of the information disseminated?

B. Is the information useful at the levels of detail to be collected?

C. For what purpose(s) would the information be used? Be specific.

D. Are there alternate sources for the information and are they useful? If so,

what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, July 14, 2003.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 03–18444 Filed 7–18–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ03–3–000]

Bonneville Power Administration; Notice of Filing

July 15, 2003.

Take notice that on July 7, 2003, the Bonneville Power Administration (Bonneville) filed a Petition for a Declaratory Order Maintaining Reciprocity Approval of Its Open Access Transmission Tariff (OATT) and an Exemption In Lieu of a Filing Fee with the Federal Energy Regulatory Commission (Commission). Bonneville states that it has revised sections 13.2, 14.2, 17.1 and 18.1 of its OATT to change its procedure for awarding short-term transmission requests. Bonneville explains that these revisions eliminate the right of first refusal to match competing requests for short-term transmission service and adopt a first-come, first-served approach. Bonneville further explains that it has also revised Attachment K to its OATT in accordance with the 2004 Rate Case Settlement. Additionally, Bonneville states that it has refiled its entire OATT to voluntarily adopt the Order No. 614 pagination standards, as applicable.

Bonneville states that the Commission found its OATT to be an acceptable reciprocity transmission tariff, effective October 1, 2001, by Order Granting Petition for Declaratory Order, 94 FERC 61,317 (March 19, 2001) and Order on Tariff Amendment, 96 FERC 62,337 (September 28, 2001). Bonneville further states that it now seeks a declaratory order finding that its OATT, as revised by this filing, continues to maintain its reciprocity status. Bonneville has also requested an expedited approval process, making the changes effective as of August 15, 2003.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: July 28, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–18403 Filed 7–18–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process

July 15, 2003.

a. *Type of Application:* New License for Major Project.

b. *Project No.:* 2216–058.

c. *Applicant:* New York Power Authority.

d. *Project Name:* Niagara Power Project.

e. *Location:* The existing project is located in Niagara County, New York, on the Niagara River, a 35-mile-long waterway that connects Lake Erie and Lake Ontario and is boundary water between the United States and Canada. There are no Federal lands within the project boundary.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Keith Silliman, Director, Niagara Relicensing, New York Power Authority, 30 South Pearl Street, Albany, New York 12207–3425, (518) 433–6735.

h. *FERC Contact:* Patti Leppert at (202) 502–6034, or *patricia.leppert@ferc.gov*.

i. *Deadline for Filing Scoping Comments:* October 14, 2003.

All comments and correspondence (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Correspondence should clearly show the following caption on the first page: Scoping Comments, Niagara Power Project, FERC No. 2216–058.

The Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure require that a copy of all documents filed with the Commission be served on each person on the official service list for the project. Furthermore, if comments or documents filed with the Commission relate to the merits of an issue that may affect the responsibilities of a particular resource agency, a copy of the document also must be served on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

j. The existing 2,538-megawatt project consists of: (1) Two 700-foot-long intake structures located on the upper Niagara River about 2.6 miles upstream from the American Falls; (2) two 4.3-mile-long concrete underground water supply conduits, each measuring 46 feet wide by 66.5 feet high; (3) a forebay; (4) the Lewiston Pump-Generating Plant, measuring 975 feet long by 240 feet wide by 160 feet high; (5) the 1,900-acre Lewiston reservoir at a maximum water surface elevation of 658 feet United States Lake Survey Datum; (6) the Robert Moses Niagara Power Plant, including an intake structure, measuring 1,100 feet long by 190 feet wide by 100 feet high; (7) a switch yard; and (8) appurtenant facilities.

k. *Scoping Process:* The New York Power Authority (Power Authority) is utilizing the Commission's Alternative Licensing Process (ALP). Under the ALP, the Power Authority will prepare an Applicant-Prepared Environmental

Assessment (APEA) and license application for the Niagara Power Project. The Power Authority expects to file, with the Commission, the license application and APEA for the Niagara Power Project by August 31, 2005.

The Commission staff intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act of 1969 (NEPA). The EA will consider both site-specific and cumulative environmental effects and reasonable alternatives to the proposed action. These scoping meetings will satisfy the scoping requirements, pursuant to NEPA, as amended.

The purpose of this notice is to inform you of the opportunity to participate in the scoping meetings, identified below.

i. *Scoping Meetings:* Information presented at the scoping meetings will: (1) Provide a brief overview of the Niagara Power Project; (2) provide a brief overview of the ALP for relicensing the project; (3) provide a discussion of the issues identified for analysis in the APEA and those not requiring analysis; and (4) solicit comments from the public on Scoping Document 1.

The staff from New York State Department of Environmental Conservation will provide an overview of the State's regulatory process and its role in the relicensing of the Niagara Power Project.

The Commission staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency, Indian Tribes, and non-governmental organizations concerns, while the public scoping meeting is primarily for public input. All interested agencies, Indian Tribes, organizations, and individuals are invited to attend one or both meetings, and assist the staff in identifying the scope of the environmental issues that should and should not be analyzed in the APEA. The location and times of these meetings are as follows:

Agency Scoping Meeting

Date: Wednesday, August 13, 2003.
Time: 2 p.m.
Address: Niagara Falls High School Amphitheater, 4455 Porter Road, Niagara Falls, New York.

Public Scoping Meeting

Date: Wednesday, August 13, 2003.
Time: 7 p.m.
Address: Same as agency scoping meeting.

To help focus the discussions, Scoping Document 1 will be issued in late July 2003, and will be on the Niagara Power Project's relicensing Web site at *http://niagara.nypa.gov*. Scoping Document 1 will also be available in the Public Information File, located at the Niagara Power Project Power Vista, and at the following public libraries: Lewiston Public Library; Niagara Falls Public Library; Lockport Public Library; Buffalo & Erie County Public Library; North Tonawanda Public Library; and Grand Island Public Library.

A copy of Scoping Document 1 will be available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, or toll-free at 1–866–208–3676, or for TTY (202) 502–8659.

You may also register online at *http://www.ferc.gov.esubscribenow.htm* to be notified via e-mail of new filings and issuances related to the Niagara Power Project or other pending projects. For assistance, contact FERC Online Support. ii. *Meeting Procedures:* The scoping meetings will be conducted according to the procedures used at Commission scoping meetings. The meetings will be recorded by a stenographer and will become a part of the formal record of the proceedings on the project.

Interested agencies, Indian Tribes, organizations, and individuals are invited and encouraged to attend and assist in identifying and clarifying the scope of issues that should and should not be analyzed in the APEA. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the meeting. Persons choosing not to speak, but wishing to express an opinion, as well as speakers unable to summarize their positions within the allotted time, may submit written statements for inclusion in the public record.

Written scoping comments may also be mailed to Keith Silliman, Director, Niagara Relicensing, New York Power Authority, 30 South Pearl Street, Albany, New York 12207–3425, by October 14, 2003. For further information, please contact Keith Silliman of NYPA at (518) 433–6735; Patti Leppert of Commission staff, at (202) 502–6034; or Steve Kartalia of Commission staff, at (202) 502–6131.

Magalie R. Salas,
Secretary.

[FR Doc. 03–18404 Filed 7–18–03; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Los Alamos Site Office Notice of Floodplain and Wetlands Involvement for Two Monitoring Wells at Los Alamos National Laboratory, Los Alamos, NM

AGENCY: National Nuclear Security Administration, Los Alamos Site Office, DOE.

ACTION: Notice of floodplains and wetlands involvement.

SUMMARY: The Los Alamos Site office of the National Nuclear Security Administration (NNSA), United States Department of Energy (DOE) plans to install and operate two groundwater monitoring wells within two separate canyon floodplain locations. Monitoring well CdV–16–1 (i) would be located within Los Alamos National Laboratory (LANL) in Canyon del Valle (see Figure 1), and monitoring well R–2 would be located near the LANL boundary within the Incorporated County of Los Alamos in Pueblo Canyon (see Figure 2). The installation process for the wells will include the placement of small cement pads around the wells, along with a gravel-covered area, and road improvements, culverts and erosion control materials and mechanisms as needed. The wells would be operated and monitored periodically after installation was completed. In accordance with 10 CFR Part 1022, DOE has prepared a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains.

DATES: Comments are due to the address below no later than August 5, 2003.

ADDRESSES: Written comments should be addressed to: Elizabeth Withers, Department of Energy, National Nuclear Security Administration, Los Alamos Site Office, 528 35th Street, Los Alamos, NM 87544, or submit them to the Mail Room at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Written comments may also be sent electronically to: *ewithers@doeal.gov* or by facsimile to (505) 667–9998.

FOR FURTHER INFORMATION CONTACT: Robert Enz, Department of Energy, National Nuclear Security Administration, Los Alamos Site Office, 528 35th Street, Los Alamos, NM 87544. Telephone (505) 667–7640, facsimile (505) 667–9998.

For Further Information on General DOE Floodplain Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION: The DOE is installing a network of monitoring wells around and within LANL to characterize the hydrogeological setting of the Pajarito Plateau. These monitoring wells will be installed at varying depths and used to provide information on the groundwater aquifers present and to monitor various characteristics of the aquifers over time. The two subject monitoring wells would be installed in canyon-bottom settings chosen by the New Mexico Environment Department, which is the local regulator for water quality appointed by the Environmental Protection Agency.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), NNSA has prepared a floodplain/wetland assessment for this action, which is available by contacting Elizabeth Withers at the previously identified addresses, phone and facsimile numbers. The floodplain/wetland assessment is available for review at the DOE Reading Room at the Los Alamos Outreach Center, 1619 Central Avenue, Los Alamos, NM 87854; and the DOE Reading Room at the Zimmerman Library, University of New Mexico, Albuquerque, NM 87131. The NNSA will publish a floodplain statement of findings for this project in the **Federal Register** no sooner than August 5, 2003.

Issued in Los Alamos, NM on July 7, 2003.

E. Dennis Martinez,

Acting Manager, Department of Energy, National Nuclear Security Administration, Los Alamos Site Office.

BILLING CODE 6450–01–P

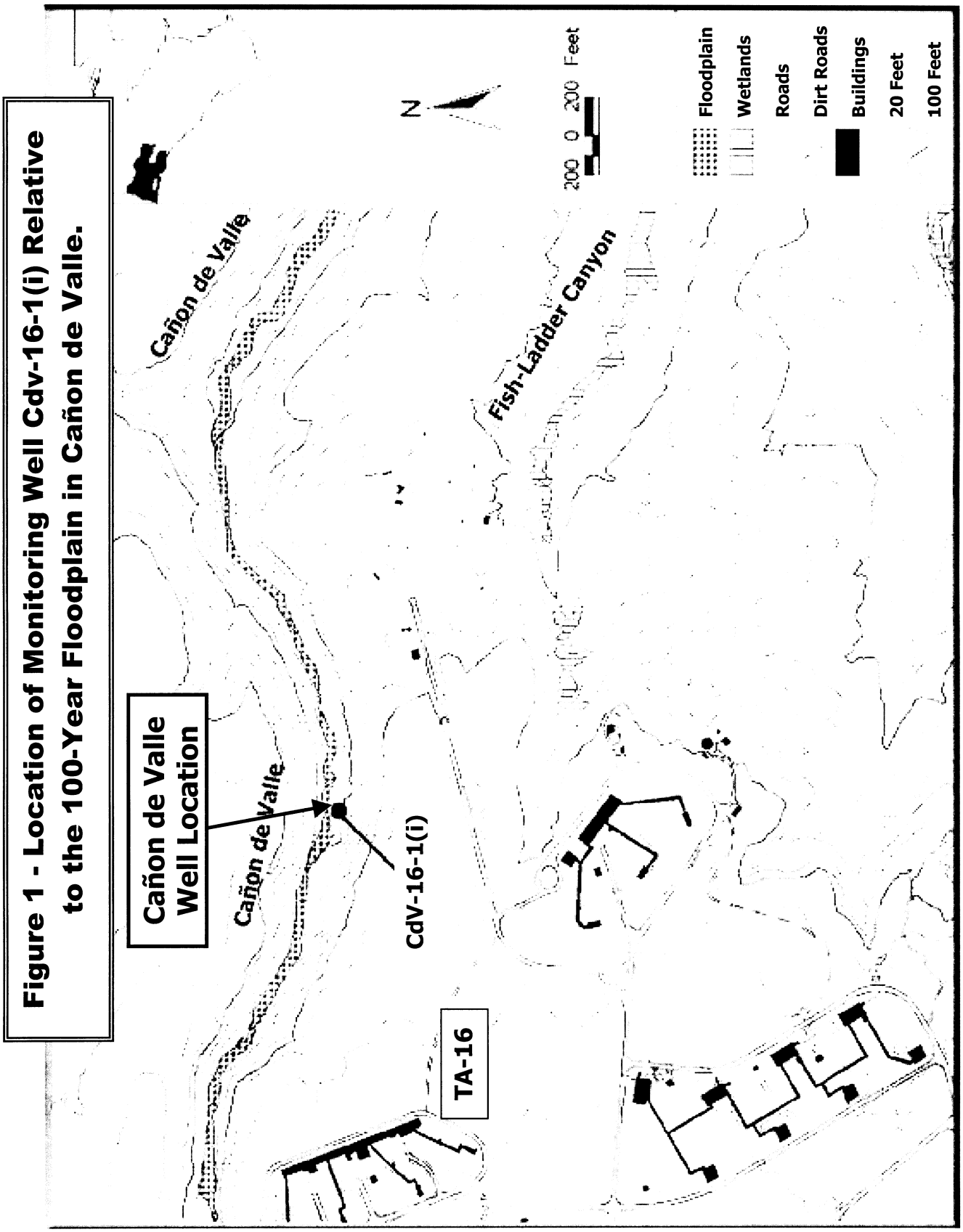

Figure 1 - Location of Monitoring Well Cdv-16-1(i) Relative to the 100-Year Floodplain in Cañon de Valle.

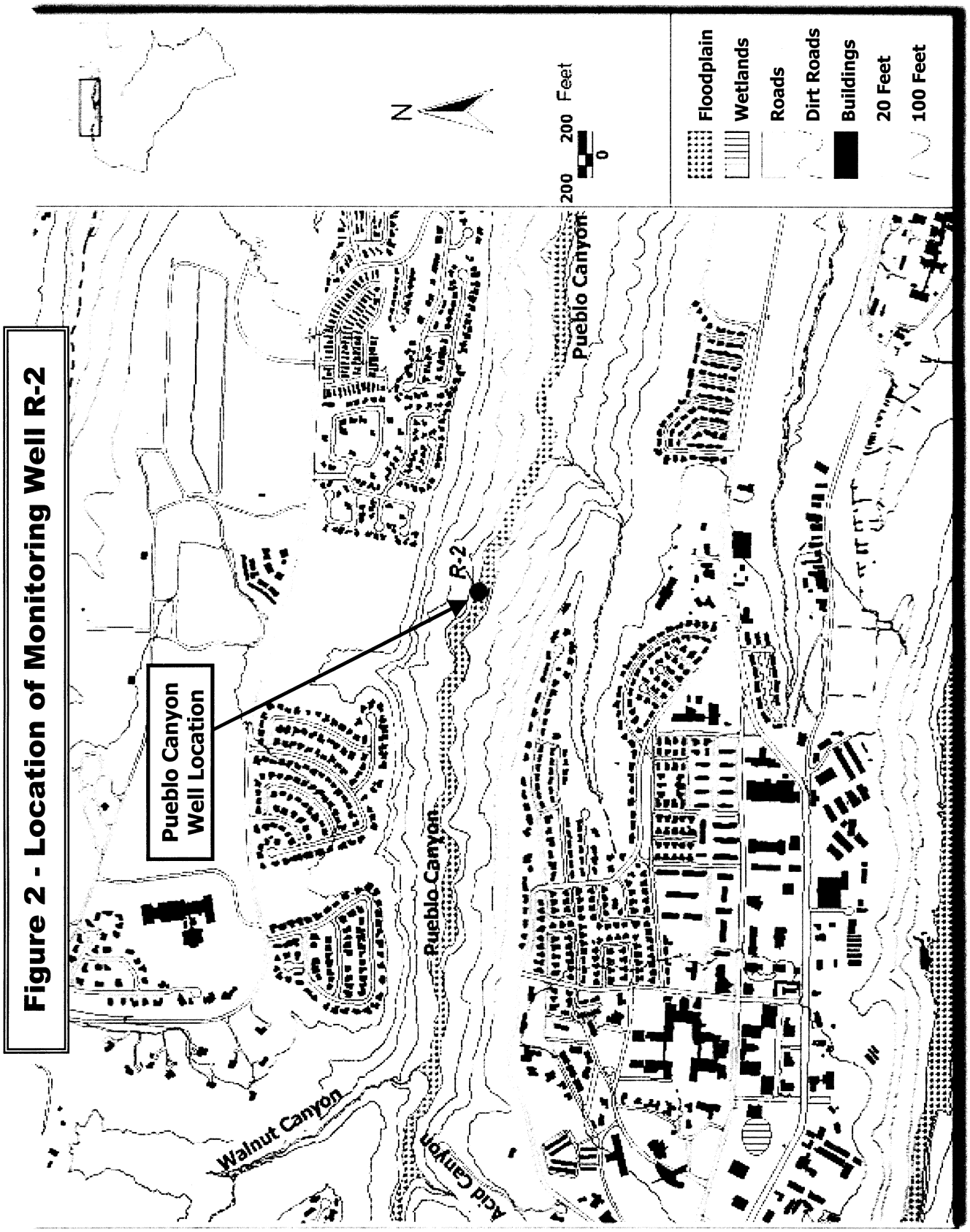

Figure 2 - Location of Monitoring Well R-2

[FR Doc. 03–18099 Filed 7–18–03; 8:45 am]

BILLING CODE 6450–01–C

FEDERAL ACCOUNTING STANDARDS BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 25

AGENCY: Federal Accounting Standards Advisory Board.

Board Action: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999, notice is hereby given that the Federal Accounting Standards Advisory Board has issued Statement of Federal Financial Accounting Standards (SFFAS) No. 25, *Reclassification of Stewardship Responsibilities and Eliminating the Current Services Assessment.*

The Board approved the Statement in April 2003, and submitted it to FASAB principals for 90-day review, the review period closed on July 17, 2003.

SFFAS No. 25 changes the classification of information about stewardship responsibilities required by SFFAS 5 and 17. Information about ''risk assumedrdquo; will become required supplementary information (RSI). The Statement of Social Insurance will become a basic financial statement. Other information about social insurance required by SFFAS 17 will be reported as RSI or in a footnote. SFFAS 25 also eliminates the requirement to present certain information about stewardship responsibilities, known as the ''current services assessment,'' previously required by SFFAS 8.

The standards prescribed in SFFAS No. 25 are effective for periods beginning after September 30, 2003. Hard copies of the statement will be mailed to the FASAB mailing list. It is also available on the FASAB Web site at *www.fasab.gov* or by calling 202–512–7350.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call 202–512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463.

Dated: July 17, 2003.

Wendy M. Comes,

Executive Director.

[FR Doc. 03–18424 Filed 7–18–03; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04005]

Translating Research Into Action for Diabetes; Notice of Availability of Funds

Application Deadline: September 4, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2)of the Public Health Service Act, (42 U.S.C. section 241(a) and 247b(k)(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2004 funds for a cooperative agreement program for Translating Research Into Action For Diabetes (TRIAD). This program addresses the ''Healthy People 2010'' focus area of Diabetes.

The purposes of this research program are to:

1. Continue or develop a multi-center study of diabetes within managed care settings examining the effect of managed care structure and organization using a systematic and standardized approach on processes and outcomes of diabetes care using two overarching hypotheses. The hypotheses are (1) Managed care structural factors (*i.e.* the ability to track, risk stratify, and/or manage persons with diabetes; guideline selection and implementation, patient education, experience with managed care, management of referral care, clinician incentives, financial barriers to care, and non-financial barriers to care) influence process of care (clinical process variables and service use process variables, *i.e.* Glycosylated hemoglobin tested/frequency, blood pressure (BP) assessment, lipids tested/frequency, eye exam, foot exam done/foot care recommendations, aspirin prescription, nephropathy assessment, exercise recommendations, smoking cessation counseling); and (2) Managed care structural factors influence long-term outcomes of care (glycosylated hemoglobin levels, lipid levels, BP level, quality of life, satisfaction with care, medical costs, hospitalization, diabetes-related complications).

2. Conduct systematic research aimed at gaining knowledge to improve care for people with diabetes using a standardized protocol across research centers. This protocol shall be designed to assess a diverse community-dwelling (non-institutionalized) population in terms of age (aged 18 or older), gender, race/ethnicity (English and Spanish-speaking), disease severity, geography, and socioeconomic factors.

3. Explore applied research questions aimed at delivering and evaluating primary prevention strategies for diabetes among people at high risk.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP): Help improve the availability, process, effectiveness, cost-effectiveness, and health outcomes of diabetes-related services provided within managed-care settings.

C. Eligible Applicants

Competition is open to colleges, universities, private non-profit and public nonprofit domestic organizations, research institutions, faith-based organizations, and managed care organizations.

Applicants claiming nonprofit status must include evidence of nonprofit status with their application.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501 (c) (4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $3.9 million dollars will be available in FY 2004 to fund approximately six awards. It is expected that the average award will be $550,000, ranging from $400,000 to $700,000. It is expected that the awards will begin on or about February 1, 2004, and will be made for a 12-month budget period within a project period of up to five years. The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) will collaborate with CDC in support of the enhancement of diabetes prevention and control research through a Memorandum of Understanding (MOU) and funding of approximately $500,000 per year during the five-year project period, and based on the availability of funds. These funds are included in the total availability of funds above.

Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress demonstrated by investigators in

attainment of the goals, objectives, and corresponding performance measures as evidenced by required reports, and based on the availability of funds.

Funding Preferences

Preference may be given to applicants previously funded under Program Announcement #98086 (''Translational Research Centers for Diabetes Control Within Managed-Care Settings'') because these organizations:

1. Are geographically located across the nation with access to diverse diabetic populations in terms of ethnicity/minority, age, and socio-economic factors.
2. Have proven collaboration in conducting multi-center studies using a common protocol with other managed care organizations and academic institutions.
3. Have demonstrated strategies for reaching target diabetic population and attaining a very high response rate (70 to 80 percent).
4. Have established infrastructure, pool of expertise, experienced personnel, and capacity to track and maintain (with retention rates close to 80 percent) a large diabetic cohort within managed care settings.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

Recipients will be responsible for the following activities:

a. Collaborate with other successful recipients and partners. Participate in the implementation of a multi-center standardized protocol, and in its further development, to include the design of the study, design of instruments, development of methods and procedures for the study, collection of the data, quality control, analysis and interpretation of the data, and dissemination of results.

b. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project that will include longitudinal ascertainment of serious health conditions. The local IRB will review and approve the protocol on an annual basis.

c. Assure and maintain the confidentiality of all study data.

d. Develop standardized and aggregate analytical processes and technical reports or manuscripts for peer-reviewed publications as appropriate.

e. Because the previous program announcement #98086 was designed using a standardized protocol and standardized data collection systems, new applicants must have access to existing data (at baseline, and at least one follow-up data collection within 18 months) collected in a similar standardized and systematic manner on diabetes patients within managed care settings, collected during the previous five years that may be appropriate for inclusion with any of the previously funded centers so that a diabetic cohort may be followed in a uniform manner. Data should have been collected from health plans, provider groups, racial and ethnic minority groups with diabetes, and adults over the age of 18; and may have been assembled through interviews of health plan and provider group leaders, telephone surveys, medical record reviews, and administrative data, and other appropriate sources in order to further the knowledge already gained.

f. Work collaboratively with similar organizations and recipients in a multi-center study using a common protocol to answer the following questions: (1) What is the level of quality of diabetes care and is it changing over time? (2) what is the relationship between structural aspects of care, for example, use of disease management strategies, profit status, management of referral care, guideline implementation (at system, provider, and patient levels) and diabetes quality of care, intermediate outcomes, and long term health (morbidity, mortality, quality of life) and economic outcomes? and (3) what interventions and strategies can improve diabetes quality of care and outcomes?

g. Collaborate in an interactive and ongoing basis with other health organizations, provider groups, community groups, etc., as necessary, to participate in research assessing the existing and changing structures, processes, delivery, and outcomes of care for people with diabetes.

h. Examine the relationship between individual- and area/community-level socioeconomic characteristics of persons with diabetes and their health behaviors, and quality of care (processes and outcomes). These objectives will be accomplished through collaboration with other funded research centers.

i. Identify innovative ways of optimizing the delivery of care and health outcomes; and identify and test strategies to improve care for people with diabetes using rigorous scientific methods and based on knowledge gained from this systematic and collaborative research program.

j. Utilize an existing Steering Committee which will consist of the Principal Investigators of the research study, and who will serve as the governing body for the study.

k. Follow the standardized protocol and manual(s) of operation to be developed by the Steering Committee.

l. Maintain an effective and adequate management and staffing plan with appropriate competencies to gather, analyze, and publish data; and collaborate with other recipients and use standardized systems such as computer assisted telephone systems, hospital record systems, chart review, and administrative data management systems for collecting patient data.

m. Communicate scientifically via publications, abstracts, and presentations, the main and secondary findings pertaining to the goals of the study.

n. Perform joint analysis with aggregate data. Performance will be measured by evidence that the grantee has demonstrated accomplishment of the activities described above in items a through n.

2. CDC Activities

CDC will be responsible for the following activities:

a. Provide assistance on the design of the multi-center study, to include assisting with the development of sampling procedures, design of the instruments, development of methods and procedures for the study, collection of data, analysis and interpretation of data, resolution of data quality issues and dissemination of results.

b. Assist in the development of a standardized research protocol for IRB review by all cooperating institutions participating in the research project.

c. Obtain and maintain Certificates of Confidentiality in the form of 301(d) and assurance of confidentiality 308(d), as appropriate for the study.

d. Collaborate to produce technical reports or manuscripts for peer-reviewed publications as appropriate. Provide assistance for joint analysis with aggregate data.

e. Serve as consultants to the Steering Committee.

f. Participate in research assessing the existing and changing structures, processes, delivery, and outcomes of care for people with diabetes.

g. Provide consultation to examine the relationship between individual and community socioeconomic characteristics of persons with diabetes and diabetes processes and outcomes of care.

h. Collaborate with research centers to identify and test strategies to improve

care for people with diabetes using rigorous scientific methods.

F. Content

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, therefore, it is important to follow them in presenting your program plan. The narrative should be no more than 50 double-spaced pages, printed on one side, with one-inch margins, and unreduced 12-point font.

Beginning October 1, 2003, applicants will be required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge.

Although obtaining a DUNS number is not required for applications submitted in response to announcements with deadlines on or before September 30, 2003, regardless of when the award is made, you are encouraged to obtain a DUNS number now if you believe you will be submitting an application to any Federal agency on or after October 1, 2003. Proactively obtaining a DUNS number at the current time will facilitate the receipt and acceptance of applications after September 2003.

To obtain a DUNS number, access: *http://www.dunandbradstreet.com* or call 1–866–705–5711.

Focus the application content on the planned ''Recipient Activities'' and describe accomplishments in the Background and Need section of your narrative. Provide supporting documentation such as resumes, job descriptions, and descriptions of collaborators as appropriate. The original and each copy of the application must be submitted unstapled and unbound. Pages should be clearly numbered and a complete index to the application and any appendices should be included.

1. Program Narrative

Under a section entitled Background and Need, describe the extent to which the applicant demonstrates an effective understanding of the burden of diabetes, the problems (structure, process of care, quality of care, endpoints, and outcomes); specific accomplishments of your diabetes research program, unmet needs, a need for the project, and a commitment to its execution. Describe your capacity to conduct a multi-center research study in managed care settings. Provide a detailed plan of activities to be performed in the first year. Briefly address activities for years 2–5.

2. Provide specific references to the following program requirements as described in the Recipient Activities section.

a. Provide evidence of participation and collaboration with other partners in a multi-center study. Provide evidence that the principal investigator has published reports emanating from multi-center investigations using common protocols of the relationship between structural factors and outcomes of diabetes care. Provide evidence of experience with developing and working with a multi-center standardized protocol to include the design of the study, design of instruments, development of methods and procedures for the study, collection of the data, quality control, analysis and interpretation of the data, and dissemination of results. Applicant must provide a copy of an approved protocol (as an attachment to the application) that describes the criteria listed above.

b. Provide evidence that the applicant and principal investigator have experience in the development of a research protocol for IRB review that includes multiple cooperating institutions participating in the research project and that will include longitudinal ascertainment of serious health conditions. Provide evidence that the local IRB will review and approve the protocol on an annual basis. Provide evidence of experience dealing with the challenges and solutions related to collecting data in a standardized manner within a multi-center study. For example, provide a narrative describing methods used to evaluate recruitment, retention, and show data on response rates obtained.

c. Provide evidence that applicant will assure and maintain the confidentiality of all study data.

d. Provide evidence that applicant can develop standardized and aggregate analytical processes and technical reports or manuscripts, from multi-center studies using a common protocol, for peer-reviewed publications as appropriate.

e. Provide evidence that applicant has access to research infrastructure; and provide summaries of existing data collected during the previous five years, linking structural characteristics (for example, use of disease management strategies, profit status, management of referral care, and guideline implementation) with patient level data, including that obtained from surveys, medical record reviews, and administrative health care utilization data access to existing data on diabetes patients within managed care settings, from health plans, provider groups, racial and ethnic minority groups with diabetes, and adults over the age of 18; assembled at a minimum through telephone surveys, medical record reviews, and administrative data, in order to further the knowledge already gained.

f. Provide evidence that applicant can and is willing to work collaboratively with the other recipients to answer the following questions: (1) What is the level of quality of diabetes care and is it changing over time? (2) What is the relationship between structural aspects of care, for example, use of disease management strategies, profit status, management of referral care, guideline implementation (at system, provider, and patient levels) and diabetes quality of care, intermediate outcomes, and long term health (morbidity, mortality, quality of life) and economic outcomes? and, (3) what interventions and strategies can improve diabetes quality of care and outcomes?

g. Provide evidence of applicant's ability to collaborate in an interactive and ongoing basis with other health organizations, provider groups, community groups, *etc.*, as necessary, to participate in research assessing the existing and changing structures, processes, delivery, and outcomes of care for people with diabetes. Provide evidence in the form of multi-center aggregate data wherein key structural factors, processes, and outcomes of care are collected uniformly across research centers.

h. Provide evidence that the applicant has experience in examining the relationship between individual- and area/community-level socioeconomic characteristics of persons with diabetes and their health behaviors, and quality of care (processes and outcomes). These objectives will be accomplished through collaboration with other funded research centers.

i. Provide evidence that the applicant will focus on finding innovative ways of optimizing the delivery of care and health outcomes and will identify and test strategies to improve care for people with diabetes using rigorous scientific methods and based on knowledge gained from this systematic and collaborative research program.

j. Provide evidence that the principal investigator will be willing to utilize an existing Steering Committee which will consist of the Principal Investigators of

the research study and who will serve as the governing body for the study.

k. Provide evidence that recipient will follow the standardized protocol and manual(s) of operation to be developed by the Steering Committee.

l. Provide evidence that the applicant will maintain an effective and adequate management and staffing plan, including an experienced and published principal investigator for the project who has experience in the management and oversight of a multi-center study.

m. Provide evidence of collaboration with others, and experience with the use of standardized systems such as computer assisted telephone systems, hospital record systems, chart review, and administrative data management systems for collecting patient data.

n. Provide evidence of applicant's experience and willingness to perform joint analysis with aggregate data from the study.

o. Provide evidence of applicant's willingness to communicate scientifically via publications, abstracts, and presentations, the main and secondary findings pertaining to the goals of the study.

3. Provide a detailed budget and line-item justification for the first year that is consistent with the stated objectives. Applicants are asked to include travel for up to three project staff, including the principal investigator, to attend four Steering Committee Meetings. For panel review purposes, the Program Narrative must be separate from the budget justification and budget summaries.

G. Submission and Deadline

Application Forms

Submit the original and two copies of PHS–398 (OMB Number 0925–0001). Adhere to the instructions on the Errata sheet (posted on the CDC Web site) for specific CDC instructions for the PHS 398 form. Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time. September 4, 2003. Submit the application to: Technical Information Management-PA #04005, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received in the CDC Procurement and Grants Office before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

A. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals as stated in the Purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate each application against the following criteria (100 points total):

1. The extent to which the applicant addresses the specific Content 1.(a) through 1.(o), below. Total Score 95 points:

(a) Provide evidence of participation and collaboration with other partners in a multi-center study using a common protocol. Provide evidence that the Principal Investigator has published reports emanating from multi-center investigations of the relationship between structural factors and outcomes of diabetes care. Provide evidence of experience in developing and working with multi-center standardized protocol to include the design of the study, design of instruments, development of methods and procedures for the study, collection of the data, quality control, analysis and interpretation of the data, and dissemination of results. Provide copy of an approved standardized, common protocol that includes the criteria listed above, and implemented by the applicant. (10 points)

(b) Provide evidence that applicant and principal investigator have experience in the development of a research protocol for IRB review that includes multiple cooperating institutions participating in the research project that will include longitudinal ascertainment of serious health conditions. Provide evidence that the local IRB will review and approve the protocol on an annual basis. Provide evidence of experience dealing with the challenges and solutions related to collecting data in a standardized manner within a multi-center study. For example, provide a narrative describing methods used to evaluate recruitment, retention, and show data on response rates obtained. (10 points)

(c) Provide evidence that applicant can and will develop standardized and aggregate analytical processes and technical reports or manuscripts, from multi-center studies using a common protocol, for peer-reviewed publications as appropriate. (10 points)

(d) Provide evidence that applicant has access to research infrastructure. Provide summaries of existing data collected during the previous five years, linking structural characteristics (for example, use of disease management strategies, profit status, management of referral care, and guideline implementation) with patient level data (for example, data obtained from surveys, medical record reviews, administrative health care utilization data, existing data on diabetes patients within managed care settings, from health plans, provider groups, racial and ethnic minority groups with diabetes, and adults over the age of 18) assembled at a minimum through telephone surveys, medical record reviews, and administrative data, in order to further the knowledge already gained. (10 points)

(e) Provide evidence that applicant can and is willing to work collaboratively with the other recipients to answer the following questions: (1) What is the level of quality of diabetes care and is it changing over time? (2)

what is the relationship between structural aspects of care, for example, use of disease management strategies, profit status, management of referral care, guideline implementation (at system, provider, and patient levels) and diabetes quality of care, intermediate outcomes, and long term health (morbidity, mortality, quality of life) and economic outcomes? and, (3) what interventions and strategies can improve diabetes quality of care and outcomes? (10 points)

(f) Provide evidence of applicant's ability to collaborate in an interactive and ongoing basis with other health organizations, provider groups, community groups, etc., as necessary, to participate in research assessing the existing and changing structures, processes, delivery, and outcomes of care for people with diabetes. Provide evidence in the form of multi-center aggregate data wherein key structural factors, processes, and outcomes of care are collected uniformly across research centers. (6 points)

(g) Provide evidence that the applicant will maintain an effective and adequate management and staffing plan, including an experienced and published principal investigator for the project who has experience in the management and oversight of a multi-center research study. (5 points)

(h) Provide evidence of collaboration with other organizations and experience with the use of standardized systems such as computer assisted telephone systems, hospital record systems, chart review, and administrative data management systems for collecting patient data. (5 points)

(i) Provide evidence of applicant's experience and willingness to perform joint analysis with aggregate data, collected using a common protocol from the study. (5 points)

(j) Provide evidence of applicant's willingness to communicate scientifically via publications, abstracts, and presentations, the main and secondary findings pertaining to the goals of the study. (5 points)

(k) Provide evidence that applicant will assure and maintain the confidentiality of all study data. (5 points)

(l) Provide evidence that the applicant will follow the standardized protocol and manual(s) of operation to be developed by the Steering Committee. (5 points)

(m) Provide evidence of applicant's ability to examine the relationship between individual and area/community level socioeconomic characteristics of persons with diabetes and their health behaviors, and quality of care (processes and outcomes). These objectives will be accomplished through collaboration with other funded research centers. (3 points)

(n) Provide evidence that the applicant will focus on finding innovative ways of optimizing the delivery of care and health outcomes, and will identify and test strategies to improve care for people with diabetes using rigorous scientific methods based on knowledge gained from this systematic and collaborative research program. (3 points)

(o) Provide evidence that the principal investigator will be willing to utilize an existing Steering Committee which will consist of the Principal Investigators of the research study and who will serve as the governing body for the study. (3 points)

2. Background and Program Need (Total 5 points). The extent to which the applicant demonstrates an effective understanding of the background and burden of diabetes, the problems (structure, process of care, quality of care, endpoints, and outcomes), specific accomplishments of your diabetes research program, unmet needs, a need for the project, and a commitment to its execution.

3. Budget and justification (Reviewed, but not weighted or scored).

Provide a detailed budget and line-item justification for the first year that is consistent with the stated objectives and planned activities. Applicant is asked to include travel for up to three project staff, including the principal investigator, to attend four steering committee meetings. For panel review purposes, the program narrative must be separate from the budget justification and budget summaries.

4. Human Subjects (Reviewed, but not weighted or scored) Does the application adequately address the requirements of title 45 CFR part 46 for the protection of human subjects? The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in any proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing application, and must contain the following:

a. Current Budget Period Activities/Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activities/Objectives

d. Detailed, Line-Item Budget Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial status report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement as posted on the CDC web site.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.*

Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical

Information Management, CDC Procurement and Grants Office, 2920 Brandywine Rd, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Angela Webb, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2784, E-mail address: *Awebb@cdc.gov.*

For program technical assistance, contact: Bernice A. Moore, MBA, Division of Diabetes Translation, Epidemiology and Statistics Branch, Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE., MS–K10, Atlanta, GA 30341–3717, Telephone number: (770) 488–1257, E-mail address: *bam0@cdc.gov.*

Dated: July 15, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–18422 Filed 7–18–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Notice of Program Announcement No. ACYF/HS–2003–15]

Fiscal Year 2003 Discretionary Announcement for Head Start Partnerships With Historically Black Colleges and Universities; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the availability of funds and request for applications for professional development and training grants for Historically Black Colleges and Universities (HBCUs) in partnership with Head Start and Early Head Start programs to improve services to Head Start and Early Head Start children and families.

The Catalog of Domestic Assistance Number is 93.600.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of up to $1,500,000 in funds for Head Start training grants in partnerships with (HBCUs). The purpose is to improve the quality and long-term effectiveness of Head Start and Early Head Start grantees and delegate agencies by forming partnerships between the HBCUs and Head Start and Early Head Start to develop and implement academic and other training models in support of early literacy for Head Start and Early Head Start programs.

CLOSING DATE: The closing date for receipt of applications under this announcement is 4:30 p.m. (Eastern Time) August 20, 2003.

ADDRESSES: Mailed and hand-carried applications will be received at the following address: ACYF Operations Center, Historically Black Colleges and Universities, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, Telephone: 1–800–351–2293, E-mail: *HSB@esilsg.org.*

All packages should be clearly labeled as follows: Application for Head Start Partnerships with Historically Black Colleges and Universities (HBCUs). Applicants will receive a confirmation postcard upon receipt of their application package.

FOR FURTHER INFORMATION CONTACT: The Head Start Discretionary Grant Support Team (1–800–351–2293) is available to answer questions concerning application requirements and to refer you to the appropriate contact person in ACYF for programmatic questions. You may e-mail your questions to: *HSB@esilsg.org.* When contacting ACYF directly with programmatic questions send to William F. Wilson, Grants Officer, 330 C Street, SW., Washington, DC 20447, (202) 205–8913, *wwilson@acf.hhs.gov.*

In order to determine the number of expert reviewers that will be necessary, if you plan to submit an application, you are requested to send a post card or call with the following information: the name, address, telephone and fax numbers, and e-mail address of the college/university at least four weeks prior to the submission deadline date to: ACYF Operations Center, Historically Black Colleges and Universities, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, Telephone: 1–800–351–2293, E-mail: *HSB@esilsg.org.*

An application kit including copies of the program announcement, necessary application forms and appendices can be obtained by contacting the above address, and/or visiting the ACYF Web site at *http://www.acf.hhs.gov/programs/hsb/grant/fundingopportunities/fundopport.htm.*

Fiscal Year 2002 Discretionary Announcement for Head Start Partnerships With Historically Black Colleges and Universities

A. Table of Contents

This program announcement is divided into five sections:

- Part I contains general information, the history and background for the Whitehouse Initiative on Historically Black Colleges and Universities (HBCUs), including the principles and program description that will guide the development, implementation, operation, and evaluation of the projects.
- Part II contains key program information including a description of competitive categories, description of eligible applicants, project periods, and applicable Head Start regulations.
- Part III contains the requirements for information that must be included in each application.
- Part IV presents the criteria upon which applications will be reviewed and evaluated.
- Part V contains a discussion of the application process.

Part I. Purpose and Background

A. Purpose

Through this announcement, the Administration on Children, Youth and Families (ACYF) is making available up to $1,500,000 annually for each of five years to support Head Start-HBCU Partnerships, which will be awarded through a competitive process this year. These partnerships will be designed to improve the quality and long-term effectiveness of Head Start and Early Head Start grantees by developing academic and other training models in support of early literacy and forming partnerships between the HBCUs and Head Start and Early Head Start grantees and delegate agencies. The institutions of higher education that will be funded under this announcement, together with those HBCUs currently funded under this initiative, will form a consortium to share methods, approaches, experiences, and lessons learned.

B. Background

The overall goal of Head Start is to ensure that children of low-income families who are nearing the end of the preschool period and entering school are ready for school success. In order to accomplish this goal, Head Start provides comprehensive services to these children and their families. Head Start enhances children's physical, intellectual, social, and emotional development. It supports parents in

their efforts to fulfill their parental roles and provides for their involvement in implementing the Head Start program. Another goal of Head Start is to strengthen community supports for families with young children while they are working towards employment and self-sufficiency.

In an attempt to ensure high quality services to children and their families, Head Start has conducted many demonstration projects, provided grantees with training and technical assistance, and given grantees funds to implement their own training efforts. For example, Head Start supported the creation of the Child Development Associate (CDA) credential designed for early childhood development teaching staff, implemented the Head Start Teaching Centers, and developed other innovative projects.

Head Start-HBCU partnerships is closely aligned with the Head Start tradition of creating innovative programs of working with low-income children and their families. Since 1990, Head Start has worked with a number of HBCUs. In 1990, Alabama A & M and LeMoyne-Owen were funded. The University of Maryland-Eastern Shore, North Carolina Central University, Jackson State University, and Texas Southern University were funded in 1992. Thirty-two HBCUs were funded by the partnership grant between FY1997 and FY2001. (*See* Appendix A for a listing of these HBCUs).

In the 1998 reauthorization of the Head Start Act, a key priority of Congress and the Administration was to continue to improve Head Start program quality and accountability. A number of provisions were included in the new law to achieve these goals, including new education performance standards and measures, expansion of program monitoring to incorporate evidence of progress on outcomes-based measures, expanded funding to upgrade program quality and staff compensation, and higher education standards for Head Start teachers. Among these provisions is the requirement that, by September 30, 2003, at least half of all Head Start teachers in center-based programs must have an AA, BA or advanced degree in Early Childhood Education (ECE) or in a related field with preschool teaching experience.

The Head Start Bureau is providing a variety of forms of assistance to local Head Start programs to implement these legislative mandates. For example, to enhance the numbers of teachers with degrees in early childhood education, grantees received $43,000,000 in funding in 1999 and an additional $43,000,000 in 2000 to increase teacher salaries and expand access to higher education courses and degree programs. Currently, Head Start-State Collaboration Offices and training and technical assistance providers help Head Start programs work with higher education institutions on challenges such as linking training obtained in conjunction with the Child Development Associate credential with academic credit and courses leading to AA and BA degrees in early childhood education.

In January 2001, the President signed into law the ''No Child Left Behind Act'' to make the education of every child in America one of the country's top priorities. The Act seeks to ensure that public schools teach children what they need to know to be successful in life and that they also set high education standards in the classroom. In his 2002 State of the Union address, the President indicated the need to prepare our children to read and succeed in school, including the improvement of Head Start and early childhood development programs. In response to these goals, the White House has developed an early childhood initiative, which is built on raising the bar for Head Start Education methods that create a better learning environment and improved outcomes for children. In his announcement of the Good Start, Grow Smart Early Childhood Initiative in April 2002, the President identified children's early literacy as a key focus for Head Start program improvement. In this initiative, the President presented three areas of focus for Head Start: (1) Strengthening Head Start programs; (2) partnering with states to improve early childhood education, and (3) providing information to teachers, caregivers, and parents. The Head Start Bureau quickly responded to the President's mandate by developing the Strategic Teacher Education Project (STEP) in June 2002. The purpose of Project STEP is to ensure that all Head Start teachers engage in research-based strategies to support children's early literacy and positive social and emotional development, which, in turn, will lead to positive child outcomes and school readiness.

All project applications must address one of the following priority areas:

1. Partnerships to increase the number of center-based teachers with two-year and four-year degrees in early childhood education and

2. Partnerships to increase the competency of Head Start staff in building quality Head Start programs, particularly enhancing language development and social-emotional development, as well as early literacy and assessing child outcomes.

Part II. Program Information and Requirements

A. Statutory Authority

The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

B. Eligible Applicants

Historically Black Colleges and Universities (HBCUs) as defined in the amended version of the Higher Education Act of 1965, codified at 20 U.S.C. 1061(2), are institutions established prior to 1964 whose principle mission was, and is, the education of Black Americans, and must satisfy section 322 of the Higher Education Act of 1965, as amended. Institutions which meet the definition of ''Part B institution'' in section 322 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1061(2), shall be eligible for assistance under this announcement. Faith-based institutions planning to compete under this announcement must also meet the same eligibility criteria as other applicants. HBCUs that are currently funded under the Head Start Partnership with HBCUs and whose funding will end after 2003 (*i.e.,* 2004 and 2005) are not eligible to apply under this announcement. These institutions are listed in Appendix A.

Faith-based institutions are encouraged to submit with their applications the optional survey located under ''Grant Manuals and Forms'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

C. Project Duration

Awards will be made on a competitive basis and will be for a one-year budget period. The total project period will be for five years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the five-year project period, will be considered on a noncompetitive basis subject to the availability of funds, satisfactory progress of the grantee, and a determination that continued funding is in the best interest of the Government.

D. Federal Share of Project Costs

It is anticipated that up to $1,500,000 in ACF funds will be available annually. The maximum Federal share for each project is not to exceed $150,000 per year per project.

E. Number of Projects To Be Funded

It is anticipated that up to 10 projects will be funded.

F. Matching Requirement

Although there are no matching requirements, applicants are encouraged to provide non-Federal contributions to the project.

Part III. Application Requirements

The following Uniform Project Description (UPD) has been approved by OMB under control number 0970–0139.

A. Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

B. General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants are required to submit a full project description and shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview while the evaluation criteria expand and clarify more program-specific information that is needed.

a. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

b. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and or problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated); some of which may be outside the scope of the program announcement.

c. Results or Benefits Expected

Identify the results and benefits to be derived. For example, using a comprehensive review of the current literature, justify how the research questions and the findings will add new knowledge to the field or how it will improve services for children and families.

d. Approach

Outline a plan of action, which describes the scope, and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the proportion of data collection expected to be completed. When activity or function cannot quantify accomplishments, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data are to be collected maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information'' that is conducted or sponsored by ACF. List organizations, cooperating entities, consultants, or other key individuals whom will work on the project along with a short description of the nature of their effort or contribution.

C. Additional Information

Following is a description of additional information that should be placed in the appendix to the application:

a. Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch with acceptable credentials will also be required for new key staff as appointed.

b. Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation or similar document that clearly establishes non-profit status bearing the seal of the State in which the corporation or association is domiciled *or* a statement from a State taxing body, State attorney general, or other appropriate State official certifying the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals *or* any of the items in the subparagraphs immediately above for a State or national organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Faith-based institutions are encouraged to submit with their application the optional

survey located under ''Grant Manuals and Forms'' at *www.acf.hhs.gov/programs/ofs/forms.htm.*

c. Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

d. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

D. General Budget Information

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

a. Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

b. Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

c. Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. *Travel costs for key staff to attend ACF-sponsored conferences* should be detailed in the budget.

d. Equipment

Description: Costs of tangible, nonexpendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

e. Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

f. Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

g. Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

h. Total Direct Charges, Total Indirect Charges, Total Project Costs

Self-explanatory.

Part III. Evaluation Criteria and Review Process

A. Evaluation Criteria

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Criterion 1. Approach: (50 points)

The extent to which the application, having met the minimum requirements, designs an acceptable plan of action pertaining to the scope of the project which details how the proposed work will be accomplished. Include a timeline; lists of each organization, consultants, including key individuals who will work on the project along with a short description of the nature of their effort or contribution. Assure the adequacy of time devoted to the project by key staff. The key staff should be

qualified and knowledgeable of Head Start. The applicant must fully describe the approach and/or methodology and delineate the relationship of each task to the accomplishment of the proposed objectives. There should be evidence that the planned approach reflects sufficient input from and partnership with the Head Start partners.

The Head Start Bureau is particularly interested in the following:

1. Describe the planning the applicant will conduct during the start-up period to prepare for implementation of the program. Provide assurance that no more than six months will be devoted to planning activities.

2. Indicate how staff will be recruited and selected to participate in the program, including staff from childcare organizations that are collaborating with Head Start grantees and delegate agencies.

3. Clearly describe how the training and coursework will be contextually and culturally relevant to the Head Start and Early Head Start environment and how it will contribute to enhancing the effectiveness of teachers, program quality, and outcomes for Head Start children and families.

4. For academic training proposals, describe efforts by the institution and Head Start partners to make training and coursework accessible to Head Start participants and to support their successful completion of courses, training, and degrees. Include discussion of issues such as timing, scheduling, and location of classes or training; support to enhance the literacy and study skills of participants, and approaches to integrate training in the working environment of the Head Start program. Provide assurance that training/courses are offered at no cost to trainees.

5. For academic training proposals, describe efforts to complement the Federal funds requested in this proposal with other sources to maximize the benefits to Head Start the institution. Include any efforts or plans to assist Head Start staff in accessing sources of financial assistance or to make use of other funding for training and career development of early childhood program staff.

6. Document that the institution currently offers credit courses, and proposes to offer credit courses, particularly in the area of Early Childhood Development/Education.

7. For academic training proposals, describe how CDA training and certification of Head Start and Early Head Start staff, as appropriate, as well as previous coursework and credits will be linked to academic credits and course sequences leading to AA/BA degrees. Applicant should indicate how many Head Start and Early Head Start staff members will be included in this effort.

8. Describe the organizational structure that will support the project objectives. Indicate how joint planning and assessment with the Head Start and Early Head Start grantees will be implemented with timelines and clear lines of responsibility. Indicate how staff positions are assigned and describe their major functions and responsibilities.

9. Describe the role the institution will play in the consortium of HBCUs funded under this initiative.

10. Describe the activities that will continue after the completion of this project that will ensure that the institution will continue to participate in providing educational opportunities for Head Start and Early Head Start staff.

Criterion 2. Results or Benefits Expected: (20 points)

The extent to which the application identifies the results and benefits to be derived; describes the anticipated contribution to policy, practice, theory and/or research; specific benefits should be described for both the institution and the Head Start program.

The Head Start Bureau is particularly interested in the following:

1. Based on the stated program objectives, identify the results and benefits to be derived. Identify the specific results or benefits that could be expected for the Head Start grantees and the institution. Describe how Head Start children benefit from the project.

2. Identify both qualitative and quantitative data the program will collect to measure progress towards the stated results or benefits. Identify how the program will determine the extent to which it has achieved its stated objectives.

3. For academic training proposals, provide a projection of the estimated number of teachers that will earn degrees over the duration of the project based on an analysis of the current levels of credits/courses earned by participants and a proposed sequence of courses.

Criterion 3. Objectives and Need for Assistance: (15 Points)

The extent to which the application identifies relevant physical, economic, social, financial, institutional or other problems requiring a grant; demonstrates the need for assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant.

The Head Start Bureau is particularly interested in the following:

1. State the objectives for the program. Indicate how these objectives are based on an assessment of community needs and how they relate to Head Start goals. Describe the process used to assess the need for the proposed program including the total number of staff needing training, including preschool and infant/toddler teachers. If an assessment already exists, the applicant should describe the process used and explain any additional consultation as it relates to the development of the proposed program.

2. Specifically identify the population to be served. Indicate the Head Start and Early Head Start grantees that are proposed as participating partners, the numbers and types of staff to be trained, and the proposed areas of training, courses, and/or degrees to be awarded, as appropriate.

3. Describe the development of agreement of the institution and Head Start partnerships and any other consultation related to the development of the proposed initiative. Describe any efforts to frame the proposed initiative within broader state or community efforts to enhance professional and career development for staff in all forms of early childhood and child care programs. Include support letters that document consultation and support from the proposed grantee or delegate agency partners, such as the Regional Head Start Quality Improvement Center (QICs), the Head Start State Collaboration Office, and any existing state level early childhood career development initiative.

Criterion 4. Budget and Budget Justification: (15 Points)

The extent to which the project's costs are reasonable in view of the activities to be carried out and the anticipated outcomes.

Applicable Administrative Regulations

Applicable administrative regulations include 45 CFR part 74, Administration of Grants, for profit agencies, and 45 CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to States and local Governments.

Post-Award Reporting Requirements

Post-Award Reporting Requirements include submission of quarterly programmatic and budget reports. Program reports must clearly outline status on the accomplishment of stated goals and objectives. Financial reports

must provide status of budget expenditures, as well as identifying any projected savings or shortages.

B. Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal government, will use the evaluation criteria listed in Part III of this announcement to review and score the applications. The results of this review are a primary factor in making funding decisions. ACYF may also solicit comments from ACF Regional Office staff and other Federal agencies.

Part IV. Instructions for Submitting Applications

A. Required Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms included at the end of this program announcement in Appendix A. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget under Control Number 0348–0043). A copy has been provided. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B with their application. Applicants must provide a certification concerning lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under control number 0348–0046).

Applicants must sign and return the certification with their application. Applicants must provide a Uniform Project Description (approved by the Office of Management and Budget under control number 0970–0139, which expires 12/31/03).

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must also understand that they will be held accountable for the smoking prohibition included within Pub. L. 103–227, Part C Environmental Tobacco Smoke (also known as The Pro-Children's Act of 1994). A copy of the **Federal Register** notice, which implements the smoking prohibition, is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0418) in Appendix A. If there is a question regarding the applicability of this assurance, contact the Office for Protection from Research Risks of the National Institutes of Health at (301)–496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

B. Application Limits

The narrative of the application should be double-spaced and single-sided on 8 ½″ x 11″ plain white paper, with 1″ margins on all sides. Use only a standard size font no smaller than 12 pitch throughout the proposal. All pages of the narrative of the application (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the principal investigator contact information and the Table of Contents. *The length of the application, including the narrative, and excluding the appendices and resumes must not exceed 65 pages.* Anything over 65 pages will be removed and not considered by the reviewers. The project summary should not be counted in the 65 pages. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required. Applicants may omit from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and social security numbers if otherwise required for individuals. The copies may include summary salary information.

Applicants are encouraged to submit curriculum resumes using ''Biographical Sketch'' forms used by some government agencies.

Please note that applicants that do not meet the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that the application package has been properly prepared.

—One original, signed and dated application plus two copies.
—Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.

Front Matter

- Cover Letter.
- Table of Contents.
- Project Abstract.

(1) Application for Federal Assistance (SF 424, REV. 4–92);

(2) Budget information—Non-Construction Programs (SF424A&B REV. 4–92);

(3) Budget Justification, including subcontract agency budgets;

(4) Letter from the Head Start programs certifying that the program is a partner of the institution;

(5) Application Narrative, excluding Appendices and resumes (not to exceed 65 pages);

(6) Proof that the organization is an HBCU;

(7) Assurances Non-Construction Programs;

(8) Certification Regarding Lobbying;

(9) Where appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424, REV. 4–92;

(10) Certification of Protection of Human Subjects.

D. Due Date for the Receipt of Applications

Deadlines: The closing date for the submission of applications is 4:30 p.m.

(EDT) on September 19, 2003. Applications received after the closing date will be classified as late and not considered for funding. Applications should be mailed to: ACYF Operations Center, Historically Black Colleges and Universities, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, *Telephone:* 1–800–351–2293, *E-mail: HSB@esilsg.org.*

Application for Head Start Discretionary Grants: Head Start Partnerships with Historically Black Colleges and Universities (HBCUs). Applications received after the closing date and time will be classified as late. Applicants will receive a confirmation postcard upon receipt of their application package.

Applications hand carried by applicants, courier services, or by overnight/express mail couriers shall be considered as meeting the announced deadline only if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the ACYF Operations Center, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACYF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACYF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications, which do not meet the criteria above, are considered late applications. ACF shall notify each late applicant that its application will not be considered.

Extension of deadlines: ACF may extend an application deadline for applicants affected by acts of God such as floods, hurricanes, or when there is widespread disruption of the mails, or when it is anticipated that many applications will come from rural or remote areas. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations including program announcements. All information collections within this program announcement are approved under the following current valid OMB control number 0970–0139 which expires 12/31/2003.

Public reporting burden for this collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

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.

F. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-six jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. The applicant must submit all required materials, if any, to the SPOC and indicate the date of the submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. Applicants must submit any required material to the SPOCs as soon as possible so that the Federal program office can obtain and review SPOC comments as part of the award process. A listing of the SPOC for each participating state and territory with contact and address information is available at *http://whitehouse.gov/omb/grants/spoc.html.*

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the accommodate or explain rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, ACYF/Office of Grants Management, 330 C Street, SW., Washington, DC 20447, Attn: Head Start Partnerships with Tribally Controlled Land Grant Colleges and Universities. A list of the Single Points of Contact for each State and Territory can be found on the Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

Dated: July 14, 2003.

Joan E. Ohl,

Commissioner, Administration on Children, Youth and Families.

Appendix A—HBCUs That Have Received Partnerships Grants

1997 Institutions (Expired 2001)

South Carolina State University
Cheyney University of Pennsylvania
Texas Southern University
North Carolina Central University
Kentucky State University
Howard University
Tennessee State University
Jackson State University

1998 Institutions (Expiring 2003)

Delaware State University
The University of the District of Columbia
University of Maryland—Eastern Shore
Florida A & M University
Shaw University
Norfolk State University
Hampton University

1999 Institutions (Expiring 2003)

Howard University
Southern University and A&M College
Council Trenholm State Technical College
Kentucky State University
Dillard University
Bluefield State College

2000 Institutions (Expiring 2004)

Harris-Stowe State College
Kentucky State University
North Carolina Central University
Southern University and A&M College
Texas Southern University
The University of the District of Columbia
University of Arkansas at Pine Bluff
Bluefield State University

2001 Institutions (Expiring 2005)

Spelman College

Albany State University
Alabama A&M University

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/HS–2003–16]

Fiscal Year 2003 Discretionary Announcement for Head Start—Higher Education Hispanic/Latino Service Partnerships: Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of the availability of funds and request for applications for professional development and training grants for institutions of higher education in partnership with Head Start and Early Head Start programs to improve services to Hispanic/Latino children and their families.

CFDA #: The catalog of Federal Domestic Assistance Number is 93.600.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of up to $1,500,000 in funds for institutions of higher education with experience and capability in educating and preparing professionals to work effectively with Hispanic/Latino young children and families, in partnership with Head Start and Early Head Start programs. The purpose is to improve the quality and long-term effectiveness of Head Start and Early Head Start program services to Hispanic/Latino children and their families by developing academic and other training models and forming partnerships between institutions of higher education and Head Start and Early Head Start programs.

DATES: The closing date and time for receipt of application is 4:30 p.m. (Eastern Standard Time), August 18, 2003. Applications received after the closing date and time will be classified as late.

ADDRESSES: Mailed and hand-carried applications will be received at the following address: ACYF Operations Center, Head Start-Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs), 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, *Telephone:* 1–800–351–2293, *E-mail: HSB@esilsg.org.*

All packages should be clearly labeled as follows: Application for Head Start'Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs).

FOR FURTHER INFORMATION CONTACT: The Head Start Discretionary Grant Support Team (1–800–351–2293—ACYF) is available to answer questions concerning application requirements. You may e-mail your questions to: *HSB@esilsg.org.* When contacting ACYF directly with programmatic questions send to William Wilson, Grants Officer, 330 C Street, SW., Washington, DC 20447, (202) 205–8913, *wwilson@acf.hhs.gov.*

If you are interested in submitting an application please send a post card or call at least two weeks prior to the submission deadline with the following information: the name, address, telephone and fax numbers, and e-mail address of the principle investigator and the name of the institution. This information will be used to determine the number of expert reviewers needed to evaluate applications. Send the declaration of interest information to: ACYF Operations Center, Head Start-Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs), 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, *Telephone:* 1–800–351–2293. *E-mail: HSB@esilsg.org.*

Copies of the program announcement, necessary application forms and appendices can be obtained by contacting the above address, and/or visiting the ACYF Web site at *http://www.acf.hhs.gov/programs/hsb/grant/fundingopportunities/fundopport.htm.*

Fiscal Year 2003 Discretionary Announcement for Head Start—Higher Education Hispanic/Latino Service Partnerships

Part I. Purpose and Background

A. Purpose

Through this announcement, the Administration on Children, Youth and Families (ACYF) is making available up to $1,500,000 annually for each of five (5) years to support Head Start ''Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs), which will be awarded through a competitive process. The HS–HEHLSPs initiative was developed in response to the White House Initiative on Hispanic Education. The purpose of HS–HEHLSPs is to improve the quality and long term effectiveness of Head Start and Early Head Start programs by developing academic and other training models through partnerships between institutions of higher education and Head Start/Migrant Head Start/Early Head Start agencies. The institutions of higher education that will be funded under this initiative, together with currently funded HS–HEHLSPs, will form a consortium to share methods, approaches, experiences, and lessons learned. The consortium is a partner of the Head Start National Training and Technical Assistance (T&TA) network in providing assistance to Head Start/Migrant Head Start/Early Head Start grantees. Proposed partnership agreements are expected to be designed to benefit both the institutions of higher education and the participating Head Start/Migrant Head Start/Early Head Start grantees. Moreover, proposed partnerships are expected to reflect the unique training needs of participating Head Start grantees, including the provision of training that is accessible and responsive to trainees.

B. Background

The overall goal of Head Start is to enhance the healthy development and school readiness of children from low-income families. In order to accomplish this goal, Head Start provides comprehensive services to low-income children and their families. Head Start enhances children's physical, intellectual, social, and emotional development. It supports parents in their efforts to fulfill their parental roles and provides for their involvement in implementing the Head Start program.

In an attempt to ensure quality services to low-income children and their families, Head Start has conducted many demonstration projects, provided grantees with training and technical assistance, and given grantees funds to implement their own training efforts. For example, Head Start supported the creation of the Child Development Associate (CDA) credential designed for early childhood development teaching staff. Head Start also implemented the Head Start Partnerships with Historical Black Colleges and Universities (HBCUs), the Head Start Partnerships with Tribally Controlled Land Grant Colleges and Universities (TCUs), and other innovative training and staff development projects.

In the 1998 reauthorization of the Head Start Act, a key priority of Congress and the Administration was to continue to improve Head Start program quality and accountability. A number of provisions were included in the new law to achieve these goals, including new education performance standards and measures, expansion of program

monitoring to incorporate evidence of progress on outcome-based measures, expanded funding to upgrade program quality and staff compensation, and higher education standards for Head Start teachers. Among these provisions is the requirement that, by September 30, 2003, at least half of all Head Start teachers in center-based programs nationwide must have an AA, BA, or advanced degree in Early Childhood Education (ECE), or in a related field with pre-school teaching experience. A degree in a field related to early childhood education means a program of study that includes six or more courses in early childhood education and/or child development. Teachers who have degrees in related fields must also have experience teaching pre-school children.

The Head Start Bureau is providing a variety of forms of assistance to local Head Start programs to implement these new legislative mandates. For example, to support increasing the numbers of teachers with degrees in early childhood education, grantees received $43,000,000 in funding in Fiscal Year 2000 to increase teacher salaries and expand access to higher education courses and degree programs. Additionally, all Head Start grantees are allowed to use a portion of program funds awarded to provide staff development training to all Head Start staff.

In addition to these efforts, Head Start-State Collaboration Offices and training and technical assistance providers will help Head Start programs work with institutions of higher education on challenges such as linking training obtained in conjunction with the Child Development Associate credential with academic credit and courses leading to AA and BA degrees in early childhood education.

In January 2001, the President signed into law the ''No Child Left Behind Act'' to make the education of every child in America one of the country's top priorities. The Act seeks to ensure that public schools teach children what they need to know to be successful in life and that they also set high standards. In his 2002 State of the Union address, the President indicated the need to prepare our children to read and succeed in school, including the improvement of Head Start and early childhood development programs. In response to these goals, the White House has developed an early childhood initiative, which is built on raising the bar for Head Start Education through researched methods that create a better learning environment and improve outcomes for children. In his announcement of the Good Start, Grow Smart Early Childhood Initiative in April 2002, the President identified children's early literacy as a key focus for Head Start program improvement. In this initiative, the President presented three areas of focus for Head Start: (1) Strengthening Head Start programs; (2) partnering with states to improve early childhood education, and (3) providing information to teachers, caregivers, and parents. The Head Start Bureau quickly responded to the President's mandate by developing the Strategic Teacher Education Project (STEP) in June 2002. The purpose of Project STEP is to ensure that all Head Start teachers engage in research-based strategies to support children's early literacy and positive social and emotional development, which, in turn, will lead to positive child outcomes and school readiness.

Under this announcement, HEHLSPs must form a partnership with one or more Head Start/Migrant Head Start/Early Head Start grantees or delegate agencies, to develop age-appropriate and culturally appropriate curriculums and provide education and/or training to Head Start staff. The partnership agreements must be beneficial to both the HEHLSPs and the participating Head Start grantees.

All project applications must address one of the following priority areas:

1. Partnerships to increase the number of center-based teachers with two-year and four-year degrees in early childhood education, and

2. Partnerships to increase the competency of Head Start staff in building quality Head Start programs, particularly in enhancing language development, early literacy, and social-emotional development, as well as assessing child outcomes. The area of early literacy includes supporting non-English speaking children in making progress in both the home language and English.

Part II. Program Information and Requirements

A. Statutory Authority

The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

B. Eligible Applicants

Institutions, including faith-based institutions, of higher education with experience and capability in educating and preparing professionals to work effectively with Hispanic/Latino young children and families are eligible to apply. Institutions that are currently funded under the Head Start-Higher Education Hispanic/Latino Service Partnerships are not eligible to apply under this announcement. These institutions are listed in Appendix A. Faith-based institutions planning to compete under this announcement must meet the same eligibility criteria as other applicants. Private, non-profit institutions are encouraged to submit with their applications the optional survey located under ''Grant Manuals & Forms'' at *www.acf.hhs.gov/programs/ofs/forms.htm.*

C. Project Duration

This announcement is soliciting applications for project periods of up to five (5) years. Awards, on a competitive basis, will be for a one (1) year budget period. Applications for continuation grants funded under these awards beyond the one-year budget, but within the five-year project period, will be reviewed in subsequent years on a non-competitive basis subject to the availability of funds, satisfactory performance by the grantee, and a determination that continued funding would be in the best interest of the Government.

D. Federal Share of Project Costs

It is anticipated that up to $1,500,000 in ACF funds will be available annually. The maximum Federal-share for each project is not to exceed $150,000 per year per project.

E. Number of Projects To Be Funded

It is anticipated that up to 10 projects will be funded.

F. Matching Requirement

There are no matching funds requirements, however applicants are encouraged to provide non-Federal contributions to the project.

Part III. Application Requirements

The following Uniform Project Description (UPD) has been approved by OMB under control number 0970–0139.

A. Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their

funding recommendations. It is important, therefore, that this information be included in the application.

B. General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix. Pages should be numbered and a table of contents should be included for each reference.

Introduction

Applicant shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expand and clarify more program-specific information that is needed.

a. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

b. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and or problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

c. Results or Benefits Expected

Identify the results and benefits to be derived. For example, using a comprehensive review of the current literature, justify how the research questions and the findings will add new knowledge to the field or how it will improve services for children and families.

d. Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the proportion of data collection expected to be completed. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data are to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

C. Additional Information

Following are requests for additional information that need to be included in the application:

a. Staff and Position Data

Provide a job description for each key position and a biographical sketch for each key person. A biographical sketch will also be required for new key staff as appointed.

b. Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation or similar document that clearly establishes non-profit status bearing the seal of the State in which the corporation or association is domiciled *or* a statement from a State taxing body, State attorney general, or other appropriate State official certifying the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals *or* any of the items in the subparagraphs immediately above for a State or national organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Private-non-profit institutions are encouraged to submit with their application the optional survey located under ''Grant Manuals and Forms'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

c. Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

d. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

D. General Budget Information

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative

justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

a. Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, *etc.* Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

b. Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, *etc.*

c. Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. *Travel costs for key staff to attend ACF-sponsored conferences* should be detailed in the budget.

d. Equipment

Description: Costs of tangible, nonexpendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy that includes the equipment definition.

e. Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

f. Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (non-contractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

g. Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

h. Total Direct Charges, Total Indirect Charges, Total Project Costs.

Self explanatory.

Part IV. Evaluation Criteria

A. Review Criteria

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Criterion 1. Approach (40 points)

(a) The extent to which the application outlines a sound and realistic plan of action pertaining to the scope of the project which details how the proposed work will be accomplished, including a timeline; lists of each organization, consultants, including the evaluator, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution; and assures the adequacy of time devoted to the project by key staff;

(b) The extent to which the project approach, if successfully carried out, is likely to achieve the proposed project objectives; and

(c) The applicant's ability to fully describe the approach and/or methodology and delineate the relationship of each task to the accomplishment of the proposed objectives. There should be evidence that the planned approach reflects sufficient input from and partnership with Head Start/Migrant Head Start/Early Head Start and the HS–HEHLPSs.

Information provided in response to Part III, Section B. of this announcement will be used to evaluate applicants on this criterion.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. Describe the planning the applicant will conduct during the start-up period to prepare for implementation of the program. Provide assurance that no more than six months will be devoted to planning activities.

2. Indicate how Head Start staff will be recruited and selected to participate in the program, including staff from other child care organizations that are collaborating with Head Start grantees and delegate agencies and meet Head Start performance standards within a given community.

3. Describe how the training and coursework will be contextually and culturally relevant to the Head Start,

Migrant Head Start and the Early Head Start environment and how it will contribute to enhancing the effectiveness of teachers, staff, program quality and outcomes for Head Start children and families.

4. Describe efforts by the institutions and Head Start partners to make training and/or coursework accessible to Head Start participants and to support their successful completion of courses, training, and degrees. Include a discussion of issues such as the timing, scheduling, and location of classes or training; support to enhance the literacy and study skills of participants; and approaches to integrate HS–HEHLSPs training in the working environment of the Head Start program.

5. Describe efforts to complement the Federal funds requested in this application with other resources to maximize the benefits to Head Start and HS–HEHLSPs participants. Include any efforts or plans to assist Head Start staff in accessing sources of financial assistance or to make use of other funding for training and career development of early childhood program staff. In addition, describe any proposed contributions of funds from local Head Start programs to the partnership. Provide assurance that trainees will not be required to bear any costs of participating in training.

6. In case of academic training, describe how previous CDA training and certification of Head Start staff, as well as previous coursework, credits or AA degrees from 2-year institutions, will be linked to academic credits and course sequences leading to BA degrees.

7. Describe the organizational structure that will support the project objectives. Indicate how joint planning and assessment with the Head Start, Migrant Head Start and Early Head Start grantees will be implemented with timelines and clear lines of responsibility. Indicate how staff positions are assigned and describe their major functions and responsibilities.

8. Describe the activities that will continue after the completion of this project that will ensure that the institutions will continue to participate in providing educational opportunities for Head Start, Migrant Head Start and Early Head Start staff.

9. Include support letters that document consultation and support from the proposed grantee or delegate agency partners, the Head Start State Collaboration Office, and any existing state level early childhood career development initiative.

Criterion 2. Results or Benefits Expected (20 points)

The extent to which the application identifies the results and benefits to be derived; describes the anticipated contribution to policy, practice, theory and/or research; specific benefits should be described for both the HS–HEHLSPs and Head Start/Migrant Head Start/Early Head Start partners.

Information provided in response to Part III, Section B. of this announcement will be used to evaluate applicants on this criterion.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. Based on the stated program objectives, identify the results and benefits to be derived. Identify the specific results or benefits that could be expected for the Head Start grantee(s) and the institution. Describe how the trainees benefit from the project.

2. Identify both qualitative and quantitative data the applicant will collect to measure progress towards the stated results or benefits. Identify how the program will determine the extent to which it has achieved its stated objectives.

3. To propose academic training, provide a projection of the estimated number of trainees, by category, who will earn degrees over the five year duration of the project based on an analysis of the current levels of credits/courses earned by participants and a proposed sequence of courses.

4. Propose new teaching methods for Head Start teachers and staff for teaching early literacy in the classrooms and enhancing parental skills to encourage children to read and succeed in school.

Criterion 3. Staff and Position Data (20 points)

Key staff should be qualified and knowledgeable of Head Start, Migrant Head Start and Early Head Start. The extent of the demonstrated capacity of the applicant organization, key leaders, managers, and project personnel to:

(1) Provide high quality, relevant, and responsive training to Head Start staff;

(2) Assure participating project staff are competent to plan and deliver appropriate course material to Head Start trainees that is culturally relevant;

(3) Manage the implementation of the training grant in an effective and timely manner; and

(4) Manage successful partnerships that involve sharing resources, staffing, and facilities.

Information provided in response to Part III, Section C. will be used to evaluate applicants on the above criterion.

Criterion 4. Objectives and Need for Assistance (10 Points)

The extent to which the application identifies relevant physical, economic, social, financial, institutional or other problems requiring a grant; demonstrates the need for assistance; and states the principal and subordinate objectives of the project consistent with the purposes of the program announcement.

Information provided in response to Part III, Section A. of this announcement will be used to evaluate applicants on this criterion.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. State the specific training objectives for the program. Indicate how these objectives are based on an assessment of staff training and program improvement needs of participant Head Start and Early Head Start agencies; how they related to Head Start goals, outcomes and policy priorities, and how they will enhance the quality of Head Start services to Hispanic/Latino children and their families.

2. Describe the process used to assess the needs for the proposed program design. Specifically identify the population to be served in terms of numbers and types of staff to be trained and the proposed areas of training, courses, and/or degrees to be awarded.

3. Describe the development of the HS–HEHLSPs agreement and other consultation related to the development of the proposed initiative. Describe any efforts to frame the proposed initiative within broader state or community efforts to enhance professional and career development for staff in all forms of early care and education programs.

Criterion 5. Budget and Budget Justification (10 Points)

The extent to which the project's costs are reasonable and appropriate in view of the activities to be carried out and the anticipated outcomes. Provide a line item detail for the costs of attendance of project staff to attend ACF-sponsored conferences in Washington, D.C. It is the expectation that applicants should limit budget projections to those costs necessary to build institutional capacity for and execute training and career development partnerships with participating Head Start grantees.

Information provided in response to Part III, Section D. of this announcement will be used to evaluate applicants on this criterion.

Applicable Administrative Regulations

Applicable administrative regulations include 45 CFR part 74, Administration of Grants, for profit agencies: and 45 CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local Governments.

Post-Award Reporting Requirements

Post-Award Reporting Requirements include submission of quarterly programmatic and budget reports. Program reports must clearly outline status on the accomplishment of stated goals and objectives. Financial reports must provide status of budget expenditures, as well as identifying any projected savings or shortages.

B. The Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal government, will use the evaluation criteria listed in Part IV of this announcement to review and score the applications. The results of this review are a primary factor in making funding decisions.

Part V. The Application Process

A. Required Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms included at the end of this program announcement in Appendix A. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget under Control Number 0348–0043). A copy has been provided. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B with their application. Applicants must provide a certification concerning lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application. Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must also understand that they will be held accountable for the smoking prohibition included within Pub. L. 103–227, part C Environmental Tobacco Smoke (also known as The Pro-Children's Act of 1994). A copy of the **Federal Register** notice that implements the smoking prohibition is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0418) in Appendix A). If there is a question regarding the applicability of this assurance, contact the Office for Protection from Research Risks of the National Institutes of Health at (301) 496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

B. Application Limits

The application should be double-spaced and single-sided on 8½″ x 11″ plain white paper, with 1″ margins on all sides. Use only a standard size font no smaller than 12 pitch throughout the proposal. All pages of the application (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the principal investigator contact information and the Table of Contents. *The length of the application, starting with page 1 as described above and including appendices and resumes, should not exceed 65 pages;* the project summary should not be counted in the 65 pages. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required. Applicants may omit from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and social security numbers if otherwise required for individuals. The copies may include summary salary information.

Applicants are encouraged to submit curriculum vitae using ''Biographical Sketch'' forms used by some government agencies.

Please note that applicants that do not comply with the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that the application package has been properly prepared.

—One original, signed and dated application plus two copies.
—Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.

Front Matter

- Cover Letter.
- Table of Contents.
- Project Abstract.

(1) Application for Federal Assistance (SF424, Rev, 4–92).

(2) Budget information-non-construction programs (SF424, A&B).

(3) Budget Justification, including subcontract agency budgets.

(4) Letter(s) from the Head Start, Migrant Head Start or Early Head Start Program certifying that the program is a partner of the institution.

(5) Application Narrative and Appendices.

(6) Assurances Non-Construction Program.

(7) Certification Regarding Lobbying.

(8) Where appropriate, a completed Single Point of Contact (SPOC) certification with the date of SPOC contact entered in line 16, page 1 of the SF424, REV. 4–92.

(9) Certification of Protection of Human Subjects.

D. Due Date for the Receipt of Applications

1. *Deadline:* The closing date for the receipt of applications is 4:30 p.m. (EDT) August 20, 2003 at: ACYF Operations Center, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, *Telephone:* 1–800–351–2293, *E-mail: HSB@esilsg.org.*

Application for Head Start Discretionary Grants: Head Start-Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs). Applicants will receive a confirmation postcard upon receipt of their application package.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be delivered between the hours of 8 a.m. and 5 p.m., Monday–Friday (excluding holidays) at the address above. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) ACF cannot accommodate transmission of applications by fax or e-mail. Therefore, applications faxed or e-mailed to ACF will not be accepted.

2. *Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of deadlines:* ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or where there is widespread disruption of the mail. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations including program announcements. All information collections within this program announcement are approved under OMB control number 0970–0139 which expires 12/31/2003.

Public reporting burden for this collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

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.

F. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, Palau, have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-six jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. The applicant must submit all required materials, if any, to the SPOC and indicate the date of the submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. Applicants must submit any required material to the SPOCs as soon as possible so that the Federal program office can obtain and review SPOC comments as part of the award process. A listing of the SPOC for each participating state and territory with contact and address information is available at *http://whitehouse.gov/omb/grants/spoc.html.*

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations that may trigger the accommodation or explain rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, Head Start Bureau, 330 C Street, SW., Washington, DC 20447, Attn: Head Start-Higher Education Hispanic/Latino Service Partnerships. A list of the Single Points of Contact (SPOCs) for each State and Territory can be found on the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

Dated: July 10, 2003.

Joan E. Ohl,

Commissioner, Administration on Children, Youth and Families.

Appendix A—List of Current Head Start—Higher Education Hispanic/Latino Service Partnerships

FY 2000 Institutions (expiring 2004)	
1. Aims Community College	Colorado.
2. CSU—Bakersfield	California.
3. CSU—Northridge	California.
4. CSU—San Marcos	California.
5. Fresno City College	California.
6. Portland Community College	Oregon.
7. University of Texas-Pan American.	Texas.

FY 2001 Institutions (expiring 2005)	
1. Bronx Community College	New York.
2. Hartnell Community College	California.
3. Michigan State University	Michigan.
4. The University of Texas-San Antonio.	Texas.
5. Yosemite Community College District/Modesto Junior College.	California.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/HS–2003–17]

Fiscal Year 2003 Discretionary Grant Announcement for Head Start Partnerships With Tribally Controlled Land Grant Colleges and Universities; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of the availability of funds and request for

applications for professional development and training grants Tribally Controlled Land Grant Colleges and Universities (TCU) in partnership with Head Start and Early Head Start programs to improve services to American Indian and Alaska Native children and their families.

The catalog of Federal Domestic Assistance Number is 93.600.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF), announces the availability of up to $1,500,000 in funds for Tribally Controlled Land Grant Colleges and Universities (TCU) in partnership with Head Start and Early Head Start programs. The purpose is to improve the quality and long-term effectiveness of Head Start and Early Head Start program services to American Indian and Alaska Native children and their families by developing academic and other training models and forming partnerships between the TCUs and Head Start and Early Head Start programs.

CLOSING DATE: The closing time and date for receipt of application is 4:30 p.m. (Eastern Time) on August 20, 2003. Applications received after the closing date and time will be classified as late.

ADDRESSES: Mailed and hand-carried applications will be received at the following address: ACYF Operations Center, Head Start Partnerships with Tribally Controlled Land Grant Colleges/Universities (TCUs), 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, Telephone: 1–800–351–2293, e-mail: *HSB@esilsg.org.*

Hand delivered, courier or overnight delivery applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date. All packages should be clearly labeled as follows: Application for Head Start Partnerships with Tribally Controlled Land Grant Colleges/Universities (TCUs).

FOR FURTHER INFORMATION CONTACT: The Head Start Discretionary Grant Support Team (1–800–351–2293) is available to answer questions concerning application requirements and to refer you to the appropriate contact person in ACYF for programmatic questions. You may e-mail your questions to: e-mail: *HSB@esilsg.org.* When contacting ACYF directly with programmatic questions send to William Wilson, Grants Officer, 330 C Street, SW., Washington, DC 20447, 202–205–8913, *wwilson@acf.hhs.gov.*

If you are interested in submitting an application, please send a post card or call at least four weeks prior to the submission deadline with the following information: The name, address, telephone and fax numbers, and e-mail address of the principal investigator and the name of the institution. This information will be used to determine the number of expert reviewers needed to evaluate applications. Send the declaration of interest information to: ACYF Operations Center, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, Telephone: 1–800–351–2293, e-mail: *HSB@esilsg.org.*

Copies of the program announcement, necessary application forms and appendices can be obtained by contacting the above address, and/or visiting the ACYF Web site at *http://www.acf.hhs.gov/programs/hsb/grant/fundingopportunities/fundopport.htm.*

Fiscal Year 2003 Discretionary Announcement for Head Start Partnerships With Tribally Controlled Land Grant Colleges/Universities (TCUs)

Part I. Purpose and Background

A. Purpose

This announcement of financial assistance, to be competitively awarded to Tribally Controlled Land Grant Colleges and Universities (TCUs), is to utilize the capabilities of these institutions of higher education to improve the quality and long-term effectiveness of Head Start and Early Head Start programs. This will be achieved by providing academic training and forming partnerships between the TCUs and Head Start grantees and delegate agencies funded through the American Indian and Alaskan Native Programs Branch (AIANPB) of the Head Start Bureau. The institutions of higher education that will be funded under this announcement, together with those TCUs currently funded under this initiative, will form a consortium to share methods, approaches, experiences, and lessons learned. The consortium is a partner of the Head Start National Training and Technical Assistance (T&TA) network in providing assistance to AIANPB Head Start grantees.

Throughout this announcement, the term Head Start program or Head Start agency refers to both AIANPB funded Head Start and Early Head Start grantees or delegate agencies unless otherwise specifically noted.

B. Background

The overall goal of Head Start is to ensure that children of low-income families nearing the end of the preschool period and entering school are ready for school success. In order to accomplish this goal, Head Start provides comprehensive services to the children and their families. Head Start enhances children's physical, intellectual, social, and emotional development. It supports parents in their efforts to fulfill their parental roles and provides for their involvement in implementing the Head Start program. Another goal of Head Start is to strengthen community supports for families with young children while they are working towards employment and self-sufficiency.

In an attempt to ensure quality services to children and their low-income families Head Start has conducted many demonstration projects, provided grantees with training and technical assistance, and given grantees funds to implement their own training efforts. For example, Head Start supported the creation of the Child Development Associate (CDA) credential designed for early childhood development teaching staff and implemented the Head Start Teaching Centers and other innovative projects.

The Head Start-Tribally Controlled Land Grant Colleges/Universities Partnerships are closely aligned with the Head Start tradition of creating innovative programs and working with low-income children and their families. From 1999 to 2001, ACF awarded grants to 16 TCUs to form partnerships with Head Start programs funded through AIANPB and to provide training and education to Head Start staff members. A list of these 16 institutions can be found in Appendix A. This announcement will fund additional partnerships between AIANPB Head Start programs and TCUs.

In the 1998 reauthorization of the Head Start Act, a key priority of Congress was to continue to improve Head Start program quality and accountability. A number of provisions were included in the new law to achieve these goals, including new education performance standards and measures, expansion of program monitoring to incorporate evidence of progress on outcomes-based measures, expanded funding to upgrade program quality and staff compensation, and higher education standards for Head Start teachers. Among these provisions is the requirement that, by September 30, 2003, at least half of all Head Start teachers in center-based programs must have an AA, BA, or advanced degree in Early Childhood Education (ECE) or in a related field with preschool teaching experience. A degree in a field related to early childhood education means a program of study that includes six or

more courses in early childhood education and/or child development. Teachers who have degrees in related fields must also have experience teaching pre-school children. The Head Start Bureau is providing various forms of assistance to local Head Start programs to implement this teacher qualification legislative mandate. For example, to enhance the numbers of teachers with degrees in early childhood education, grantees have received $43,000,000 in funding in 1999 and an additional $43,000,000 in 2000 to increase teacher salaries and expand access to higher education courses and degree programs. Head Start-State Collaboration Offices and training and technical assistance providers currently help Head Start programs work with higher education institutions on challenges such as linking training obtained in conjunction with the CDA credential with academic credit and courses leading to AA and BA degrees in early childhood education.

In January 2001, the President signed into law the ''No Child Left Behind Act'' to make the education of every child in America one of the country's top priorities. The Act seeks to ensure that public schools teach children what they need to know to be successful in life and that they also set high education standards in the classroom. In his 2002 State of the Union address, the President indicated the need to prepare our children to read and succeed in school, including the improvement of Head Start and early childhood development programs. In response to these goals, the White House has developed an early childhood initiative, which is built on raising the bar for Head Start Education through researched methods that create a better learning environment and improved outcomes for children. In his announcement of the Good Start, Grow Smart Early Childhood Initiative in April 2002, the President identified children's early literacy as a key focus for Head Start program improvement. In this initiative, the President presented three areas of focus for Head Start: (1) Strengthening Head Start programs; (2) partnering with states to improve early childhood education, and (3) providing information to teachers, caregivers, and parents. The Head Start Bureau quickly responded to the President's mandate by developing the Strategic Teacher Education Project (STEP) in June 2002. The purpose of Project STEP is to ensure that all Head Start teachers engage in research-based strategies to support children's early literacy and positive social and emotional development, which, in turn, will lead to positive child outcomes and school readiness.

Under this announcement, TCUs must form a partnership with one or more AIANPB Head Start grantees, to develop curriculums and provide education and/or training to Head Start teachers. The partnership agreements must be beneficial to both the TCUs and the participating Head Start grantees.

Partnership agreements must provide academic training and credit hours for a specified number of Head Start teachers. Partnership agreements must provide culturally appropriate education for Head Start teachers that would lead to academic degrees. These agreements must help Head Start teachers to provide courses on how to enhance early literacy, how to assess outcomes of Head Start children, and/or how to involve fathers in the lives of their children.

All project applications must address one of the following priority areas:

1. Partnerships to increase the number of center-based teachers with two-year degrees in early childhood education, and

2. Partnerships to increase the competency of Head Start in building quality Head Start programs, particularly in enhancing language development, early literacy and socio-emotional development, as well as assessing child outcomes.

Part II. Program Information

A. Statutory Authority

The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

B. Eligible Applicants

Tribally Controlled Land Grant Colleges and Universities are those institutions cited in section 532 of the Equity in Educational Land Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978, (25 U.S.C. 1801 *et seq.*), and Navajo Community College, Authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, title II (25 U.S.C. 640a note). Those TCUs that are not accredited are not eligible to apply under this announcement. TCUs that received the Head Start Partnerships with TCUs grant in 2001 are not eligible to compete under this announcement. These institutions are listed in Appendix A.

C. Project Duration

The length of the project period must not exceed 60 months. This announcement is soliciting applications for project periods up to five years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for five years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the five-year project period will be reviewed in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

D. Federal Share of Project Costs

It is anticipated that up to $1,500,000 in ACF funds will be made available annually. The maximum share for each project is not to exceed $150,000 per year per project.

E. Number of Projects To Be Funded

It is anticipated that up to 10 projects will be funded.

F. Matching Requirement

There are no matching requirements, however applicants are encouraged to provide non-Federal contributions to the project.

Part III. Application Requirements

The following Uniform Project Description (UPD) has been approved by OMB under control number 0970–0139.

A. Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

B. General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Supporting information concerning activities that will not be

directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix. Pages are to be numbered and included in a table of contents for easy reference.

Introduction

Applicants are required to submit a full project description and shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview while the evaluation criteria expand and clarify more program-specific information that is needed.

a. Project Summary/Abstract

Provide a summary of the project description (a page) with reference to the funding request.

b. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and or problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

c. Results or Benefits Expected

Identify the results and benefits to be derived. For example, using a comprehensive review of the current literature, justify how the research questions and the findings will add new knowledge to the field or how it will improve services for children and families.

d. Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the proportion of data collection expected to be completed. When activity or function cannot quantify accomplishments, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data are to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.'' List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

C. Additional Information

Following is a description of additional information that should be placed in the appendix to the application:

a. Staff and Position Data

Provide a job description for each key position and a biographical sketch for each key person appointed. A biographical sketch with acceptable credentials will also be required for new key staff as appointed.

b. Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation or similar document that clearly establishes non-profit status bearing the seal of the State in which the corporation or association is domiciled *or* a statement from a State taxing body, State attorney general, or other appropriate State official certifying the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals *or* any of the items in the subparagraphs immediately above for a State or national organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Faith-based institutions are encouraged to submit with their application the optional survey located under ''Grant Manuals and Forms'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

c. Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

d. Budget And Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

D. General Budget Information

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

a. *Personnel*

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

b. *Fringe Benefits*

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

c. *Travel*

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. *Travel costs for key staff to attend ACF-sponsored conferences* should be detailed in the budget.

d. *Equipment*

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

e. *Supplies*

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

f. *Other*

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (non-contractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

g. *Indirect Charges*

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

h. *Total Direct Charges, Total Indirect Charges, Total Project Costs*

Self explanatory.

Part IV. Evaluation Criteria and Review Process

A. Evaluation Criteria

In considering how applicants will carry out the responsibilities addressed under this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

Criterion 1. Approach: (45 points)

The extent to which the application, having met the minimum requirements, designs an acceptable plan of action pertaining to the scope of the project which details how the proposed work will be accomplished. Include a timeline; lists of each organization, consultants, including key individuals who will work on the project along with a short description of the nature of their effort or contribution. Assure the adequacy of time devoted to the project by key staff. The key staff should be qualified and knowledgeable of Head Start. The applicant must fully describe the approach and/or methodology and delineate the relationship of each task to the accomplishment of the proposed objectives. There should be evidence that the planned approach reflects sufficient input from and partnership with AIANPB funded Head Start programs.

The Head Start Bureau is particularly interested in the following aspects of the approach:

1. Describe the planning the applicant will conduct during the start-up period to prepare for implementation of the program. Provide assurance that no more than six months will be devoted to planning activities.

2. Indicate how staff will be recruited and selected to participate in the program. Clearly describe how the training and/or coursework will be contextually and culturally relevant to the Head Start and Early Head Start environment and how it will contribute to enhancing the effectiveness of teachers, program quality and outcomes for Head Start children and families.

3. Describe efforts by the TCU and Head Start partners to make training and/or coursework accessible to Head Start participants and to support their successful completion of courses, training, and degrees. Include discussion of issues such as timing, scheduling, and location of classes or training; support to enhance the literacy and study skills of participants, and approaches to integrate training in the working environment of the Head Start program. Provide assurance that training/courses are offered at no cost to trainees.

4. Describe efforts to complement the Federal funds requested in this proposal with other sources to maximize the benefits to the TCU. Include any efforts or plans to assist Head Start staff in accessing sources of financial assistance or to make use of other funding for training and career development of early childhood program staff.

5. Document that the TCU currently offers training and/or credit courses, and proposes to offer credit courses in the priority areas.

6. In case of academic training, describe how the staff's CDA training and certification as well as previous

coursework and credits will be linked to academic credits and course sequences leading to academic degrees. Applicant should indicate how many Head Start and Early Head Start staff members will be included in this effort.

7. Describe the organizational structure that will support the project objectives. Indicate how joint planning and assessment with the AIANPB Head Start and Early Head Start grantees will be implemented with timelines and clear lines of responsibility. Indicate how project staff positions are assigned and describe their major functions and responsibilities.

8. Describe the role the institution will play in the TCU consortium funded under this initiative, and as a partner in the national training and technical assistance network.

9. Describe the activities that will continue after the completion of this project that will ensure that the TCU will continue to participate in providing educational opportunities for AIANPB Head Start and Early Head Start staff.

Criterion 2. Results or Benefits Expected: (20 points)

The extent to which the application identifies the results and benefits to be derived; describes the anticipated contribution to policy, practice, theory and/or research; specific benefits should be described for both the TCU and AIANPB Head Start program.

The Head Start Bureau is particularly interested in the following:

1. Based on the stated program objectives, identify the results and benefits to be derived. Identify the specific results or benefits that could be expected for the Head Start grantees and the TCU. Describe how Head Start children will benefit from the project.

2. Identify both qualitative and quantitative data the program will collect to measure progress towards the stated results or benefits. Identify how the program will determine the extent to which it has achieved its stated objectives.

3. To propose academic training leading to a college degree, provide a projection of the estimated number of teachers that will earn degrees over the duration of the project based on an analysis of the current levels of credits/courses earned by participants and a proposed sequence of courses.

Criterion 3. Budget and Budget Justification: (15 Points)

The extent to which the project's costs are reasonable in view of the activities to be carried out and the anticipated outcomes.

Applicable Administrative Regulations

Applicable administrative regulations include 45 CFR part 74, Administration of Grants, for profit agencies and 45CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local Governments.

Post-Award Reporting Requirements

Post-Award Reporting Requirements include submission of quarterly programmatic and budget reports. Program reports must clearly outline status on the accomplishment of stated goals and objectives. Financial reports must provide status of budget expenditures, as well as identifying any projected savings or shortages.

Criterion 4. Objectives and Need for Assistance: (10 Points)

The extent to which the application identifies relevant physical, economic, social, financial, institutional or other problems requiring a grant; demonstrates the need for assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant.

The Head Start Bureau is particularly interested in the following:

1. State the objectives for the program. Indicate how these objectives are based on an assessment of community needs and how they relate to Head Start goals. Describe the process used to assess the need for the proposed program including the total number of staff needing training, including preschool and infant/toddler teachers. If an assessment already exists, the applicant should describe the process used and explain any additional consultation as it relates to the development of the proposed program.

2. Specifically identify the population to be served. Indicate the AIANPB Head Start and Early Head Start grantees that are proposed as participating partners, the numbers and types of staff to be trained and the proposed areas of training, courses, and/or degrees to be awarded, as appropriate.

3. Describe the development of institution's agreement with Head Start partnerships and any other consultation related to the development of the proposed initiative. Describe any efforts to frame the proposed initiative within broader state or community efforts to enhance professional and career development for staff in all forms of early childhood and child care programs. Include support letters that document consultation and support from the proposed grantee or delegate agency partners, the Regional Head Start Quality Improvement Center (QICs), the Head Start State Collaboration Office, and any existing state early care and education initiatives.

Criterion 5. Geographic Location: (10 Points)

The extent to which the application gives a precise location of the project and area to be served, including the location of the AIANPB Head Start and Early Head Start grantees.

B. Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal government, will use the evaluation criteria listed in part III of this announcement to review and score the applications. The results of this review are a primary factor in making funding decisions. ACYF may also solicit comments from ACF Regional Office staff and other Federal agencies.

Part V. Instructions For Submitting Applications

A. Required Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms included at the end of this program announcement. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget under Control Number 0348–0043). A copy has been provided. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B with their application. Applicants must provide a certification concerning lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with

the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must also understand that they will be held accountable for the smoking prohibition included within Pub. L. 103–227, part C Environmental Tobacco Smoke (also known as The Pro-Children's Act of 1994). A copy of the **Federal Register** notice that implements the smoking prohibition is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0418). If there is a question regarding the applicability of this assurance, contact the Office for Protection from Research Risks of the National Institutes of Health at (301)–496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

B. Application Limits

The narrative of the application should be double-spaced and single-sided on 8½″ × 11″ plain white paper, with 1'' margins on all sides. Use only a standard size font no smaller than 12 pitch throughout the proposal. All pages of the narrative of the application (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the principal investigator contact information and the Table of Contents. *The length of the application, including the narrative, and excluding the appendices and resumes must not exceed 65 pages.* Anything over 65 pages will be removed and not considered by the reviewers. The project summary should not be counted in the 65 pages. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required. Applicants may omit from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and social security numbers if otherwise required for individuals. The copies may include summary salary information.

Applicants are encouraged to submit curriculum vitae using ''Biographical Sketch'' forms used by some government agencies.

Please note that applicants that do not comply with the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that the application package has been properly prepared.

—One original, signed and dated application plus two copies.

—Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.

Front Matter:

- Cover Letter
- Table of Contents
- Project Abstract

(1) Application for Federal Assistance (SF 424, REV. 4–92);

(2) Budget information-Non-Construction Programs (SF424A&B REV.4–92);

(3) Budget Justification, including subcontract agency budgets;

(4) Letter from the AIANPB Head Start program certifying that the program is a partner of the TCU;

(5) Application Narrative, excluding Appendices and resumes (not to exceed 65 pages);

(6) Proof that the organization is a TCU.

(7) Assurances Non-Construction Programs;

(8) Certification Regarding Lobbying;

(9) Where appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424, REV.4–92;

(10) Certification of Protection of Human Subjects.

D. Due Date for the Receipt of Applications

Deadlines: The closing date for the submission of applications is 4:30 p.m. (EDT) on August 20, 2003. Applications received after the closing date will be classified as late and not considered for funding. Applications should be mailed to: ACYF Operations Center, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, Telephone: 1–800–351–2293.

Application for Head Start Discretionary Grants: Head Start Partnerships with Tribally Controlled Land Grant Colleges and Universities (TCUs). Applications received after the closing date and time will be classified as late.

Applications hand carried by applicants, courier services, or by overnight/express mail couriers shall be considered as meeting the announced deadline only if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the ACYF Operations Center, 1150 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACYF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACYF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered.

Extension of deadlines: ACF may extend an application deadline for applicants affected by acts of God such as floods, hurricanes, or when there is widespread disruption of the mail, or when it is anticipated that many applications will come from rural or remote areas. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations including program announcements. All information collections within this program announcement are approved under the following current valid OMB control numbers 0970–0139 which expires 12/31/2003.

Public reporting burden for this collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

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.

F. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-six jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. The applicant must submit all required materials, if any, to the SPOC and indicate the date of the submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. Applicants must submit any required material to the SPOCs as soon as possible so that the Federal program office can obtain and review SPOC comments as part of the award process. A listing of the SPOC for each participating state and territory with contact and address information is available at *http://whitehouse.gov/omb/grants/spoc.html*.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the accommodate or explain rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, ACYF/Office of Grants Management, 330 C Street SW, Washington, DC 20447, Attn: Head Start Partnerships with Tribally Controlled Land Grant Colleges and Universities. A list of the Single Points of Contact for each State and Territory can be found on the Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

Catalogue of Federal Domestic Assistance 93.600.

Dated: July 10, 2003.

Joan E. Ohl,

Commissioner, Administration on Children, Youth and Families.

Appendix A—List of Tribally Controlled Land Grant Colleges/Universities

1999 Institutions (Expiring FY 2003)

1. College of Menominee Nation
2. Fort Peck Community College
3. Leech Lake Community College
4. Northwest Community College
5. Sitting Bull College
6. Stone Child Community College

2000 Institutions (Expiring FY 2003)

1. Bay Mills Community College
2. Blackfeet Community College
3. Dull Knife College
4. Ft. Belknap
5. Little Big Horn College
6. Oglala Lakota
7. SIPI College

2001 Institutions (Expiring FY 2006)

1. Fond du Lac Tribal and Community College
2. Salish Kootenai College
3. Sinte Glaska University

[FR Doc. 03–18167 Filed 7–18–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on scientific disputes between the Center for Devices and Radiological Health and sponsors, applicants, and manufacturers.

Date and Time: The meeting will be held on August 20, 2003, from 8 a.m. to 6 p.m.

Location: Bethesda Marriott, Congressional Ballroom, 5151 Pooks Hill Rd., Bethesda, MD.

Contact Person: Les Weinstein, Center for Devices and Radiological Health (HFZ-5), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-827-7991, FAX 301-827-2565, lsw@cdrh.fda.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 10232. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote regarding a scientific dispute between the agency and CardioGenesis Corp., related to the approvability of a premarket approval application for the Axcis Percutaneous Myocardial Revascularization (PMR) for late stage medically refractory angina. Background information for the day's topic, including the attendee list, agenda, and questions for the committee, will be posted on the Internet at *http://www.fda.gov/cdrh/panel/index.html* one business day before the meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 13, 2003. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m. on August 20, 2003.

Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the dispute before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 13, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 301-594-1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 11, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–18350 Filed 7–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: AIDS Drug Assistance Program (ADAP): ADAP Monthly Client Utilization and Program Expenditures Report (OMB No. 0915–0219)—Extension

The Division of Service Systems (DSS)/Health Resources and Services Administration (HRSA) collects aggregated information on the number of clients being served by ADAPs, monthly expenditures by State ADAPs, and the purchase price of HIV/AIDS medications. State AIDS Drug Assistance Program (ADAPs), funded under the Title II of the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act, as amended (Part B of Title XXVI of the Public Health Service Act), are designed to provide low income, uninsured, and underinsured individuals with access to HIV/AIDS medication that prevent serious deterioration of health arising from HIV disease, including the prevention and treatment of opportunistic infections.

During the last several years, there has been an increasing need for pharmaceuticals among uninsured and underinsured low income individuals who are HIV positive or diagnosed with AIDS. Due to the increasing demand, DSS/HRSA recognizes the importance of program planning and budget forecasting in order to maximize resources, and proposed to extend the current data collection form to collect relevant client utilization data and program expenditure information from State ADAPs. This data collection effort is designed to allow DSS/HRSA (the funding agency) to continue monitoring nationwide trends in program growth, client utilization, expenditures and to assess the capacity of State ADAPs to maintain client services for clients throughout the fiscal year. The form will improve DSS/HRSA's ability to track the prices of HIV/AIDS drugs in order to ensure that State ADAPs are receiving the best price possible, to identify emerging issues and technical assistance needs and to share information among State ADAPs. It will also assist Title II grantees, State ADAPs, DSS/HRSA staff and policy makers at both the Federal and State level to understand the level of client demand for medications and the resources needed to meet those needs.

This report will collect time-specific date for the number of enrolled clients, the number of new clients, and the number of utilizing clients, the level of funds expended, and the price of HIV/AIDS drugs. A text box is provided to allow State ADAPs to report significant changes to their program, such as projected budget shortfall, program restrictions, client waiting lists, a change in eligibility criteria, or formulary changes. On a quarterly basis, State ADAPs will report the purchase price paid on a select number of HIV pharmaceuticals dispensed by each program. DSS/HRSA will continue to compile summary reports that are distributed back to grantees and State ADAPs on a quarterly basis. The data collected is used to guide program planning, formulate budget recommendations, and monitor State ADAPs, especially monitoring the balance between an individual State ADAPs available resources against the client demand for medications. The burden estimates are as follows:

HRSA forms title II ADAP grantees	Number of respondents	Responses per respondent	Total responses	Hour per responses	Total burden hours
Client and Expenditures	54	12	648	0.75	486
Drug Pricing	54	4	216	0.75	162
Total	54	.....	864	.....	648

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number, 202–395–6974.

Dated: July 11, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–18355 Filed 7–18–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Application for the National Health Service Corps (NHSC) Scholarship Program (OMB No. 0915–0146): Extension

The National Health Service Corps (NHSC) Scholarship Program was established to help alleviate the geographic and specialty and other health practitioners in the United States. Under this program, health professions students are offered scholarships in return for service in a federally designated Health Professional Shortage Area (HPSA). The Scholarship Program provides the NHSC with the health professionals it requires to carry out its mission of providing primary health care to HPSA populations in areas of greatest need. Students are supported who are well qualified to participate in the NHSC Scholarship Program and who want to assist the NHSC in its mission, both during and after their period of obligated service. Scholars are selected for these competitive awards based on the information provided in the application and during the semistructured personal interview that is conducted by a team of two interviewers who use a structured scoring procedure. Awards are made to applicants that demonstrate a high potential for providing quality primary health care services.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Application	2,000	1	1	2,000
Interview	1,100	1	1	1,100
Total	3,100			3,100

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number 202–395–6974.

Dated: July 11, 2003.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–18356 Filed 7–18–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is 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: The Health Education Assistance Loan (HEAL) Program: Forms—(OMB No. 0915–0043)—Revision

This clearance request is for a revision of the approval for three HEAL forms: the HEAL Repayment Schedule, Fixed and Variable (provides the borrower with cost of a HEAL loan, the number and amount of payments, and the Truth-in-Lending disclosures); and the Lender's Report on HEAL Student Loans Outstanding, Call Report (provides

information on the status of loans outstanding by the number of borrowers whose loan payments are in various stages of the loan cycle, such as student education and repayment, and the corresponding dollar amounts). These forms are needed to provide borrowers with information on the cost of their loan(s) and to determine which lenders may have excessive delinquencies and defaulted loans.

The estimate of burden for the forms are as follows:

Form and number	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Disclosure:					
Repayment Schedule HRSA 502–1,2	15	666	9,990	.5	4995
Reporting:					
Call Report, HRSA 512	20	4	80	.75	60
Total Reporting and Disclosure	20	.....	10,080	.....	5,055

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 11, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–18357 Filed 7–18–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; An Evaluation of the National Cancer Institute Science Enrichment Program

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: An Evaluation of the NCI Science Enrichment Program (SEP).

Type of Information Collection Request: Revision (OMB No. 0925–0510, Expiration 9/30/03).

Need and Use of Information Collection: This evaluation is designed to assess the effectiveness of the NCI SEP in meeting its goals of: (1) Encouraging under-represented minority and under-served students who have just completed ninth grade to select careers in science, mathematics, and/or research, and (2) broadening and enriching students' science, research, and sociocultural backgrounds. The program is a 5 to 6-week residential program taking place on two university campuses—University of Kentucky, Lexington and San Diego State University. The evaluation was designed as a controlled, longitudinal study, consisting of SEP students who attend the program and control group students who did not attend the program. The evaluation will provide NCI with valuable information regarding specific components that promote or limit the program's effectiveness, the extent to which the program is implemented as planned, how much the two regional programs vary, and how the program can be improved or made more effective. NCI will use this information to make decisions regarding continuation and expansion of the program.

Frequency of Response: One time.

Affected Public: Individuals or households.

Type of Respondents: High school and college students and parents of high school students participating in the program.

Cost to Respondents: $4,500. The annual reporting burden is as follows:

ESTIMATES OF HOUR BURDEN: BURDEN REQUESTED

Type of respondents	Average #of respondents/Yr.	Frequency of response (follow up)	Average time per response	Average annual hour burden
SEP Participants	600	1	0.5	300
Control Group Students	300	1	0.5	150
Total	900	.....	.....	450

There are not Capitol Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mr. Frank Jackson, Center to Reduce Cancer Health Disparities, National Cancer Institute,

National Institutes of Health, 6116 Executive Boulevard, Suite 602, Rockville, MD 20852, or call non-toll-free number (301) 496–8589, or E-mail your request, including your address to: *fj12i@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of this publication.

Dated: July 14, 2003.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 03–18457 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, The Career Enhancement Award Review.

Date: August 4, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert B. Moore, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7178, MSC 7924, Bethesda, MD 20892, 301/435–0725.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18459 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Career Enhancement Award and Continuing Education Training Grant Review.

Date: August 4, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert B. Moore, PhD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7178, MSC 7924, Bethesda, MD 20892, 301/435–0725.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18460 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Clinical Training Review Meeting.

Date: August 5, 2003.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Blvd., One Democracy Plaza, Suite 800, Bethesda, MD 20892, (301) 594–4974.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: July 11, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18368 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Brain Injury Mechanisms.

Date: July 21, 2003.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Intercontinental Mark Hopkins-San Francisco, Number One-Nob Hill, San Francisco, CA 94108.

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Brain Injury Mechanisms.

Date: July 21, 2003.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Intercontinental Mark Hopkins-San Francisco, Number One-Nob Hill, San Francisco, CA 94108.

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, NeuroAIDS Applications.

Date: July 23–24, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Sofitel Lafayette Square, 806 15th Street, NW., Washington, DC 20005.

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–0660.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Loan Repayment Program.

Date: July 28, 2003.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, ZNS1 AD Study.

Date: July 30, 2003.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSCA 9529, Bethesda, MD 20892–9529, (301) 496–0660.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Translational Research on Neurological Disorders.

Date: July 30–31, 2003.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont, 2401 M Street, NW., Washington, DC 20037.

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–4056.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Fellowship Career and Development Reivew.

Date: July 31, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Raul A. Saavedra, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 11, 2003.

Anna Snouffer,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18369 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF AND HUMAN SERVICES

National Institutes of Health

National Institutes of Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, July 17, 2003, 8 a.m. to July 17, 2003, 4 p.m., NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC, 27709 which was published in the **Federal Register** on June 20, 2003, 68 FR 37009.

The date of this telephone conference meeting has been changed to August 19, 2003 and the meeting will start at 9 a.m., not 8 a.m. as previously advertised. The meeting is closed to the public.

Dated: July 11, 2003.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18370 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Unsolicited Program Project Application Review.

Date: August 13, 2003.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700 B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700 B Rockledge Drive, MSC 7616, Bethesda, MD 20892—7616, 301–435–1614, *arichie@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 11, 2003.

Anna Snouffer,

Director, Office of Office of Federal Advisory Committee Policy.

[FR Doc. 03–18371 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Functional Dyspepsia.

Date: July 29, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 751, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600 (301) 594–7798, *muston@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 10, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18372 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel NeuroAIDS Applications.

Date: July 23–24, 2003.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Sofitel Lafayette Square, 806 15th Street, NW., Washington, DC 20005.

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301)–496–0660.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel ZNS1 Ad Study.

Date: July 30, 2003.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301)–496–0660.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Translational Research on Neurological Disorders.

Date: July 30–31, 2003.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont, 2401 M Street, NW., Washington, DC 20037.

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/HIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301)–496–4056.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Fellowship Career and Development Review.

Date: July 31, 2003.

Time: 1. p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 515 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Raul A Saavedra, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301)–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 10, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18373 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., ass amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such a patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel. Small Grants for New Investigator/NIAMS.

Date: July 17, 2003.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Richard J. Bartlett, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Bldg./Bldg. 45, MSC 6500/Room 5AS–37B, Bethesda, MD 20892, (301) 594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: July 10, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18374 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: September 5, 2003.

Open: 8:30 a.m. to 11:30 a.m.

Agenda: Staff reports on divisional, programmatic and special activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 11:30 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/councils/ndcdac/ndcdac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18458 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 17, 2003, 8:30 am to July 18, 2003, 5 pm, The Fairmont Washington, DC., 2401 M Street, NW., Washington, DC 20037 which was published in the **Federal Register** on July 7, 2003, 68 FR 40278–40276.

The meeting will be three days July 16–18, 2003, from 7 pm to 5 pm. The location remains the same. The meeting is closed to the public.

Dated: July 8, 2003.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18367 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 20, 2003, 5 p.m. to June 20, 2003, 5:30 p.m., Four Points Sheraton Hotel, 1201 K Street NW., Washington, DC 20005 which was published in the **Federal Register** on June 9, 2003, 68 FR 34406–34408.

The meeting will be held on July 28, 2003, from 10 a.m. to 11 a.m., at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20882. The meeting is closed to the public.

Dated: July 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18461 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biomedical Technology Resource Grant.
Date: July 20–22, 2003.
Time: 7 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Amerisuites, 116 Riverside Avenue NE., Medford, MA 02155.
Contact Person: Marcia Steinberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *steinberm@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Ehrlichia Secretions.
Date: July 24, 2003.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiopulmonary Resuscitation.
Date: July 29, 2003.
Time: 2 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts for SSPS.
Date: August 1, 2003.
Time: 11 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Karin F. Helmers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 3166 MSC 7770, Bethesda, MD 20892, (301) 435–1017.

Name of Committee: Center for Scientific Review Special Emphasis Panel Cancer Therapy.
Date: August 4, 2003.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–1718, *perkinsp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Clinical Trials—Phase I and II.
Date: August 4, 2003.
Time: 5 p.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology.
Date: August 5, 2003.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Calbert A. Laing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221, *laingc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiac Stem Cells and the Aging Heart.
Date: August 5, 2003.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20814 (Telephone Conference Call).
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AIDS Immunology & Pathogenesis.
Date: August 6, 2003.
Time: 11:30 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Abraham P. Bautista, MS, MSC, Ph.D., Scientist Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506, *bautista@csr.nih.gov.*

Name of Committee: Center for Scientific Review Emphasis Panel, T cruzi Organeles.
Date: August 6, 2003.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814 (Telephone Conference Call).
Contact Person: Jean Hickman, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.
Name of Committee: Center for Scientific Review Special Emphasis Panel R21 Advanced Biomaterials RFA.
Date: August 7–8, 2003.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Daniel F. McDonald, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SSS–M (58) R21 Tissue Engineering RFA: EB–03–10.
Date: August 7–8, 2003.
Time: 10 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.
Contact Person: Jean D. Sipe, Ph.D., Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4106, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1743, *sipej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, CNS Autonomic Regulation by Acupuncture.

Date: August 7, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Human and Other Primates Population Genetics.

Date: August 7–8, 2003.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The American Inn, 8130 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, *dir@helix.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bacterial Adhesion.

Date: August 8, 2003.

Time: 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pathogenic Fungals

Date: August 8, 2003.

Time: 1 p.m. to 3 p.m.

Agegnda: To review and evaluate grant applications.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 14, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–18462 Filed 7–18–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration of Children and Families

[CFDA No.: 93.566, Refugee Assistance—State Administered Programs]

Refugee Resettlement Program: Proposed Notice of Allocations to States of FY 2003 Funds for Refugee Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Proposed notice of allocations to States of FY 2003 funds for refugee social services.

SUMMARY: This notice establishes the proposed allocations to States of FY 2003 funds for refugee [1] social services under the Refugee Resettlement Program (RRP). In the final notice, amounts could be adjusted slightly based upon final adjustments in FY 2002 arrivals in some States.

This notice includes $2 million in a set-aside allocation to support programs promoting marriage education, relationship enhancement, divorce reduction activities, or other activities that promote and sustain healthy marriages. Unlike the FY 2002 healthy families' set-aside that provided for a wide-range of activities to enhance families, the FY 2003 set-aside is available for helping refugee couples who choose marriage for themselves to develop the skills and knowledge to develop and sustain healthy marriages. These set-aside funds are for married and non-married refugee couples, where appropriate.

DATES: Comments on this notice must be received by August 20, 2003.

ADDRESSES: Address written comments, in duplicate, to: Kathy Do, Division of Budget, Policy, and Data Analysis (BPDA), Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447. Delays may occur in mail delivery to Federal offices; therefore, a copy of comments should also be faxed to: (202) 401–0981

FOR FURTHER INFORMATION CONTACT: Kathy Do, Division of Budget, Policy & Data Analysis, (202) 401–4579. Email: *kdo@cf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Amounts for Allocation

The Office of Refugee Resettlement (ORR) has available $ 150,138,714 in FY 2003 refugee social service funds as part of the FY 2003 Department of Health and Human Services Appropriations Act, Title II of Division G of the Consolidated Appropriations Resolution FY 2003, Pub. L. 108–7.

The FY 2003 Conference Report (Pub. L. 108–10) reads as follows with respect to social services funds:

> The conference agreement appropriates $446,724,000 as proposed by H.R. 246 instead of $442,724,000 as proposed by the Senate. Within this amount, $151,121,000 is provided for Social Services, as proposed in H.R. 246. The Senate bill included $147,121,000 for this purpose.
>
> The conferees recognize the importance of continued educational support to schools with a significant proportion of refugee children, consistent with previous support to schools heavily impacted by large concentrations of refugees, and urges the Office of Refugee Resettlement to support these efforts should funding become available in the Social Services or other accounts.
>
> The agreement also includes $19,000,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance.

After the conference agreement, a further .65 percent reduction was imposed before enactment, reducing the amount for social services to $150,138,714.

ORR proposes to use the $150,138,714 appropriated for FY 2003 social services as follows:

- $71,092,907 will be allocated under the 3-year population formula, as set forth in this notice for the purpose of providing employment services and other needed services to refugees.
- $12,545,807 will be awarded as new and continuation social service discretionary grants under new and prior year competitive grant announcements issued separately from this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian

[1] Eligibility for refugee social services include refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Viet Nam who are admitted to the U.S. as immigrants, certain Amerasians from Viet Nam who are U.S. citizens, (45 CFR 400.43), and victims of a severe form of trafficking who receive certification or eligibility letters from ORR. (ORR State Letter #01–13 on the Trafficking Victims Protection Act, dated May 3, 2001). The term ''refugee,'' used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services.

entrant and refugee arrivals. These funds will be awarded under a separate announcement.

- $26,000,000 will be awarded through discretionary grants for communities with large concentrations of refugees whose cultural differences make assimilation especially difficult thereby justifying a more intense level and longer duration of Federal assistance. A combination of new and continuation awards will be made through new and prior year separate announcements.
- $14,000,000 will be awarded to address the needs of refugees and communities impacted by recent changes in Federal assistance programs relating to welfare reform. Awards will be made through a separate announcement.
- $7,500,000 will be used to continue educational support to schools with a significant proportion of refugee children, consistent with previous support to schools heavily impacted by large concentrations of refugees. Available surplus funds will be used to raise educational support to $15,000,000.

In addition, we are adding $2 million from FY 2001 unexpended refugee funds for allocation to States to fund programs promoting healthy marriages. Through this set-aside, ORR is looking to promote marriage education, relationship enhancement programs, divorce reduction activities, and/or other activities that promote and sustain healthy marriages. Unlike the FY 2002 healthy families' set-aside that provided for a wide range of activities to enhance families, the FY 2003 set-aside is available exclusively for marriage-building or relationship enhancement activities.

Refugee Social Service Funds

The FY 2003 population figures for the formula social services allocation include refugees, Cuban/Haitian entrants, Amerasians from Viet Nam, and victims of severe forms of trafficking. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees). Data on trafficking victims are taken from the total number of trafficking victim's certification letters issued by ORR. States that have served asylees during the past three years may submit to ORR the asylee-related information listed at the end of this section in order to have their service population estimate adjusted to include those asylees whose asylum was granted within the 36 month period ending September 30, 2002.

The Director is proposing to allocate $71,092,907 to States on the basis of each State's proportion of the national population of refugees who have been in the U.S. three years or less as of October 1, 2002 (including a floor amount for States that have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1992 social services notice published in the **Federal Register** on August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

Population To Be Served and Allowable Services

Eligibility for refugee social services includes persons who meet all requirements of 45 CFR 400.43 (*see* Footnote 1 for service populations). In addition, persons granted asylum are eligible for refugee benefits and services from the date that asylum was granted (*See* ORR State Letter No. 00–12, effective June 15, 2000). Victims of a severe form of trafficking who have received a certification or eligibility letter from ORR are eligible from the date on the certification letter (*See* ORR State Letter No. 01–13, May 3, 2001, as modified by ORR State Letter No. 02–01, January 4, 2002).

Services to refugees must be provided in accordance with the rules of 45 CFR part 400 Subpart I—Refugee Social Services. Although the allocation formula is based on the 3-year refugee population, States may provide services to refugees who have been in the country up to 60 months (5 years), with the exception of referral and interpreter services and citizenship and naturalization preparation services for which there is no time limitation (45 CFR 400 152(b)).

Under waiver authority at 45 CFR 400.300, the Director of ORR may issue a waiver of the limitation on eligibility for social services contained in 45 CFR 400.152(b). There is no blanket waiver of this provision in effect for FY 2003. States may apply for a waiver of 45 CFR 400.152(b) in writing from the Director of ORR. Each waiver request will be reviewed based on supporting data and information provided. The Director of ORR will approve or disapprove each waiver request as expeditiously as possible.

Allowable social services are those indicated in 45 CFR 400.154 and 400.155. Additional services not included in these sections that the State may wish to provide must be submitted to and approved by the Director of ORR as required under 45 CFR 400.155(h).

The Administration for Children and Families (ACF) is currently supporting several initiatives that promote and encourage healthy marriages and strengthen families. The $2 million set-aside allocation reflects ORR's participation in these initiatives as they relate to supporting healthy marriages and strengthening refugee families. The cultures of most refugee populations are built upon successful and stable family life. ORR believes that refugee married and non-married couples face unique difficulties because of their flight from persecution and long periods of insecurity and that marriage education is social services that can help refugees cope with these difficulties. ORR also believes that there are benefits to marriage that extend to children, adults, and to all society. Thus, ORR is committed to promoting policies and programs that help strengthen marriage as an institution and help refugee parents raise their children in positive and healthy environments.

Many refugee families have endured persecution or torture, trauma, abrupt flight from war, and separation from, or death of, friends and family members. Furthermore, the relationships in refugee families may become strained before arrival because of suffering and

deprivation endemic to the refugee condition. Refugees in the U.S. face many challenges. The pressure of their new American environment may weaken the strong, positive family relationships that refugees have brought with them to the United States.

Family relationships may undergo strain and transformation when refugees resettle in the U.S. Strong authoritarian and sometimes patriarchal family structures may provoke conflicts when members take on new roles as they adapt to American culture. For example, school/parent relationships may differ from those in their home countries and may produce miscommunication and tension; refugee parents may have concerns or object to the range of freedom American youth are afforded; and the physical disciplinary practices between a husband and wife or between parents and children may differ from what is the norm or legal in the U.S. The low wages of entry-level jobs may force both adults to work outside the home, thereby disrupting traditional roles. Typically, low incomes force refugee households to locate in neighborhoods with high crime rates. Poor public transportation adds to time spent away from family members and complicates efforts to access services and participate in community activities. The resulting strain from these difficulties may damage refugee marriages, families, and communities.

Marriage education can help refugee couples strengthen and adjust relationship skills and help them cope with the difficulties of their new American environment with the result of improving the quality of family life. Along with the skills that enable couples to communicate more effectively, manage conflict and work together as a team, marriage education can also teach the benefits that can be obtained from identifying future challenges in their relationships so that these challenges can be successfully negotiated when they arise.

Research reveals that the benefits of healthy marriages are particularly beneficial for children. On average, children raised by parents in healthy marriages are less likely to fail at school, suffer an emotional or behavioral problem requiring psychiatric treatment, be victims of child abuse and neglect, get into trouble with the law, use illicit drugs, smoke cigarettes, abuse alcohol, engage in early and promiscuous sexual activity, grow up in poverty, or attempt suicide. On average children raised by parents in healthy marriages are more likely to have a higher sense of self-esteem, form healthy marriages when they marry, attend college, and are physically healthier.

In summary, under this set-aside ORR seeks to provide opportunities for states to offer to refugees, entrants, asylees, Amerasians, and victims of trafficking programs for strengthening marital and parenting skills within healthy and supportive relationships. ORR also seeks to expand understanding of the refugees' marriage and family difficulties in the resettlement experience and the factors that contribute to successfully meeting the challenges to the marriage relationship. If the issues faced by refugee families are addressed early through marriage education, the problems they encounter may be reduced or prevented and refugee families can work towards achieving the bright future they seek in the U.S.

Services to be rendered should be, to the extent possible, culturally and linguistically compatible to the refugee populations. Permissible marriage promotion activities to ORR-eligible populations include the following:

- Offering marriage education, marriage skills, and relationship skills programs
- Offering marriage education, marriage skills, and relationship skills programs that may include parenting skills, financial management, conflict resolution, and job and career advancement for non-married pregnant women and non-married expectant fathers.
- Offering pre-marital education and marriage skills training or workshops for engaged couples and for couples or individuals interested in marriage.
- Providing marriage enhancement and marriage skills training programs for married couples.
- Creating divorce reduction programs that teach relationship skills.
- Training program staff in why marriage matters, what to expect in marriage, the knowledge and skills necessary to form and sustain a healthy marriage, and examples of marriage education programs and resources.
- Training program participants and clients in why marriage matters, what to expect in marriage, and the knowledge and skills to make a healthy marriage a reality.
- Training qualified participants to be marriage program leaders, facilitators and mentors.
- Creating marriage mentoring programs that use married couples as role models and mentors in at-risk communities.
- Training experienced couples to be mentors as a strategy to assist newly married couples, new parents, stepfamilies or other couples facing special challenges.
- Providing vouchers for registration and materials to program staff and participants who attend marriage education activities. For example, a young woman or man considering marriage could be given vouchers to take a premarital inventory and a marriage education class, workshop, or weekend seminar. Similarly a newlywed couple, expecting their first child, could be given vouchers to attend a marriage education program.
- Providing vouchers for mediation services, marital counseling, or marriage education programs designed for those having serious marital problems, prior to separation or divorce.
- Establishing a resource center or library of books and videos on marriage for staff and clients at program service center offices.
- Developing and using a referral list of local marriage education programs and resources.
- Establishing institutional partnerships and collaboration networks with community mental health agencies, courts, local colleges and universities or the USDA's Extension Service regarding marriage education.
- Sponsoring training events on marriage education for local agencies that serve refugees.
- Hosting events for unmarried couples and weekly or monthly couples' nights with specific activities to encourage participation of couples. Provide child care if possible.
- Hosting a couples' night on a quarterly basis to celebrate marriage anniversaries and to provide brief educational activities that sustain healthy marriages.
- Including a marriage component in parenting programs.
- Gathering baseline data, establishing performance objectives and measures, and evaluating marriage education program activities.
- Providing marital health assessment quizzes and questionnaires with appropriate referrals when warranted.
- Using a marriage protocol to ask about the marital relationship in addition to parenting and other family relationships during intake, assessment, or follow-up interviews.
- Providing programs that help refugee teenagers prepare for healthy dating relationships, develop relationship skills, learn budgeting, and learn the value of marriage.

ORR has assembled a program guide entitled ''Web-based Program Planning for Healthy Marriages Grants'', which explains marriage education more fully and provides reference material useful

for program planners. This guide is available on the ORR Web site under the Programs section at: (*http://www.acf.hhs.gov/programs/orr/programs/marriagegrants.htm*).

The organizations funded by the set-aside amount are expected to have ties to the ethnic communities they serve and to conduct outreach into the community to identify refugee families in need of services. We strongly encourage States to fund, to the extent possible, Mutual Assistance Associations (MAAs), ethnic community-based organizations, and indigenous faith-based organizations with refugee experience to provide family support, outreach, education, orientation, and counseling. ORR defines an MAA as an organization with the following qualifications: (a) The organization is legally incorporated as a nonprofit organization; and (b) not less than 51 percent of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

States wishing to participate in these marriage enhancing programs must notify ORR within 30 days of the publication date of this notice that they will use the set-aside funds exclusively for the relationship skill-building and marriage enhancement activities described above. States that fail to notify ORR by that date of their intention to establish healthy marriage programs are not eligible the set-aside. Funds listed in the accompanying table for States that do not notify ORR that they will establish marriage enhancement programs will be made available to the States that are willing to establish such programs.

To be eligible for the Healthy Marriage Set-aside funds, States should notify ORR of their intention to use the set-aside funds exclusively to establish healthy marriage program through a brief letter or by E-mail. Correspondence should be directed to Loren Bussert, Division of Budget, Policy, and Data Analysis (DBPDA), Office of Refugee Resettlement, 370 L'Enfant Promenade SW., Washington, DC 20447; or by E-mail at *L.Bussert@acf.hhs.gov.*

Service Priorities

In accordance with in 45 CFR 400.147, States are required to provide social services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) All newly arriving refugees during their first year in the U.S. who apply for services; (b) refugees who are receiving cash assistance; (c) unemployed refugees who are not receiving cash assistance; and (d) employed refugees in need of services to retain employment or to attain economic independence. In order for refugees to move quickly off Temporary Assistance for Needy Families (TANF), States should, to the extent possible, ensure that all newly arriving refugees receive refugee-specific services designed to address the employment barriers that refugees typically face.

ORR encourages States to re-examine the range of services they currently offer to refugees. Those States that have had success in helping refugees achieve early employment may find it to be a good time to expand beyond provision of basic employment services and address the broader needs that refugees have in order to enhance their ability to maintain financial security and to successfully integrate into the community. Other States may need to reassess the delivery of employment services in light of local economic conditions and develop new strategies to better serve the newly arriving refugee groups.

States should also be aware that ORR will make social services formula funds available to pay for social services that are provided to refugees who participate in Wilson/Fish projects which can be administered by public or private non-profit agencies, including community-based organizations. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate standing notice in the **Federal Register** with respect to applications for such projects (64 FR 19793 (April 22, 1999).

States are encouraged to consider eligible sub-recipients for formula social service funds to include public or private non-profit agencies including, faith-based, refugee, or community organizations.

As stated earlier, to be eligible for the Healthy Marriage Set-aside, States should notify ORR within 30 days of publication of this notice of proposed allocations through a brief assurance statement in writing or by E-mail that they will use the set-aside funds exclusively for the relationship skills-building and marriage enhancement activities. States that use the set-aside funds will be expected to report on the activities conducted with these funds in the narrative section of the Quarterly Progress Report (QPR).

States that fail to notify ORR within 30 days of publication of this proposed notice of their intention to establish healthy marriage programs are not eligible for the set-aside. Funds listed in the accompanying table for States that do not notify ORR that they will establish marriage enhancement programs will be made available through reallocations to the States that are willing to establish such programs in the Final Notice and distributed in the fourth quarter social services formula awards.

II. (Reserved for Discussion in the Final Notice of Submitted Comments in Response to the Proposed Notice)

III. Allocation Formulas

Of the funds available for FY 2003 for social services, $71,092,907 is proposed to be allocated to States in accordance with the formula specified in A. below.

A. A State's allowable formula allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees, Cuban/Haitian entrants, parolees, and Amerasians from Viet Nam, as shown by the ORR Refugee Data System, and victims of severe forms of trafficking as shown by the certification and eligibility letters issued by ORR, who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated. The resulting per capita amount is multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 2002, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

IV. Basis of Population Estimates

The population estimates for the proposed allocation of funds in FY 2003 for the formula social service allocation are based on data on refugee arrivals from the ORR Refugee Arrivals Data System, adjusted as of October 1, 2002, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Viet Nam, and Cuban and Haitian entrants. Data on trafficking victims are taken

from the total number of trafficking victims' certification and eligibility letters issued by ORR.

For Fiscal Year 2003, ORR's formula social service allocations for the States are based on the numbers of refugees, Amerasians, entrants and victims of severe forms of trafficking. The numbers are based upon the arrivals during the preceding three fiscal years: 2000, 2001, and 2002.

The estimates of secondary migration are based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 2002. The total migration reported by each State is summed by ORR, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure is applied to the State's total arrival figure, resulting in a revised ORR population estimate.

ORR estimates are developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures. Havana parolees (HP's) are enumerated in a separate column in Table 1, below, because they are tabulated separately from other entrants. Havana parolee arrivals for all States are based on actual data.

Table 1 (attached) shows the estimated 3-year populations, as of October 1, 2002, of refugees (col. 1), entrants (col. 2), Havana parolees (col. 3), trafficking victims (col. 4), total population, (col. 5), the proposed formula amounts which the population estimates yield (col. 6), the proposed total allocation (col. 7), the proposed amount of set-aside (col. 8), and the proposed final allocation by states (col. 9).

If a State does not agree with ORR's population estimate and wishes ORR to reconsider its numbers, it should submit written evidence to ORR, including a list of refugees identified by name, alien number, date of birth, and date of arrival. Listings of refugees who are not identified by their alien number will not be considered. Such evidence should be submitted separately from comments on the proposed allocation formula no later than 30 days from the date of publication of this notice and should be sent via overnight mail to: Loren Bussert, Division of Budget, Policy and Data Analysis, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401–4732, or as an Excel spreadsheet or other compatible spreadsheet format as an email attachment to: *lbussert@acf.hhs.gov.*

States which have served asylees during the past three years also may submit the following information in order to have their population estimate adjusted to include those asylees whose asylum was granted within the 36 month period ending September 30, 2002: (1) Alien number, (2) date of birth, and, (3) the date asylum was granted.

A State which has served a victim of a severe form of trafficking who the State believes was residing in a different State at the time that the ORR certification/eligibility letter was issued, should submit the following information in order to have their population estimate adjusted to include these trafficking victims: (1) Alien number, if available; (2) date of birth; (3) certification letter number and, (4) date on certification letter. Victims of a severe form of trafficking who have received a certification or eligibility letter are eligible to the same extent as refugees for benefits and services.

Please submit the above data on asylees and trafficking victims served on *separate* Excel spreadsheets as an email attachment within 30 days of the publication date of this notice to: *lbussert@acf.hhs.gov.*

V. Proposed Allocation Amounts

Funding subsequent to the publication of this notice will be contingent upon the submission and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations.

Table 1, attached, represents the proposed allocation for refugee social services in FY 2003.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

Dated: July 14, 2003.

Nguyen Van Hanh,

Director, Office of Refugee Resettlement.

FY 2003 PROPOSED SOCIAL SERVICES FORMULA NOTICE

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT/PAROLEE/TRAFFICKING VICTIM POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE RESETTLEMENT PROGRAM AND ESTIMATED SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 2003

State	Refugees [1]	Entrants	Havana parolees [2]	Trafficking victims [3]	Total population	Final formula amount	Final allocation	$2 million set-aside	Total final allocation
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Alabama	209	1	25	—	235	$75,261	$100,000	$5,000	105,000
Alaska [4]	84	0	0	7	91	29,144	75,000	5,000	80,000
Arizona	5,061	419	2	—	5,482	1,755,664	1,755,664	48,657	1,804,321
Arkansas	8	9	0	—	17	5,444	75,000	5,000	80,000
California [4]	22,046	58	125	57	22,286	7,137,310	7,137,310	197,806	7,335,116
Colorado [4]	2,589	4	6	5	2,604	833,957	833,957	23,113	857,070
Connecticut	2,798	26	22	—	2,846	911,459	911,459	25,261	936,720
Delaware	154	8	0	—	162	51,882	85,869	5,000	90,869
Dist. of Columbia	88	3	3	1	95	30,425	75,000	5,000	80,000
Florida	12,224	13,677	29,686	23	55,610	17,809,649	17,809,649	493,586	18,303,235
Georgia	6,508	31	119	3	6,661	2,133,251	2,133,251	59,122	2,192,373
Hawaii	15	0	0	42	57	18,255	75,000	5,000	80,000
Idaho [4]	1,459	3	3	—	1,465	469,181	469,181	13,003	482,184
Illinois	6,255	15	92	2	6,364	2,038,134	2,038,134	56,486	2,094,620
Indiana	1,195	8	13	—	1,216	389,436	389,436	10,793	400,229
Iowa	3,215	0	0	—	3,215	1,029,635	1,029,635	28,536	1,058,171
Kansas	419	5	13	1	438	140,274	140,274	3,888	144,162
Kentucky [4]	2,232	1,052	7	—	3,291	1,053,975	1,053,975	29,210	1,083,185

FY 2003 PROPOSED SOCIAL SERVICES FORMULA NOTICE—Continued

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT/PAROLEE/TRAFFICKING VICTIM POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE RESETTLEMENT PROGRAM AND ESTIMATED SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 2003

State	Refugees [1]	Entrants	Havana parolees [2]	Trafficking victims [3]	Total population	Final formula amount	Final allocation	$2 million set-aside	Total final allocation
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Louisiana	583	115	44	—	742	237,633	237,633	6,586	244,219
Maine	1,655	0	0	—	1,655	530,030	530,030	14,690	544,720
Maryland	2,929	7	16	4	2,956	946,688	946,688	26,237	972,925
Massachusetts [4]	4,350	163	18	1	4,532	1,451,418	1,451,418	40,225	1,491,643
Michigan	5,322	796	31	5	6,154	1,970,879	1,970,879	54,622	2,025,501
Minnesota	8,755	6	6	4	8,771	2,808,999	2,808,999	77,850	2,886,849
Mississippi	121	5	7	2	135	43,235	77,222	5,000	82,222
Missouri	5,926	26	19	—	5,971	1,912,271	1,912,271	52,998	1,965,269
Montana	9	0	4	—	13	4,163	75,000	5,000	80,000
Nebraska	1,315	2	0	—	1,317	421,782	421,782	11,689	433,471
Nevada [4]	923	622	36	1	1,582	506,651	506,651	14,042	520,693
New Hampshire	1,331	0	1	2	1,334	427,227	427,227	11,840	439,067
New Jersey	2,294	338	485	5	3,122	999,851	999,851	27,710	1,027,561
New Mexico	314	299	2	—	615	196,960	196,960	5,459	202,419
New York	14,432	1,107	151	10	15,700	5,028,079	5,028,079	139,351	5,167,430
North Carolina	3,431	25	58	1	3,515	1,125,713	1,125,713	31,199	1,156,912
North Dakota [4]	875	0	0	—	875	280,227	280,227	7,766	287,993
Ohio	5,117	3	4	2	5,126	1,641,652	1,641,652	45,498	1,687,150
Oklahoma	283	0	2	—	285	91,274	100,000	5,000	105,000
Oregon	3,204	421	2	—	3,627	1,161,582	1,161,582	32,193	1,193,775
Pennsylvania	5,713	383	44	26	6,166	1,974,722	1,974,722	54,728	2,029,450
Rhode Island	639	4	5	—	648	207,528	207,528	5,752	213,280
South Carolina	199	0	21	—	220	70,457	100,000	5,000	105,000
South Dakota [4]	971	0	0	—	971	310,972	310,972	8,618	319,590
Tennessee	1,933	8	50	—	1,991	637,637	637,637	17,672	655,309
Texas	7,996	957	104	69	9,126	2,922,691	2,922,691	81,001	3,003,692
Utah	2,220	5	0	—	2,225	712,578	712,578	19,749	732,327
Vermont	587	0	0	—	587	187,993	187,993	5,210	193,203
Virginia	3,867	130	41	13	4,051	1,297,373	1,297,373	35,956	1,333,329
Washington	12,765	0	9	11	12,785	4,094,522	4,094,522	113,478	4,208,000
West Virginia	2	0	0	—	2	641	75,000	5,000	80,000
Wisconsin	1,503	4	5	—	1,512	484,233	484,233	13,420	497,653
Wyoming [5]	—	—	—	—	—	—	—	—	—
Total	168,123	20,745	31,281	297	220,446	70,599,997	71,092,907	2,000,000	73,092,907

[1] Includes Amerasian immigrants. Adjusted for secondary migration.
[2] For all years, Havana Parolee arrivals for all States are based on actual data.
[3] Includes all victims of a severe form of trafficking since program inception in March, 2001.
[4] The allocations for Alaska, Colorado, Idaho, Kentucky, Massachusetts, Nevada, North Dakota, South Dakota, Alabama, and for Diego County, California are expected to be awarded to Wilson/Fish projects.
[5] Wyoming no longer participates in the Refugee Resettlement Program.

[FR Doc. 03–18168 Filed 7–18–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

[CIS No. 2284–03]

RIN 1650–AB06

Extension of the Designation of Somalia Under Temporary Protected Status Program

AGENCY: Bureau of Citizenship and Immigration Services, Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Somalia under the Temporary Protected Status (TPS) Program will expire on September 17, 2003. This notice extends the Secretary of Homeland Security's designation of Somalia for 12 months until September 17, 2004, and sets forth procedures necessary for nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) with TPS to re-register and to apply for an extension of their employment authorization documentation for the additional 12-month period. Re-registration is limited to persons who registered under the initial designation (which was announced on September 16, 1991) and also timely re-registered under each subsequent extension of the designation, or who registered under the re-designation (which was announced

on September 4, 2001) and also timely re-registered under the extension of the re-designation. Certain nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

EFFECTIVE DATES: The extension of Somalia's TPS designation is effective September 17, 2003, and will remain in effect until September 17, 2004. The 60-day re-registration period begins July 21, 2003 and will remain in effect until September 19, 2003.

FOR FURTHER INFORMATION CONTACT: Jonathan Mills, Residence and Status Services, Office of Programs and Regulations, Bureau of Citizenship and Immigration Services, Department of Homeland Security, 425 ''I'' Street, NW., Room 3040, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Secretary of the Department of Homeland Security Have To Extend the Designation of Somalia Under the TPS Program?

On March 1, 2003, the functions of the Immigration and Naturalization Service (Service) transferred from the Department of Justice to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002, Public Law 107–296. The responsibilities held by the Service for administering the TPS program were transferred to the Bureau of Citizenship and Immigration Services (BCIS).

Under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, the Secretary of DHS, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state or (part thereof) for TPS. The Secretary of DHS may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Secretary of DHS to review, at least 60 days before the end of the TPS designation or any extension thereof, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS. 8 U.S.C. 1254a(b)(3)(A). If the Secretary of DHS determines that the foreign state no longer meets the conditions for TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. 8 U.S.C. 1254a(b)(3)(B). Finally, if the Secretary of DHS does not determine that a foreign state (or part thereof) no longer meets the conditions for designation at least 60 days before the designation or extension is due to expire, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary of DHS, a period of 12 or 18 months). 8 U.S.C. 1254a(b)(3)(C).

Why Did the Secretary of DHS Decide To Extend the TPS Designation for Somalia?

On September 16, 1991, the Attorney General published a notice in the **Federal Register** designating Somalia under the TPS program based upon ongoing armed conflict occurring within the country. 56 FR 46804. The Attorney General extended this TPS designation annually and re-designated Somalia by publishing a notice on September 4, 2001, determining in each instance that the conditions warranting such designation continued to be met. 67 FR 48950.

Since the date of the last extension, the Departments of Homeland Security and State have continued to review conditions in Somalia. It is determined that a 12-month extension is warranted due to ongoing armed conflict within Somalia that would pose a serious threat to the personal safety of returning nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia). 8 U.S.C. 1254a(b)(1)(A).

The Department of State has observed that, more than seven years after the withdrawal of the United Nations Operation in Somalia (UNOSOM) and twelve years after the fall of Mohammed Said Barre's regime, Somalia still lacks a central authority. DOS Recommendation (June 4, 2003). In July 2000, the president of Djibouti convened a conference that adopted a charter for a three-year Transnational National Government (TNG) for Somalia and selected a 245-member Transitional Assembly. *Id.* In October 2002, virtually all warring factions, the TNG, and civil society held peace talks and agreed to a ceasefire. *Id.*

Despite these developments, real change on the ground has not yet occurred. BCIS Resource Information Center (RIC) Report (May 30, 2003). Many TNG officials have been threatened or killed; an atmosphere of lawlessness continues. DOS Recommendation. *De facto* local governments in the northern part of the country that pre-date the TNG and several local militias have strongly contested the legitimacy of the TNG. *Id.* Fighting has continued throughout the country. *Id.* Hundreds have been killed and injured in clashes between armed factions. RIC Report. Almost the entire country, except the self-declared Republic of Somaliland, has witnessed fighting and serious insecurity. *Id.* Major regions of the country are under the control of bandits and the population is beyond the reach of the rule of law. DOS Recommendation.

In addition, the RIC reports that the humanitarian situation in Somalia remains dire. The ongoing conflict in much of the country has prevented humanitarian relief from reaching some areas where the need is greatest. RIC Report. Some 500,000 people are currently threatened by severe food shortages, 72 percent of the population has no access to health care, and 77 percent lack access to clean, potable water. *Id.* An estimated 400,000 people are displaced within the country. *Id.* As of the end of 2001, approximately 300,000 Somali refugees lived in about two dozen countries. *Id.* The current situations in southern and northeast Somalia continue to pose a significant risk of harm for Somalis who would be returning from the United States. *Id.*

Somalia's institutions are not able to adequately address the demands of a ravaged population, nor would they be able to document or accommodate a large volume of returns. DOS Recommendation. Somalis within the country rely on family connections and collective security for survival. *Id.* New arrivals, outside this network, would be extremely vulnerable. *Id.*

Based upon this review, the Secretary of DHS, after consultation with appropriate Government agencies, finds that the conditions that prompted designation of Somalia under the TPS program continue to be met. 8 U.S.C. 1254a(b)(3)(A). There is an ongoing armed conflict within Somalia and, due to such conflict, requiring the return of aliens who are nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) would pose a serious threat to their personal safety. 8 U.S.C. 1254a(b)(1)(A). On the basis of these findings, the Secretary of DHS concludes that the TPS designation for Somalia should be extended for an additional 12-month period. 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have TPS Through the Somalia TPS Program, Do I Still Re-register for TPS?

Yes. If you already have received TPS benefits through the Somalia TPS program, your benefits will expire on September 17, 2003. Accordingly, individual TPS beneficiaries must comply with the re-registration

requirements described below in order to maintain their TPS benefits through September 17, 2004. TPS benefits include temporary protection against removal from the United States, as well as employment authorization, during the TPS designation period and any extension thereof. 8 U.S.C. 1254a(a)(1).

If I Am Currently Registered for TPS, How Do I Re-register for an Extension?

All persons previously granted TPS under the Somalia program who wish to maintain such status must apply for an extension by filing (1) a Form I–821, Application for Temporary Protected Status, without the filing fee; (2) a Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches × 1½ inches). See the chart below to determine whether you must submit the one hundred and twenty dollar ($120) filing fee with Form I–765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the $50 fingerprint fee. Children beneficiaries of TPS who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar ($50) fingerprint fee with the application for extension.

Applications submitted without the required fee and/or photos will be returned to the applicant. Submit the completed forms and applicable fee, if any, to the BCIS District Office having jurisdiction over your place of residence during the 60-day re-registration period that begins July 21, 2003 and ends September 19, 2003.

If	Then
You are applying for employment authorization until September 17, 2004.	You must complete and file the Form I–765, Application for Employment Authorization, with the $120 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file Form I–765 with no fee.[1]
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Form I–765 and (2) a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

[1] An applicant who does not seek employment authorization documentation does not need to submit the $120 fee, but must still complete and submit Form I–765 for data gathering purposes.

If My Application for TPS Is Still Pending, How Can I Renew My Employment Authorization Document?

If your application for TPS is still pending and you wish to receive or renew your employment authorization document, you must file with the BCIS District Office having jurisdiction over your place of residence (1) a Form I–821 without the filing fee, (2) a Form I–765, and (3) two identification photographs (1½ inches x 1½ inches). See the chart above to determine whether you must submit the one hundred and twenty ($120) filing fee with Form I–765. An application submitted without the required filing fee or photos will be returned to the applicant.

How Does An Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit, and vise versa. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

Does This Extension Allow Nationals of Somalia (or Aliens Having no Nationality Who Last Habitually Resided in Somalia) Who Entered the United States After September 4, 2001, To File for TPS?

No. This is a notice of an extension of TPS, not a notice of re-designation of Somalia under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those who are not already TPS class members. To be eligible for benefits under this extension, nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) must have resided continuously in the United States since September 4, 2001, and have been continuously physically present in the United States since September 4, 2001.

What Is Late Initial Registration?

Some persons may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A) and 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Somalia (or alien who has no nationality and who last habitually resided in Somalia);

(2) Have been continuously physically present in the United States since September 4, 2001;

(3) Have continuously resided in the United States since September 4, 2001; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period from September 4, 2001, through September 17, 2002, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above. 8 CFR 244.2(g).

What Happens When This Extension of TPS Expires on September 17, 2004?

At least 60 days before this extension of TPS expires on September 17, 2004, the Secretary of DHS will review conditions in Somalia and determine whether the conditions for designation under the TPS program continue to be met at that time, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

If the TPS designation is extended at that time, an alien who has received TPS benefits must re-register under the extension in order to maintain TPS benefits. If, however, the Secretary of DHS terminates the TPS designation, TPS beneficiaries will maintain the immigration status they had before TPS (unless that status had since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if an alien had no lawful immigration status prior to receiving TPS and did not obtain any status during the TPS period, he or she will revert to that unlawful status upon termination of the TPS designation.

Notice of Extension of Designation of Somalia Under the TPS Program

By the authority vested in me as Secretary of DHS under sections 244(b)(1)(B), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Somalia for TPS continue to be met. 8 U.S.C. 1254a(b)(3)(A). Accordingly, I order as follows:

(1) The designation of Somalia under section 244(b) of the Act is extended for an additional 12-month period from September 17, 2003, to September 17, 2004. 8 U.S.C. 1254a(b)(3)(C).

(2) There are approximately 360 nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Somalia (or an alien having no nationality who last habitually resided in Somalia) who received TPS during the initial designation period must re-register for TPS during the 60-day re-registration period from July 21, 2003 until September 19, 2003.

(4) To re-register, the applicant must file: (1) Form I–821, Application for Temporary Protected Status; (2) Form I–765, Application for Employment Authorization; and (3) two identification photographs (1½ inches by 1½ inches). Applications submitted without the required fee and/or photos will be returned to the applicant. There is no fee for filing the Form I–821 for re-registration. If the applicant requests employment authorization, he or she must submit one hundred and twenty dollars ($120) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file Form I–765 along with Form I–821, but is not required to submit the fee. The fifty-dollar ($50) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS. 8 CFR 244.17(c). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension terminates on September 17, 2004, the Secretary will review the designation of Somalia under the TPS program and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. 8 U.S.C. 1254a(b)(3)(A).

(6) Information concerning the extension of designation of Somalia under the TPS program will be available at local BCIS offices upon publication of this notice and on the BCIS Web site at *http://www.bcis.gov.*

Dated: July 16, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–18566 Filed 7–17–03; 12:39 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–15531]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). GLPAC advises the Coast Guard on matters related to regulations and policies on the pilotage of vessels on the Great Lakes.

DATES: Application forms must reach us on or before September 19, 2003.

ADDRESSES: You may request an application form and waiver by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 267–6164; by faxing (202) 267–4700; or by e-mailing *Jshort@comdt.uscg.mil*. Send your completed application, a short resume, and the signed waiver (if you are applying for the second member position described in the **SUPPLEMENTARY INFORMATION** section of this notice) to the above street address or by fax to (202) 267–4700. This notice and the application and waiver forms are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of GLPAC, at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee (GLPAC) is a Federal advisory committee under 5 U.S.C. App. 2; Pub. L. 92–463, 86 Stat. 770 (1972). It advises the Secretary of the Department of Homeland Security, via the Commandant of the Coast Guard, on the rules and regulations that govern the registration of pilots, the operating requirements for U.S. registered pilots, pilot training policies, and the policies and regulations that establish rates charges and conditions for pilotage services.

GLPAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Subcommittees or working groups may be designated to consider specific problems and will meet as required.

We will consider applications for two positions. The first position represents the interests of vessel operators who contract for pilotage services on the Great Lakes. In addition to representing the interests of this specific segment of the Great Lakes marine industry, you must have five years of practical experience in maritime operations.

The second vacant position has never been filled and is unique in that the member is required to have a background in finance or accounting, and the requirement for five years of practical experience in maritime operations that the other six GLPAC members must meet is waived for this position. In addition, applicants who do not live or work in the Great Lakes community are specifically encouraged to apply.

All applications for the second position only will be reviewed and discussed by the other six Committee members, as the candidate for this position must be recommended for appointment by a unanimous vote of the other members of the Committee. This discussion will occur in a public forum; however, information of a personal nature that would invade the privacy of the applicant, including his or her name, will be blacked out before the applications are made available to the public. Applicants will be asked to sign a waiver to allow discussion of their application at a public meeting of GLPAC.

Each member serves for a term of three years. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem will be provided.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: July 14, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–18376 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–15530]

Navigation Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Navigation Safety Advisory Council (NAVSAC). NAVSAC advises the Coast Guard on the prevention of vessel collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems.

DATES: Application forms must reach us on or before September 15, 2003.

ADDRESSES: You may request an application form by writing to Commandant (G–MW), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling (202) 267–6164; by faxing (202) 267–4700; or by e-mail *Jshort@comdt.uscg.mil*. Send your completed application form and a short resume to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Margie Hegy, Executive Director of NAVSAC at (202) 267–0415, fax (202) 267–4700.

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council (NAVSAC) is a Federal advisory committee under 5 U.S.C. App. 2; Pub. L. 92–463, 86 Stat. 770 (1972). It advises the Secretary of Homeland Security, via the Commandant of the Coast Guard, on the prevention of vessel collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems.

NAVSAC meets at least twice a year at various locations in the continental United States. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

We will consider applications for 21 positions. To be considered for membership, all applicants, including individuals who applied previously, must submit current applications and a brief resume. However, if Congressional letters of reference supporting an earlier application were submitted within the last two years, they do not need to be updated. These letters of reference will be considered as part of an updated application.

To be eligible for membership on NAVSAC, you should have experience in the above mentioned subject areas. To assure balanced representation of subject matter expertise, members are chosen, insofar as practical, from the following groups: (1) Recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety; (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry; (3) individuals with an interest in maritime law; and (4) Federal and State officials with responsibility for vessel and port safety. In addition, memberships will be geographically balanced. Seven members will be appointed to serve one-year terms; seven to serve two-year terms; and the remaining seven will serve for a term of three years. Thereafter, one-third of the memberships will expire annually on June 30 and members will be appointed or reappointed to serve three-year terms. A few members may serve consecutive terms. All members serve without compensation from the Federal Government, although travel reimbursement and per diem may be provided.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: July 14, 2003.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–18377 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Emergency Preparedness and Response Directorate (EP&R), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments on information collected and maintained on students attending National Fire Academy (NFA) and Emergency Management Institute (EMI) courses.

SUPPLEMENTARY INFORMATION: Public Law 93–498, Federal Fire Prevention and Control Act, as amended, (15 U.S.C. 2201 *et seq.*) established the National Fire Academy (NFA) to ''advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities * * *'' and authorizes the Superintendent, NFA, to ''conduct courses and programs of training and education * * *'' Public Law 93–288, Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121–5206) authorizes the President to establish ''a program of disaster preparedness that utilizes services of all appropriate agencies and includes * * * (2) training and exercises * * *.'' Under the authorities of Executive Order 12127 and 12148, as amended, the Secretary of the Department of Homeland Security, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, is responsible for carrying out the mandates of the public laws mentioned above. The Secretary established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland, which houses both NFA and EMI. The data collection is used to (1) determine eligibility for courses and programs offered by NFA and EMI, (2) provide a consolidated record of all EP&R/FEMA training taken

by a student, (3) provide a transcript which can be used by the student in requesting college credit or continuing education units for courses completed, and (4) to determine eligibility for student stipends.

Collection of Information

Title: General Admissions Application/General Admissions Application Short Form.

Type of Information Collection: Revision of a Currently Approved Collection.

OMB Number: 1660–0007 (formerly under OMB Number 3067–0024, which OMB transferred from FEMA to the Department of Homeland Security effective March 1, 2003).

Form Numbers: FEMA Form 75–5, General Admissions Application (paper and electronic versions); FEMA Form 75–5a, General Admissions Application Short Form paper and electronic versions).

Abstract: Currently EMI, NFA and the NETC Admissions Office are working towards consolidating, or linking databases so that EP&R/FEMA can eventually have a single source for training information. In attempting to accomplish this goal it was determined that specific information needs to be collected by all parties so a unified database can be developed. In the near future, the FEMA Form 75–5 will be available for the public to enroll in EMI and NFA courses electronically. In addition, the EMI Independent Study Program has made a commitment to begin using the new FEMA Form 75–5a (automated) to enroll students in EMI's Independent Study Program. Presently the Independent Study Program uses the OMB approved FEMA Form 95–23 (under OMB control number 1660–0046) to enroll students in this program. It is EP&R/FEMA's intent to replace FEMA Form 95–23 with the FEMA Form 75–5a (automated) form.

Affected Public: Individuals or households, Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government.

Estimated Total Annual Burden Hours: 27,333.

FEMA forms	Number of respondents (A)	Frequency of response (B)	Hours/Minutes per response (C) (minutes)	Annual burden hours (A x B x C)	Average hourly wage rate	Estimated annual cost
75–5	10,000	1	9	1,500	$33.65	$7,571
75–5a	25,000	1	6	2,500	$22.84	5,710
75–5 (Automated)	20,000	1	10	3,333	$33.65	18,693
75–5a (Automated)	150,000	1	8	20,000	$22.84	60,907
Total	235,000			27,333		$92,881

Estimated Annual Cost to the Respondent: $92,881.

Estimated Annual Cost to the Federal Government: Costs include 50% of the data entry contract ($307,000), 50% of the annual salary cost of three full-time personnel working in the NETC Admissions Office (two GS9's and one GS11) at approximately $72,000, printing at $500 per year. Contract cost for supporting use of the new FEMA Forms 75–5 and 75–5a (automated) is estimated at $198,000, based on 20% of data entry contract ($123,000) and 20% of independent study contract ($75,000). Contract cost of the maintenance contract that includes the Admissions System, is estimated at $150,000, based on 25% of that contract. Total average estimated cost to the Federal Government is $727,500 annually.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Information Resources Management Division, Information Technology Services Directorate, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Darlyn Vestal, Admissions Specialist, Management, Operations and Support Services, U.S. Fire Administration, (301) 447–1415 for additional information. You may contact Ms. Anderson for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *Information.Collections@fema.gov.*

Dated: July 15, 2003.

Edward W. Kernan, Division Director, Information and Resources Management Division, Information Technology Services Directorate.

[FR Doc. 03–18392 Filed 7–18–03; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOMELAND

Transportation Security Administration

Port Security Grant Program; Application Notice Describing the Category of Interest and Establishing the Close Date for Receipt of Applications Under the Port Security Grant Program—Round 3

AGENCY: Transportation Security Administration, Department of Homeland Security.

ACTION: Notice inviting applications for the Port Security Grant Program.

SUMMARY: The purpose of the Port Security Grant Program is to support efforts for port security at critical national seaports in the area of enhanced facility and operational security.

The Port Security Grant Program will fund projects in the Enhanced Facility and Operational Security Category. The Transportation Security Administration (TSA) is coordinating with the Maritime Administration and the U.S. Coast Guard in this effort. Applications may be submitted by critical national seaports/terminals/U.S. passenger vessels as specified in the Request for Applications. Authority for this program is contained in the FY 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States,

Pub L. 107–206, 116 Stat. 820, *Awards*. Funds appropriated from the Consolidated Appropriations Resolution, 2003, Pub. L. 108–7 and Emergency Wartime Supplemental Appropriations Act, 2003, Pub. L. 108–11 are being awarded under the Port Security Grant Program—Round 2.

DATES: The program announcement (Program Announcement #02MLPA0003) and application forms for the Port Security Grant Program—Round 3 are expected to be available on or about July 21, 2003. Applications must be received on or before 2 p.m. Eastern Daylight Savings Time, August 21, 2003.

ADDRESSES: The Request for Applications, forms and instructions for preparing and submitting an application for the Port Security Grant Program will be available through the Internet at *http://www.portsecuritygrants.dottsa.net/.*

FOR FURTHER INFORMATION CONTACT: Mr. Tony Corio, Transportation Security Administration, Office of Maritime and Land Security, TSA Headquarters West Building, 9th Floor, TSA–8, 601 South 12th Street, Arlington, VA 22202–4220, (571) 227–1233, e-mail: *Tony.Cario@dhs.gov.*

SUPPLEMENTARY INFORMATION: Total anticipated funding available for Port Security Grant Program—Round 3 is $104,000,000. Awards under this program are subject to availability of funds.

Port Security Grant Program—Round 3 Category: Enhanced Facility and Operational Security—including but not limited to facility/terminal/U.S. Passenger vessels, access control, physical security, cargo security and passenger security.

This program has the following prerequisite: Applicants must have completed a security assessment and tie the security enhancements to their assessment in order to submit a grant application. Security assessments must be available for review upon the request of the evaluators.

Dated: July 16, 2003.

Chester Lunner,

Assistant Administrator, Office of Maritime and Land Security, Transportation Security Administration.

[FR Doc. 03–18463 Filed 7–18–03; 8:45 am]

BILLING CODE 4110–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–45]

Notice of Submission of Proposed Information Collection to OMB: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary

AGENCY: Office of the Chief Information Officer, 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.

Approval previously granted to collect the subject information has lapsed. HUD is requesting reinstatement of the requirement that Mortgagees of HUD-insured Multi-family loans must submit certain legal documentation (*e.g.* mortgage, mortgage note, security agreement, title insurance policy) to the Department in order to receive mortgage insurance benefits upon assignment of mortgages to HUD.

DATES: *Comments Due Date:* August 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2510–0006) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. 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 name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary.

OMB Approval Number: 2510–0006.

Form Numbers: None.

Description Of The Need For The Information And Its Proposed Use: Mortgagees of HUD-insured multi-family loans may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (*e.g.* mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Frequency of Submission: On occasion, When mortgagee applies for insurance benefits.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	359	359		26		9,334

Total Estimated Burden Hours: 9,334.

Status: Reinstatement, without change, of previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 14, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–18359 Filed 7–18–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4817–N–10]

Notice of Proposed Information Collection for Public Comment—Capital Fund Obligation Deadline Extension

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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 Due Date:* September 19, 2003.

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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

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: Capital Fund Obligation Deadline Extension.

OMB Control Number: 2577–.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) submit a request to HUD to extend the obligation deadline for their Capital Fund grant based on statutory criteria. The information contained in the request is used as a basis by HUD to evaluate reasons for delay in obligating the funds in timely manner and grant or reject the requested time extension. Section 9(j)(2), part 1, Capital and Operating Assistance, Pub. L. 105–276—Oct. 21, 1998 is the applicable statute.

Agency form numbers, if applicable: None.

Members of affected public: State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Respondents are identified as public housing agencies (PHAs). 20 PHAs × one request per PHA annually, 2.0 hour average per request, 40 total annual burden hours for reporting; 20 requests × .25 hours per request for recordkeeping, 5 total annual burden hours for recordkeeping; total burden hours are 45.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 15, 2003.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 03–18360 Filed 7–18–03; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–19]

Revocation and Delegation of Authority Under Title VI of the Civil Rights Act of 1964

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revocation and delegation of authority.

SUMMARY: The Secretary of HUD is delegating to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) all authority, with a noted exception, to act as the ''responsible Department official'' in all matters relating to the carrying out of the requirements of Title VI of the Civil Rights Act of 1964, as this authority is provided in HUD's regulations. In this notice the Secretary delegates to the Assistant Secretary for Public and Indian Housing the authority to approve tenant selection and assignment plans of local housing authorities. The Secretary revokes all prior delegations of this authority made by the Secretary.

EFFECTIVE DATE: July 7, 2003.

FOR FURTHER INFORMATION CONTACT: Karen A. Newton, Deputy Assistant Secretary for Operations and Management, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5128, Washington, DC 20410–0001, telephone (202) 708–0768. (This is not a toll-free number.) Hearing- and speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: By previous delegation (36 FR 8821, May 13, 1971), the Secretary delegated to the Assistant Secretary for Equal Opportunity (now the Assistant Secretary for FHEO) the authority to act as the ''responsible Department official'' in all matters relating to the carrying out of the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), as this authority was provided at the time in HUD's regulations in 24 CFR parts 1 and 2, except with respect to the approval of tenant selection and assignment plans of local housing authorities, as provided in 24 CFR 1.4(b)(2)(ii). By the same notice, the authority under 24 CFR 1.4(b)(2)(ii) was delegated to the Assistant Secretary for Housing Management (now the Assistant Secretary for Public and Indian Housing).

The Secretary revokes all prior delegations of this authority, retains the

authority under Title VI of the Civil Rights Act of 1964 and the corresponding regulations in 24 CFR part 1, and delegates the authority to act as the ''responsible Department official'' to the Assistant Secretary for FHEO.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for FHEO all authority to act as the ''responsible Department official'' as provided in 24 CFR part 1, ''Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—tenant selection and assignment plans of local housing authorities, as provided in 24 CFR 1.4(b)(2)(ii). The Secretary of HUD delegates to the Assistant Secretary for Public and Indian Housing the authority to approve tenant selection and assignment plans of local housing authorities, as provided in 24 CFR 1.4(b)(2)(ii).

Section B. Authority Revoked

All prior delegations of authority made by the Secretary under Title VI of the Civil Rights Act of 1964, including the delegation of authority published on May 13, 1971 (36 FR 8821), are revoked.

Section C. Authority To Redelegate

The Assistant Secretary for FHEO may redelegate the authority to act as the ''responsible Department official'' under 24 CFR part 1 to the General Deputy Assistant Secretary for FHEO, to the Deputy Assistant Secretary for Enforcement and Programs, to the Director of Enforcement, and to the FHEO Hub Directors. The Assistant Secretary for FHEO may also authorize successive redelegations. The Assistant Secretary for FHEO may not redelegate the authority to issue or waive regulations.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 7, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03–18361 Filed 7–18–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–23]

Delegation of Authority Under Section 504 of the Rehabilitation Act of 1973

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: Through this notice, the Secretary of HUD is delegating to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) all authority to act as the ''responsible civil rights official'' and the ''reviewing civil rights official'' with respect to section 504 of the Rehabilitation Act of 1973. The Secretary revokes all previous delegations of this authority made by the Secretary.

EFFECTIVE DATE: July 9, 2003.

FOR FURTHER INFORMATION CONTACT: Milton Turner, Director, Compliance and Disability Rights Division, Office of Fair Housing and Equal Opportunity, Room 5240, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0001, telephone: (202) 708–2333. (This is not a toll-free number.) Hearing- and speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In a notice published June 2, 1988 (53 FR 20253), the Secretary delegated to the Assistant Secretary for FHEO the authority to act as the ''responsible civil rights official'' with respect to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR part 8 (the section 504 authority). In the June 2, 1988, notice, the Secretary also delegated to the Assistant Secretary for FHEO the authority to redelegate the section 504 authority ''to the Regional Directors of FHEO and to the Director of the Office of Program Compliance, except for the authority to issue a preliminary finding of non-compliance under 24 CFR 8.56(g)(1).'' The Secretary delegated to the Under Secretary (now referred to as the Deputy Secretary) the authority to act as ''reviewing civil rights official.'' By notice published December 18, 1989 (54 FR 51804), the Secretary revoked the June 2, 1988, delegation to the Under Secretary and delegated to the Assistant Secretary for FHEO the authority to act as ''reviewing civil rights official'' with no further authority to redelegate this authority. A notice published March 22, 1991 (56 FR 12302), stated that the remaining delegation of authority to the Assistant Secretary for FHEO had been revoked on June 2, 1988, and therefore, the March 22, 1991, notice delegated to the Assistant Secretary for FHEO the authority to act as ''responsible civil rights official'' and to redelegate this authority.

Through this notice, the Secretary revokes all prior delegations of section 504 authority, and delegates this authority to the Assistant Secretary for FHEO.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for FHEO all authority to act as the ''responsible civil rights official'' and the ''reviewing civil rights official'' as provided in HUD's regulations in 24 CFR part 8, ''Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development.''

Section B. Authority Revoked

All prior delegations of section 504 authority made by the Secretary are revoked. These include, but are not limited to, the delegations published on December 18, 1989 (54 FR 51804), and March 22, 1991 (56 FR 12302).

Section C. Authority To Redelegate

The Assistant Secretary for FHEO may not redelegate the authority to issue or to waive regulations. The Assistant Secretary for FHEO may redelegate the authority to act as ''responsible civil rights official'' under 24 CFR part 8 to the General Deputy Assistant Secretary for FHEO, to the Deputy Assistant Secretary for Enforcement and Programs, to the Director of the Office of Enforcement, and to the FHEO Hub Directors, and may authorize successive redelegations.

The Assistant Secretary for FHEO may redelegate the authority to act as ''reviewing civil rights official'' to the General Deputy Assistant Secretary for FHEO, to the Deputy Assistant Secretary for Enforcement and Programs, and to the Director of the Office of Enforcement, however, the Director of the Office of Enforcement is only authorized to act as ''reviewing civil rights official'' for FHEO Hub Directors.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 9, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03–18362 Filed 7–18–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–25]

Revocation and Delegation of Authority Under the Age Discrimination Act of 1975

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revocation and delegation of authority.

SUMMARY: Through this notice, the Secretary of HUD is delegating to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) authority, with noted exceptions, to act with respect to the Age Discrimination Act of 1975. The Secretary revokes all prior delegations of this authority made by the Secretary.

EFFECTIVE DATE: July 7, 2003.

FOR FURTHER INFORMATION CONTACT: Milton Turner, Director, Compliance and Disability Rights Division, Office of Fair Housing and Equal Opportunity, Room 5240, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0001, telephone: (202) 708–2333. (This is not a toll-free number.) Hearing- and speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Age Discrimination Act of 1975, 42 U.S.C. 6101–6107 (the Act), prohibits any person from being excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance. The Act does not apply to any age distinction established under authority of any law which provides benefits or establishes criteria for participation on the basis of age or in age-related terms, nor does it apply when an explicit age distinction is necessary to the normal operation of a program or to the achievement of the statutory objective of a program. On November 4, 1980 (45 FR 73454), HUD published a proposed rule to implement regulations for the Act in 24 CFR part 146, captioned ''Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.'' On December 17, 1986 (51 FR 45264), HUD published the final rule implementing the Act with respect to HUD programs and activities. In the regulations, the standards and duties of the Secretary and HUD to prevent and correct incidents of age discrimination are enumerated.

Accordingly, the Secretary delegates authority to ensure compliance and enforcement with the Act as follows:

Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for FHEO authority to act with respect to the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and its implementing regulations in 24 CFR part 146. The authority delegated in this notice does not include authority as provided in 24 CFR 146.39, 146.47(a), and 146.49.

Section B. Authority Revoked

The Secretary revokes all prior delegations of authority made by the Secretary with respect to the Age Discrimination Act of 1975 or its implementing regulations, or both.

Section C. Authority To Redelegate

The Assistant Secretary for FHEO may redelegate the authority delegated through this notice, except for the authority to issue regulations or to waive regulations, to the General Deputy Assistant Secretary for FHEO, to the Deputy Assistant Secretary for Enforcement and Programs, to the Director of the Office of Enforcement, and to the FHEO Hub Directors.

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 7, 2003.

Mel Martinez,

Secretary.

[FR Doc. 03–18363 Filed 7–18–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by August 20, 2003.

ADDRESSES: 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 within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) 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.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–073486, 072948, 072945

Applicant: Mitchel Kalmanson, World Wide Exotic Talent Agency, Maitland, FL.

The applicant requests permits to export captive-born tigers (*Panthera tigris*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: 073486, Fuji; 072948, Toshiro; and 072945, Chad. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

PRT—072235, 072237, and 72238

Lost Creek Animal Sanctuary, Mound Valley, KS.

The applicant requests permits to export Siberian tigers (*Panthera tigris altaica*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: 072235—Snowflake, 072237—Shania, and 072238—Star. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

PRT—073476 and 073477

Carlton & Company.

The applicant requests permits to export Bengal tigers (*Panthera tigris tigris*) to worldwide locations for the purpose of enhancement of the species through conservation education. The permit numbers and animals are: 073476—Madras and 073477—Shena. This notification covers activities to be

conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

PRT–074368

Applicant: Matthew Dick, Pueblo West, CO.

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.

PRT–074380

Applicant: William Clifton Pullen, Bryceville, FL.

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.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: July 11, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–18390 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals and endangered species.

SUMMARY: The following permits were issued.

ADDRESSES: 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: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED SPECIES

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
064369	San Francisco Zoological Society	68 FR 11872; March 12, 2003	June 27, 2003.
067661	David W. Inouye, University of Maryland	68 FR 20020; April 23, 2003	June 27, 2003.
810465	A.R. Galloway Exotic Ranch	68 FR 22409, April 28, 2003	July 10, 2003.

MARINE MAMMALS

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
070362	Kenneth O. Harrison	68 FR 20166, April 24, 2003	June 25, 2003.
070534	Walter Mays Jr.	68 FR 22409, April 28, 2003	June 27, 2003.
070952	Wayne F. Manis	68 FR 25620, May 13, 2003	July 3, 2003.

Dated: July 11, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–18391 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Martin Branch Woodland Safe Harbor Agreement, Covington County, MS

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that Dr. John Lambert (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit application includes a proposed Safe Harbor Agreement (Agreement) for the threatened gopher tortoise (*Gopherus polyphemus*) and the endangered red-cockaded woodpecker (*Picoides borealis*) for a period of 20 years. We (the Service) have made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusions under the National Environmental Policy Act of 1969. We explain the basis for this determination in an Environmental Action Statement.

We announce the opening of a 30-day comment period and request comments from the public on the Applicants' enhancement of survival permit application, the accompanying proposed Agreement, and the Environmental Action Statement. All comments we receive, including names and addresses, will become part of the administrative record and may be released to the public. For further information and instructions on reviewing and commenting on this

application, see the **ADDRESSES** section, below.

DATES: Written comments should be received on or before August 20, 2003.

ADDRESSES: You may obtain a copy of the information available by contacting the Service's Regional Safe Harbor Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, or Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Alternatively, you may set up an appointment to view these documents at either location during normal business hours. Written data or comments should be submitted to the Atlanta, Georgia, Regional Office. Requests for the documentation must be in writing to be processed, and comments must be written to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Gooch, (telephone: 404/679–7124; facsimile: 404/679–7081), or Mr. Will McDearman (telephone: 601/965–4903 x 16; facsimile: 601/965–4340).

SUPPLEMENTARY INFORMATION:

Background

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property-use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

We have worked with the Applicant to design and implement conservation measures to benefit the gopher tortoise and red-cockaded woodpecker. Portions of the Applicant's property currently are inhabited by the gopher tortoise. No red-cockaded woodpeckers currently reside on the property. Under the Agreement, the Applicant will restore and enhance habitat by the following actions: (1) Reduce tree density and canopy cover, increase sunlight on the forest floor, and maintain an open pine forest by thinning timber and prescribing frequent fire; (2) Plant and/or naturally regenerate longleaf pine; (3) Grow and maintain trees of sufficient size and quantity for suitable nesting and foraging habitat for one or more groups of red-cockaded woodpeckers.

Consistent with the Safe Harbor Policy and implementing regulations, we propose to issue an enhancement of survival permit to the Applicant. The permit will authorize the incidental take of the gopher tortoise and red-cockaded woodpecker as a result of lawful activities on enrolled lands, as long as baseline conditions are maintained and terms of the Agreement are implemented. Future activities by the Applicant could return these species and habitat to baseline conditions.

We provide this notice pursuant to section 10(c) of the Endangered Species Act and the implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the proposed Agreement, associated documents, and submitted public comments to determine whether the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations are satisfied. Following the end of the 30-day public comment period, we will fully consider all comments received and make our final decision. If we determine that the requirements are met, we will issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to the Applicant in accordance with the terms of the Agreement and specific terms and conditions of the authorizing permit.

Dated: July 3, 2003.

J. Mitch King,

Acting Regional Director.

[FR Doc. 03–18415 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1231–00]

Notice of Emergency Closure of Trails and Establishment of Visitor Restrictions for Acquired Land in Barr Canyon and Nichol's Canyon Special Recreation Management Areas, Las Cruces, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency closure of trails and establishment of visitor restrictions.

SUMMARY: Notice is hereby given that effective immediately, the Las Cruces Field Office is implementing the following closure of existing vehicle trails to use by any motorized vehicles and equipment, and establishing visitor restrictions. The closures and restrictions are implemented in order to prevent resource degradation and protect the natural resource values of Barr Canyon (also known as Soledad property), Dona Ana County, and Nichol's Canyon, Grant County, New Mexico. The authority for these emergency closures and restrictions is 43 CFR 8364.1, Closure and Restriction Orders. The following rules will apply to public land users unless authorized by written permit or for administrative use.

1. Public land in T. 23 S., R. 3 E., Section 13, Barr Canyon (also known as Soledad property), Dona Ana County NM, totaling 423 acres.

- Parking is limited to the designated parking areas only. The normal restriction against parking within 300 yards of a manmade water source is waived. Parking along the BLM portion of Soledad Canyon Road is prohibited.
- Vehicle use is limited to the designated roads and parking lot. Vehicle speeds shall not exceed 15 miles per hour.
- The trail system east of the parking lot is limited to non-motorized uses only.
- The Barr Canyon area (also known as Soledad property) is limited to day use only. The entrance gate will be open from 8 a.m. to 5 p.m. daily.
- Campfires, fireworks, and discharge of firearms are prohibited.
- Pets are allowed, but must be leashed and restrained at all times. Livestock must be controlled by bridles, halters, and lead ropes.

2. Public land in T. 19 S., R 19 W., Section 18, Nichol's Canyon, Grant County, NM, totaling 360 acres.

- Vehicle use is limited to designated roads and trails to protect threatened and endangered species habitat, riparian, and other wildlife and recreational values, as well as the wilderness values of the Gila Lower Box Wilderness Study Area.
- Vehicles will be limited to the main road from the northwest to the BLM barn, and to the main road from the south to the bench under the cottonwood trees. Vehicles will be prohibited from the floodplain of the Gila River.

DATES: This closure is effective on the day that this notice is published in the **Federal Register**, and shall remain in effect until rescinded or modified by the authorized officer.

ADDRESSES: BLM, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005

FOR FURTHER INFORMATION CONTACT: Jim Talent, Recreation/Cultural Team

Leader at (505) 525–4400 or Mark Hakkila, Natural Resource Specialist, at (505) 525–4341.

SUPPLEMENTARY INFORMATION: Violations of these closures and restrictions are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 1 year. These actions are taken to prevent impacts to soils, native vegetative resources, wildlife habitat, cultural resources, and scenic values, and to protect public health and safety.

Copies of this closure order and maps showing the location of the routes are available from the Las Cruces Field Office, 1800 Marquess, Las Cruces, NM 88005.

Dated: June 12, 2003.

Amy L. Lueders,

Field Manager, Las Cruces.

[FR Doc. 03–18436 Filed 7–18–03; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Wrangell-St. Elias National Park Subsistence Resource Commission (SRC); Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Wrangell-St. Elias National Park Subsistence Resource Commission (SRC) meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Wrangell-St. Elias National Park Subsistence Resource Commissions will be held at Chitina, Alaska. The purpose of the meeting will be to continue work on currently authorized and proposed National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a writing statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

DATES: The meeting dates are:

1. September 25, 2003, 9:30 a.m. to 5 p.m., Chitina Community Hall, Chitina, Alaska.
2. September 26, 2003, 9:30 a.m. to 5 p.m., Chitina Community Hall, Chitina, Alaska.

In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the October 7, 2003, South-central Regional Council meeting.

FOR FURTHER INFORMATION CONTACT: Gary Candelaria or Barbara Cellarius, Subsistence, at Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, AK 99573, telephone (907) 822–5234.

SUPPLEMENTARY INFORMATION: Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meetings dates. Locations and dates may need to be changed based on weather or local circumstances.

The agenda for the meeting is as follows:

1. Call to order (SRC Chair).
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and Adopt Agenda.
5. Review and adopt minutes February 19–20, 2003 meeting.
6. Review Commission Purpose.
7. Status of Membership.
8. Superintendent's Report.
9. Wrangell-St. Elias NP&P Staff Report.
10. Federal Subsistence Board Update.
   a. Review actions taken during May 2003 FSB meeting.
   b. Review new proposals to change Fisheries Regulations.
   c. Update on FSB call for wildlife proposals for the 2004–2005 season.
11. Public and Agency Comments.
12. Work Session (comment on issues, develop new recommendations, prepare letters).
13. Set time and place of next SRC meeting.
14. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from the Superintendent, Wrangell-St. Elias National Park, at the above address.

Marcia Blaszak,

Deputy Regional Director, Alaska.

[FR Doc. 03–18200 Filed 7–18–03; 8:45 am]

BILLING CODE 4312–HT–M

DEPARTMENT OF THE INTERIOR

National Park Service

Guidlines for Architectural and Engineering Documentation

ACTION: Notice.

SUMMARY: This notice sets forth revisions to the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation. These guidelines are not regulatory and do not set or interpret agency policy. They are intended to provide technical advice on how to produce architectural and engineering documentation.

DATES: Guidelines are effective on Tuesday, April 1, 2003.

FOR FURTHER INFORMATION CONTACT: E. Blaine Cliver, Chief, HABS/HAER/HALS, National Park Service, United States Department of the Interior, Washington, DC 20240–0001 (202–354–2159).

SUPPLEMENTARY INFORMATION: Guidelines are prepared under the authority of section 101(g) and section 110 of the National Historic Preservation Act of 1966, as amended. The revisions contained herein update the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation of September 29, 1983 (**Federal Register**, Vol. 48, No. 190, Thursday, September 29, 1983, pp. 44731–34).

Secretary of the Interior's Guidelines for Architectural and Engineering Documentation

Introduction. The following guidelines provide more specific procedural and technical information on how to produce architectural and engineering documentation and outline one approach to meeting the Secretary of the Interior's Standards. Agencies, organizations or individuals proposing to approach documentation differently may wish to review their plans with the National Park Service.

The Guidelines are organized as follows:

Definitions
Goal of Documentation
Content
Quality
Materials
Presentation
Architectural and Engineering Documentation Prepared for Other Purposes

Definitions. The following definitions are used in conjunction with these guidelines:

Documentation—measured drawings, photographs, histories, or other media that depict historic buildings, sites, structures, objects or landscapes.

Field Photography—photography other than large-format photography (usually 35mm), intended for the purposes of producing documentation.

Field Records—notes of measurements taken, field photographs and other recorded information intended for the purpose of producing documentation.

Large-Format Photographs—photographs taken of historic buildings, sites, structures, objects, or landscapes where the dimensions of the negatives are either 4″ × 5″, 5″ × 7″ or 8″ × 10″ and where the photographs are taken with appropriate means to correct perspective distortion.

Measured Drawings—drawings produced according to HABS/HAER/HALS guidelines depicting existing conditions or other relevant features of historic buildings, sites, structures, objects or landscapes. Measured drawings are usually produced in ink on an archival material, such as Mylar.

Written Data—inventory forms, data sheets, historical reports, or other original, written works of varying lengths that describe a building, site, structure, object, or landscape and highlight its historical, architectural, technological, or cultural significance.

Photocopy—a photograph, with large-format negative, of a photograph or drawings.

Select Existing Drawings—drawings of historic buildings, sites, structures, objects or landscapes, whether original construction or later alteration drawings that portray or depict the historic value or significance.

Sketch Plan—a floor or site plan, usually not to exact scale although often drawn from measurements, where the features are shown in proper relation and proportion to one another.

Goal of Documentation. The Historic American Buildings Survey (HABS), the Historic American Engineering Record (HAER), and the Historic American Landscapes Survey (HALS) are the national historical architectural, engineering and landscape documentation programs of the National Park Service. The goal of HABS/HAER/HALS documentation is to provide architects, engineers, scholars, preservationists, and interested members of the public with comprehensive information on the historical, architectural, technological, or cultural significance of a building, site, structure, object or landscape. Placed on permanent deposit at the Library of Congress, HABS/HAER/HALS documentation serves as a permanent record of the growth and development of the nation's built environment.

HABS/HAER/HALS documentation usually consists of measured drawings, large-format photographs and written data that highlight the significance of a building, site, structure, object or landscape. This documentation acts as a form of insurance against fires and natural disasters by permitting the repair and, if necessary, reconstruction of historic resources damaged by such disasters. It is also used for scholarly research, interpretation, and education, and it often provides the basis for enforcing preservation easement. HABS/HAER/HALS documentation is often the last means of preservation of a property: when a property is to be demolished, documentation provides future researchers access to valuable information that otherwise would be lost.

HABS/HAER/HALS documentation is developed in a number of ways. The National Park Service regularly employs summer teams of student architects, engineers, and historians to develop HABS/HAER/HALS documentation under the supervision of National Park Service professionals. The National Park Service also produces HABS/HAER/HALS documentation in conjunction with restoration or other preservation treatment of historic buildings managed by the National Park Service. Federal agencies, pursuant to section 110(b) of the National Historic Preservation Act, as amended, record those historic properties to be demolished or substantially altered as a result of agency action or assisted action (referred to as mitigation projects). Finally, individuals and organizations prepare documentation to HABS/HAER/HALS standards and donate the documentation to the programs.

The Secretary of the Interior's Standards describe in general terms the fundamental principals of HABS/HAER/HALS documentation. They are supplemented by other material describing more specific guidelines, preferred techniques for architectural photography, and formats for written historical reports. This technical information is found in the procedure manuals for the individual programs.

These guidelines contain useful information on how to produce documentation for other archives, such as state or local archives. The State Historic Preservation Officer (SHPO) or the state library should be consulted regarding archival requirements if the documentation is to become part of its collection. In establishing archives, the important questions of durability and reproducibility should be considered in relation to the purposes of the collection.

Documentation prepared for the HABS/HAER/HALS collections must meet the requirements below. The HABS/HAER/HALS office of the National Park Service reserves the right to refuse documentation that does not meet these requirements.

Content

Standard: Documentation shall adequately explicate and illustrate what is significant or valuable about the historic building, site, structure, object or landscape being documented.

Guideline: Documentation shall meet one of the following requirements for content:

A. Level I

1. Drawings: a full set of measured drawings depicting existing or historic conditions
2. Photographs: photographs with large-format negatives of exterior and interior views; photocopies with large-format negatives of select, existing drawings or historic views that are produced in accordance with the U.S. Copyright Act (as amended)
3. Written data: history and description

B. Level II

1. Drawings: select existing drawings, where available, may be photographed with large-format negatives or photographically reproduced on Mylar in accordance with the U.S. Copyright Act, as amended
2. Photographs: photographs with large-format negatives of exterior and interior views, or historic views where available and produced in accordance with the U.S. Copyright Act, as amended
3. Written data: history and description

C. Level III

1. Drawings: sketch plan
2. Photographs: photographs with large-format negatives of exterior and interior views
3. Written data: short form for historical reports

Commentary. The kind and amount of documentation should be appropriate to the nature and significance of the subject. For example, Level I would be inappropriate for a building that is a minor element of an historic district, notable only for context and scale. A full set of measured drawings for such a minor building would be expensive and would likely add little new insight into the growth and development of the built environment at either the local, regional, or national level. Large-format photography (Level III) would be the more appropriate choice for documenting this type of building.

Similarly, the aspect of the building, site, structure, object or landscape being documented should reflect the subject's overall significance. For example, measured drawings of Dankmar Adler and Louis Sullivan's Auditorium

Building in Chicago should indicate not only facades, floor plans and sections, but also the innovative structural and mechanical systems that were incorporated into that building. Large-format photography of Gunston Hall in Fairfax County, Virginia, to take another example, should clearly show William Buckland's hand-carved moldings in the Palladian Room, as well as other views, since Buckland's role in the creation of the building is one of the reasons why Gunston Hall is considered architecturally significant.

HABS/HAER/HALS documentation is usually in the form of measured drawings, photographs, and written data. While the criteria in this section have addressed only these media, documentation need not be limited to them. Other media, such as films of industrial processes, can be—and have been—used to document historic buildings, sites, structures, objects and landscapes. If other media are to be used, the HABS/HAER/HALS office should be contacted before recording.

The selection of the appropriate documentation level will vary from one project to the next. For mitigation documentation projects, this level will be selected by the National Park Service Regional Office and communicated to the agency responsible for completing the documentation. Generally, Level I documentation is required for nationally significant buildings and structures, defined as National Historic Landmarks and the primary historic units of the National Park Service.

On occasion, factors other than significance will dictate the selection of another level of documentation. For example, if a rehabilitation of a property is planned, the owner may wish to have a full set of as-built drawings, even though the property may not merit Level I documentation.

HABS Level I measured drawings usually depict existing conditions through the use of a site plan, floor plans, elevations, sections and construction details. HAER Level I measured drawings will frequently depict original conditions where adequate historical material exists, so as to illustrate manufacturing or engineering processes.

Level II documentation differs from Level I by substituting copies of existing drawings, either original or alteration drawings, for recently executed measured drawings. If this is done, the drawings must meet HABS/HAER/HALS requirements outlined below and be free of copyrights. While existing drawings are rarely as suitable as as-built drawings, they are adequate in many cases for documentation purposes. Only when the desirability of having as-built drawings is clear are Level I measured drawings required in addition to existing drawings. If existing drawings are housed and preserved in an accessible archival collection, their reproduction for HABS/HAER/HALS may not be necessary. In other cases, Level I measured drawings are required in the absence of existing drawings.

Level III documentation requires a sketch plan if it helps to explain the structure, site, or landscape. A short historical report should supplement the photographs by explaining what is not readily visible.

The HABS/HAER/HALS office reserves the right to refuse documentation that does not meet these requirements for content.

Quality

Standard: Documentation shall be prepared accurately from reliable sources with limitations clearly stated to permit independent verification of the information.

Guideline: Documentation shall meet the following requirements for quality:

A. Measured drawings: Measured drawings shall be produced from recorded, accurate measurements. Portions of the building that were not accessible for measurement should not be drawn on the measured drawings but clearly labeled as not accessible or drawn from available construction drawings and other sources. No part of the measured drawings shall be produced from hypothesis or non-measurement related activities. Level I measured drawings shall be accompanied by a set of field notebooks in which the measurements were first recorded. Other drawings prepared for Levels II and III shall include a statement describing where the original drawings are located.

B. Large-format photographs: Large-format photographs shall clearly depict the appearance of the property and areas of significance of the recorded building, site, structure, object or landscape. Each view shall be perspective-corrected and fully captioned.

C. Written data: Written history and description for Levels I and II shall be based on primary sources to the greatest extent possible. For Level III, secondary sources may provide adequate information; if not, primary research will be necessary. A frank assessment of the reliability and limitations of the sources shall be included. Within the written history, statements shall be footnoted as to their sources, where appropriate. The written data shall include a methodology section specifying the name of the researcher, date of research, sources consulted, and the limitations of the project.

Commentary. The quality of architectural documentation cannot be easily prescribed or quantified, but it derives from a process in which thoroughness of research and factual accuracy play a large part, and it acts, for better or worse, as a measure of the integrity and reliability of the information. HABS/HAER/HALS promotes documentation of the highest quality and the principle of independent verification of all factual information.

The HABS/HAER/HALS office reserves the right to refuse documentation that does not meet these requirements for quality.

Materials

Standard: Documentation shall be prepared on materials that are readily reproducible, durable and in standard sizes.

Guideline: The following material requirements shall be met for all levels of documentation:

A. Measured Drawings

Readily Reproducible: Ink on translucent material, such as Mylar.

Durable: Ink on archival media.

Standard Sizes: Three sizes: 19″×24″, 24″×36″ or 34″×44″

B. Large-Format Black & White Photographs

Readily Reproducible: One print per negative.

Durable: Photography processed and stored according to archival standards; negatives on safety film only; prints on fiber paper, such as AZO paper; no resin-coated paper.

Standard Sizes: Three sizes: 4″×5″, 5″×7″ or 8″×10″.

C. Large-Format Color Transparencies

Readily Reproducible: One identical black & white negative and print per color transparency; one duplicate transparency and electrostatic or laser copy per color transparency.

Durable: Photography processed and stored according to archival standards

Standard Sizes: Three sizes: 4″×5″, 5″×7″ or 8″×10″

D. Written History and Description

Readily Reproducible: Clean copy for photocopying

Durable: Archival bond

Standard Sizes: 8½″×11″

E. Field Records

Readily Reproducible: Field notebooks may be photocopied. Photo identification sheet shall accompany 35mm negatives and contact sheets.

Durable: No requirements.

Standard Sizes: Only requirement is that materials can be made to fit into a 9½″×12″ archival file folder.

Commentary. All HABS/HAER/HALS materials are intended for reproduction. Some 20,000 records are reproduced each year by the Library of Congress. Although field records are not generally reproduced, they are intended to serve as supplements to the formal documentation. The basic durability performance standard (that is to say, life expectancy) for HABS/HAER/HALS materials is 500 years. Ink on Mylar is believed to meet this standard, while color photography does not (although color transparencies are acceptable, their life expectancy is considerably shorter—50 years or less). Field records do not meet this standard but are maintained in the HABS/HAER/HALS collections as a courtesy to collections patrons.

The HABS/HAER/HALS office reserves the right to refuse documentation that does not meet these requirements for materials.

Presentation

Standard: Documentation shall be clearly and concisely produced.

Guideline: The following requirements for presentation shall be met for all levels of documentation:

A. Measured Drawings: Level I measured drawings shall be lettered mechanically (*i.e.*, CAD, Leroy or similar) or in a hand-printed equivalent style. Adequate dimensions shall be included on all sheets. Level III sketch plans should be neat and orderly.

B. Large-format photographs: Level I photographs shall include duplicate photographs that include a scale. Level II and III photographs shall include, at a minimum, at least one photograph with a scale, usually of the principal facade.

C. Written history and description: Data shall be typewritten or laser printed on bond, following accepted rules of grammar.

Commentary. The HABS/HAER/HALS office reserves the right to refuse documentation that does not meet these requirements for presentation.

Architectural and Engineering Documentation Prepared for Other Purposes

Where a preservation planning process is initiated, architectural and engineering documentation, like other treatment activities, is undertaken to achieve the goals identified by that process. Documentation is deliberately selected as a treatment for properties evaluated as significant, and the development of the documentation program for a property follows from the planning objectives. Documentation efforts focus on the significant characteristics of the historic subject, as defined in the previously completed evaluation. The selection of a level of documentation techniques (measured drawings, photography, *etc.*) is based on the significance of the subject and the management needs for which the documentation is being performed. For example, the kind and level of documentation required to record a historic property for easement purposes may be less detailed than the kind and level required as mitigation prior to destruction of the property. In the former case, essential documentation might be limited to portions of the property controlled by the easement (exterior facades, for example), while in the latter case, significant interior architectural features and non-visible structural details would also be documented.

HABS/HAER/HALS encourages other archives to use the Secretary of the Interior's Standards and related HABS/HAER/HALS guidelines as a basis for their own documentation guidelines. Levels of documentation and the durability and sizes of the items may vary depending on the intended use of the materials and various storage and preservation considerations. Review of documentary sources and the periodic verification of factual information in the documentation are among the best means of assuring quality. The reliability of the documentation is only strengthened by an accounting of the limitations of the research and physical examination of the property, and by retaining the primary data (field measurements and notebooks) from which the archival record was produced. The long-term usefulness of the documentation is directly related to the quality and durability of the materials (ink, paper, film, *etc.*) used to record the historic resource.

Dated: March 18, 2003.

E. Blaine Cliver,

Chief.

[FR Doc. 03–18197 Filed 7–18–03; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1023 (Final)]

Certain Ceramic Station Post Insulators From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1023 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Japan of certain ceramic station post insulators.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 16, 2003.

FOR FURTHER INFORMATION CONTACT: John Cutchin (202–205–3396), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as ''station post insulators manufactured of porcelain, of standard strength, high strength, or extra-high strength, solid core or cavity core, single unit or stacked unit, assembled or unassembled, and with or without hardware attached, rated at 115 kilovolts (kV) voltage class and above (550 kilovolt Basic Impulse Insulation Level (BIL) and above), including, but not limited to, those manufactured to meet the following American National Standards Institute, Inc. (ANSI) standard class specifications: T.R.–286, T.R.–287, T.R.–288, T.R.–289, T.R.–291, T.R.–295, T.R.–304, T.R.–308, T.R.–312, T.R.–316, T.R.–362 and T.R.–391. Subject merchandise is classifiable under subheading 8546.20.00 (statistical reporting number 8546.20.0060) of the Harmonized Tariff Schedule of the United States (HTS).

ceramic station post insulators from Japan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on December 31, 2002, by Lapp Insulator Company LLC, Le Roy, NY; Newell Porcelain Co., Inc., Newell, WV; Victor Insulators, Inc., Victor, NY; and the IUE–CWA, AFL–CIO, Washington, DC.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on October 16, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on October 30, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 21, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 24, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 23, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 6, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 6, 2003. On November 24, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 26, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: July 15, 2003.
By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–18348 Filed 7–18–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 303–TA–23, 731–TA–566–570, and 731–TA–641 (Final) (Reconsideration) (Second Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice and scheduling of remand proceedings.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice of the court-ordered remand of its reconsideration proceedings pertaining to countervailing duty Investigation No. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping Investigation Nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela.

EFFECTIVE DATE: July 14, 2003.

FOR FURTHER INFORMATION CONTACT: Christopher Cassise, Office of Investigations, telephone 202–708–5408, or Marc A. Bernstein, Office of General Counsel, telephone 202–205–3087, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background

In August 1999 the Commission made negative determinations upon reconsideration in its antidumping and countervailing duty investigations concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela. Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303–TA–23, 731–TA–566–570, 731–TA–641 (Final) (Reconsideration), USITC Pub. 3218 (Aug. 1999). The Commission's determinations were appealed to the U.S. Court of International Trade (CIT). On February 21, 2002, the CIT remanded the matter to the Commission for further proceedings. *Elkem Metals Co.* v. *United States,* 193 F. Supp.2d 1314 (Ct. Int'l Trade 2002). On remand, the Commission conducted further proceedings. In September 2002 it reached negative determinations on remand. Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303–TA–23, 731–TA–566–570, and 731–TA–631 (Final) (Reconsideration) (Remand), USITC Pub. 3531 (Sept. 2002). On March 18, 2003, the CIT issued an opinion concerning the Commission's determinations on remand which affirmed the Commission in part and remanded in part for further proceedings. *Elkem Metals Co.* v. *United States,* slip op. 03–66 (Ct. Int'l Trade June 18, 2003) (''Elkem II'').

Written Submissions

The Commission is not reopening the record in the second remand proceeding for submission of new factual information. It will, however, permit the parties to file a written submission addressed to the determination the Commission should reach in its second remand determination in light of Elkem II. Parties should state the factual and legal bases for their position. This submission must be filed with the Commission no later than 14 days after publication of this notice in the **Federal Register**, shall not contain any new factual information, and shall not exceed 20 pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Participation in the Proceedings

Only those persons who were parties to the previous reconsideration proceedings (*i.e.*, persons listed on the Commission Secretary's service list) may participate as parties in the second remand proceedings.

Public Vote

The Commission will vote on the remand determinations at a public meeting scheduled to be held on Monday, August 18, 2003. The meeting is tentatively scheduled for 11 a.m.

Authority: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

Issued: July 15, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–18426 Filed 7–18–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 21, 2003 and published in the **Federal Register** on April 9, 2003, (68 FR 17403), Boehringer Ingelheim Chemicals, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Phenylacetone (8501), a basic class of controlled substances listed in Schedule II.

The firm plans to import Phenylacetone for bulk manufacture of amphetamine.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Boehringer Ingelheim Chemicals, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Boehringer Ingelheim Chemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 2, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18477 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 14, 2003, and published in the **Federal Register** on April 2, 2003, (68 FR 16088), Cedarburg Pharmaceuticals, LLC, 870 Badget Circle, Grafton, Wisconsin 53204, made application by letter to the Drug Enforcement Administration to be registered as a bulk manufacturer of dihydromorphine (9145), a basic class of controlled substance listed in Schedule I.

The firm plans to use this substance in the conversion process to produce a Schedule II controlled substance, hydromorphone.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Cedarburg Pharmaceuticals, LLC, to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated

Cedarburg Pharmaceuticals, LLC. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed is granted.

Dated: July 3, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18481 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 21, 2003, and published in the **Federal Register** on April 9, 2003, (68 FR 17405), Dade Behring Inc., Route 896 Corporate Boulevard, Building 100, Attn: RA/QA, P.O. Box 6101, Newark, Delaware 19714, made application by letter, to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Ecgonine (9180)	II
Morphine (9300)	II

The firm plans to produce bulk products used for the manufacture or reagents and drug calibrator/controls, DEA exempt products. No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Dade Behring Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Dade Behring Inc. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 2, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18479 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–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(1)), 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 Regulation (CFR), notice is hereby given that on October 24, 2002, Noramco Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, (raw) (9600)	II
Poppy Straw Concentrate	II

The firm plans to import the listed controlled substances for the bulk manufacture of other controlled substances.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substances 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, DC 20537, Attention: Federal Register Representative, Office of Chief Counsel (CCD) and must be filed no later than September 19, 2003.

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 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 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 2, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18480 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 11, 2003, and published in the **Federal Register** on April 2, 2003, (68 FR 16091), Organichem Corporation, 33 Riverside Avenue, Rensselar, New York 12144, made application by renewal to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Pentobarbital (2270)	II
Methylphenidate (1724)	II
Meperidine (9230)	II

The firm plans to manufacture bulk products for use internally and for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code,

section 823(a) and determined that the registration of Organichem Corporation to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Organichem Corporation to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed is granted.

Dated: July 3, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18475 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 21, 2003, and published in the **Federal Register** on April 9, 2003, (68 FR 17408), Siegfried (USA) Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Ambobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II

The firm plans to manufacture the listed controlled substances for distribution as bulk products to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Siegfried (USA) Inc. to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated Siegfried (USA) Inc. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 2, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18476 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 21, 2003, and published in the **Federal Register** on April 9, 2003, (68 FR 17405), Syva Company, Dade Behring Inc., Regulatory Affairs Department El–310, 20400 Mariana Avenue, Cupertino, California, 95014, made application by letter to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Ecgonine (9180)	II
Morphine (9300)	II

The firm plans to produce bulk products used for the manufacture of reagents and drug calibrator/controls, DEA exempt products.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Syva Company, Dade Behring Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Syva Company, Dade Behring Inc. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 2, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 03–18478 Filed 4–18–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Return of Offenses Known to the Police.

The Department of Justice (DOJ), Federal Bureau of Investigations, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 93, page 25907 on May 14, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 20, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time,

should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503, or facsimile (202) 395–5806.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(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, 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Return A—Monthly Return of Offenses Known to the Police and Supplement to Return A—Monthly Return of Offenses Known to the Police.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 4–927A and 4–919; Criminal Justice Services Division, FBI, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Local and State Law Enforcement Agencies. This collection is needed to collect data regarding criminal offenses and their respective clearances throughout the United States. Data is tabulated and published in the annual Crime in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 16,971 agencies with 407,304 responses (including zero reports) at an average of 21 minutes a month devoted to compilation of data for this information collection.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 142,556 hours annual burden associated with this information collection.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: July 15, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–18358 Filed 7–18–03; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Strengthening Labor Systems In Central America

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA 03–20).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $6.75 million through one or more grants to an organization or organizations to improve labor law compliance in the Central American region (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) by strengthening the capacity of labor ministries to enforce national labor laws and increasing knowledge among employers and workers of their responsibilities and rights under such laws. Proposals must be regional in scope and respond to the entire Statement of Work as contained in section III, but applicants will not be penalized for lacking previous experience with regional projects. For example, organizations with experience in only one country will be judged based on the success they achieved in that country and their proposal for how they plan to work successfully throughout the rest of the targeted region. Partnerships between more than one organization are also eligible and encouraged, in particular with qualified, regionally-based organizations in order to build local capacity, although in such a case a lead organization must be identified.

DATES: The closing date for receipt of applications is Friday, August 22, 2003. Applications must be received by 4:45 p.m. (Eastern Time) at the address below.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW, Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–20, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, e-mail address: *harvey.lisa@dol.gov*, tel: (202) 693–4570 (this is not a toll-free number).

I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Public Law 108–7, 117 Stat. 11 (2003).

II. Application Process

A. Eligible Applicants

Any commercial, international, educational, or not-for-profit organization (including faith-based organizations) with experience effectively implementing projects in the relevant technical field(s) and working with foreign national government ministries, regional and local government entities, employers and employer organizations, workers and labor organizations, and non-governmental and community-based organizations is eligible for this grant(s). All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (see Appendix A). Labor

ministries are the primary government entities that will be involved, but projects may also include ministries for education, social affairs, commerce, finance, and those working with special targeted populations such as youth, women, persons with disabilities or minorities. Partnerships of more than one organization are also eligible and encouraged, in particular with qualified regionally-based organizations to further build local capacity, although in such a case a lead organization must be identified. The capability of an applicant, partners, and co-applicants to perform necessary aspects of this solicitation will be determined under section XI—Review and Selection of Applications for Award.

Please note that to be eligible, grant applicants classified under the Internal Revenue Code as a 501(c)(4) entity (see 26 U.S.C. 501(c)(4)), may not engage in lobbying activities. According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, Applicants may elect to submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (see Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants.* Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (section III) and the selection criteria (section XI). The application should include the name, address, telephone and fax numbers, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 45 single-sided (8½″ x 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. Major sections and subsections of the application should be divided and clearly identified (*e.g.*, with tab dividers), and all pages shall be numbered. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments, resumes, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified, or it will not be considered. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, *etc.,* will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 pm Eastern Time on Friday, August 22, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before the closing date; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5 pm at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to the closing date; or
- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/ Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

D. Funding Levels

Up to U.S. $6.75 million is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one organization or several, or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (see section IV).

E. Program Duration

The duration of the project funded by this SGA is up to four (4) years. The start date of program activities will be

negotiated upon award of the grant, which will take place no later than September 30, 2003.

III. Statement Of Work

USDOL is seeking qualified organizations that will implement, in partnership with USDOL, a regional project in Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua) to improve compliance with national labor laws by strengthening enforcement systems and increasing knowledge of labor laws among employers and workers. Specific project objectives are identified in section III.C. Applicants should submit proposals that are regional in scope and demonstrate the organization's capabilities to implement a project in accordance with the Statement of Work and the selection criteria. Applicants, however, will not be penalized for lacking previous experience working on regional projects. For example, organizations with experience in only one country will be judged based on the success they achieve in that country and their proposal for working successfully throughout the rest of the targeted region. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable and sustainable impact.

Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives. The award of any sub-contract will be subject to USDOL policies and approval (see section IV).

Note: Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

A. Background and Problem Statement

The United States and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) are engaged in negotiations toward a comprehensive free trade agreement. In the area of labor, one of the objectives of the United States is to improve labor law compliance in the region by seeking an appropriate commitment from the Central American countries to effectively enforce their laws and to educate employers and workers about their obligations and rights under such laws.

The Central American countries have requested further technical assistance from the U.S. to strengthen the capacity of their labor ministries to enforce labor laws. Among the specific areas identified by the countries for technical assistance are the promotion and dissemination of information on national labor laws and their application throughout the population, particularly among workers and employers; strengthening of labor inspection systems; and developing and strengthening alternative dispute resolution systems.

Among the areas of concern cited in these and other sources and areas in which USDOL hopes to provide assistance, are:

- The need to strengthen effective enforcement of labor laws.
- The need to strengthen promotion of the freedom of association and collective bargaining principles.
- The need to increase knowledge among employers and workers regarding national labor laws.
- The need for the Ministries of Labor to receive sufficient resources from their national budgets to foster improved labor relations.

Assessments of the current status of labor rights and their implementation in southern Africa are available in a variety of sources, among them the annual U.S. Department of State Report on Human Rights Practices; the recommendations of the Committee of Experts of the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations; the recommendations of the ILO's Committee on Freedom of Association; and reports of the International Confederation of Free Trade Unions (ICFTU). USDOL/ILAB will post additional background information on its Web site at *http://www.dol.gov/ilab/.*

B. Target Population

Applicants shall target labor ministries, employer organizations and/or individual employers, worker organizations and/or individual adult workers and youth of legal working age.

C. Objectives

The Grantee(s) will implement, in partnership with USDOL, a project whose overarching objective is to improve labor law compliance in Central America through strengthened enforcement systems and increased knowledge of labor laws and their application among employers and workers.

In order to ensure achievement of the project objective, the Grantee(s) will first, in conjunction with USDOL, evaluate countries' political will to address the key areas of concern outlined in the background section. Applicants should provide a plan for how they might approach the evaluation of these areas of concern issues and how this evaluation will shape project activities. In the Central American countries where the Grantee(s), in conjunction with USDOL, have decided according to the evaluation strategy that a country has demonstrated sufficient political will and progress to effectively address those concerns and sustain the impact of technical assistance beyond the life of the project, the Grantee(s) will provide assistance to achieve the following specific project objectives (*i.e.*, ''immediate objectives''):

Immediate Objective 1: Increased knowledge among workers and employers of national labor laws and of the available means to access labor ministry services to enforce the rights established by those laws, in particular:

- The right to freedom of association;
- The right to organize and bargain collectively;
- The prohibition of the use of any form of forced or compulsory labor;
- Labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and
- Legally-mandated conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Achievement of this objective may be measured, in part, through an increased number of requests for Labor Ministry assistance as a direct result of the awareness campaign.

Immediate Objective 2: Strengthen labor ministry inspection systems to effectively enforce national labor laws. This may be measured, in part, through (a) The introduction of a civil service and administrative career path and the institutional procedures and mechanisms necessary for its successful sustainability, (b) increased number of labor inspections, (c) improved quality and timeliness of inspectors' reporting, (d) increased corrective actions taken as a result of inspections, and (e) increased performance, motivation, and job satisfaction of labor inspectors.

Immediate Objective 3: Create new or strengthen existing dispute resolution mechanisms within labor ministries (*e.g.*, mediation, arbitration, alternative dispute resolution). This may be

measured in part through: (a) Increased rate of settlement of disputes by the institutions and/or systems receiving project assistance, (b) increased willingness of tripartite partners to support and participate in programs that foster alternative dispute resolution, (c) reduction in the time required to reach a final settlement through the institutions and/or systems receiving project assistance, and (d) increased rate of compliance with settlements reached through the institutions and/or systems receiving project assistance.

Relationship to USDOL Program Strategy: By helping to improve labor law compliance in Central America, the proposed project supports achievement of USDOL's GPRA goal (3.3b), ''to improve living standards and conditions of work for workers in developing and transition countries.''

D. Type of Work To Be Performed/ Activities

Applicants are responsible for developing a strategy for successfully achieving the above-stated objectives and addressing the problem(s) identified in the Background and Problem Statement, developing and implementing the major tasks and activities to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary services. The Grantee(s) will be responsible for coordinating with other programs in the region, particularly USDOL-funded efforts that are working toward similar objectives, and adapt its Workplan to avoid duplication of activities.

E. Expected Outcomes/Project Outputs

By the end of the grant period, the project will have increased labor law compliance in the five project countries through: (a) An increased knowledge of national laws, legal processes and their application among employers and workers and an increased number of requests to the labor ministry for assistance based on that knowledge, (b) the strengthened capacity of labor ministries to effectively enforce labor laws, and (c) more effective systems to resolve industrial disputes.

Applicants are expected to describe in their technical proposal: (a) The strategy that they will adopt to achieve these outcomes within the stated timeframe and available USDOL funds; and (b) the indicators and system of data collection they will use to measure the achievement of these outcomes (*i.e.*, increased labor law compliance, greater knowledge of national labor laws and their application, and more effective industrial dispute resolution systems), as well as all key outputs of the project.

In developing the strategy, applicants should take into consideration the following issues:

- The level of technical assistance that Central American Ministries of Labor have received in the past five (5) years and continue to receive from bilateral donors and international organizations;
- The need to ensure that the project strategy is consistent with any national strategy to increase labor law compliance.
- The need to sustain project improvements, including retaining the new knowledge and practices of project-trained ministry staff.

The need to engage key tripartite stakeholders of the project—ministries of labor, employer associations, and trade unions—in the design and implementation of the project strategy.

F. Conditions Precedent

Prior to providing any technical assistance to any project country, the level of political commitment of each government to increase labor law compliance must be demonstrated in a clear and measurable way. Past experience has demonstrated that without the political will of the benefiting institutions to provide the necessary resources and support to effect change, no international project or form of assistance will achieve its stated objectives. Accordingly, applicants are requested to provide in their technical proposal a methodology for assessing the political will of the governments of the Central American governments to increase labor law compliance. The methodology should focus on the areas of concern listed in the Background and Problem Statement section (*i.e.*, the need to strengthen effective enforcement of labor laws, the need to strengthen promotion of the freedom of association and collective bargaining principles, the need to increase knowledge among employers and workers regarding national labor laws, the need for the Ministries of Labor to receive sufficient resources from their national budgets to foster improved labor relations). Such information will be utilized by USDOL, in consultation with the Grantee(s), for deciding how to allocate project assistance within the region.

G. Deliverables

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

- Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.
- Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).
- Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal: ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).
- Create a Performance Monitoring Plan (PMP) to establish the data needed to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

H. Special Program Requirements

1. USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

- Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.
- Provide advice and consultation to Grantee(s) on specific program criteria.
- If, based upon the responses to this solicitation and subsequent to the

award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.

• Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.

• Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

• Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and distribute wages and material effectively.

• If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.

• Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial costs for having a representative of the Grantee(s) participate on an evaluation team (*e.g.,* travel, per diem).

• Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the implementing partner travels with a USDOL staff member, the implementing organization will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.

• Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.

• Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication.

IV. Key Personnel and Sub-Contractors

USDOL considers the ''Project Director'' or equivalent to be ''key personnel'' in this project. In addition to the Project Director, other key personnel would be any Country Representatives (staff representing the Grantee in a specific country), and consultants hired to work full-time for at least three months. All key personnel should be fluent in English and Spanish (written and spoken).

USDOL expects all key personnel to work full-time on the project. All key personnel must be fluent in both written and spoken Spanish and English. The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit résumés, curricula vitae, and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, résumés, curricula vitae, and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

Note: Except as specifically provided, USDOL/ILAB acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.,* to avoid competition.

V. Reporting Requirements

All reports (see Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

A. Financial Reports

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, Financial Status Report, to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they shall also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, Federal Cash Transactions Report, on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30, July 30, October 30, and January 30).

B. Technical Reporting Requirements

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization's ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January–March and July–September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Status Reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January–June and July–December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Technical Progress Reports are due within 30 days of the end of the reporting period (*i.e.*, by July 30 and January 30).

C. Instructions for Submitting Reports

All reports shall cite the assigned grant number. The Grantee(s) shall submit one hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Paula Church, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

Gene Contee, Accountant, Financial Management Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5526, Washington, DC 20210.

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Paula Church, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling.
- Destination(s).
- Dates of travel.
- Purpose of travel—what they will be doing and why.

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.*, By May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.*, for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

VII. Acknowledgment of USDOL Funding

A. Acknowledgement on Printed Materials

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal funds for the project or program; and

• The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of the USDOL Logo

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

• The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.

• All documents should include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

VIII. Administrative Requirements

A. General

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.*, Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

• 29 CFR part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

• 29 CFR part 93—New Restrictions on Lobbying.

• 29 CFR part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

• 29 CFR part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

• 29 CFR part 98—Federal Standards for Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

• 29 CRF part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

B. Sub-contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928, and 13021 as amended, the Grantee(s) is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

IX. Grant Closeout Procedures

A. Definitions

1. Grant Closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of Completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed Costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Close-out Procedures

Grants shall be closed out in accordance with the following procedures:

• Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.

• The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.

• Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.

• The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.

• In the case of grants that include matching/in-kind contributions, the Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.

• The Grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 29 CFR part 95.

• In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

XI. Review and Selection of Applications for Awards

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

A. The Review Process

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations are referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.*, progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.*, project car), and personnel (*e.g.*, administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

B. Technical Approach—45 points

- The extent to which the application sets forth a clear and supportable course of action to improve labor law compliance in Central America, in particular those laws that address the issues raised in section III of the Statement of Work through: (a) Strengthened capacity of labor ministries to effectively enforce national labor laws, (b) increased knowledge of national labor laws and their application among employers and workers, and (c) strengthened dispute resolution mechanisms within the labor ministries. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)
- Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)
- A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)
- A description of the applicant's approach to expending funds in the most cost-effective method possible in order to achieve the project objectives. The applicant should refer to its submitted budget in explaining how the budgeted funds will be utilized cost-effectively. In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit, at minimum, supporting budget information indicating how the Applicant arrived at estimating the costs of the following items/activities: salaries and benefits for all key personnel, 2–3 key activities proposed by the Applicant under its project design, and closing the project and meeting all USDOL close-out requirements, as stated in this SGA. The Applicant will be evaluated based on the clear identification of all project costs and efficient and effective allocation of funding. The project budget should clearly demonstrate that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the Applicant in its proposal, management of the project, monitoring and evaluation, and project close-out and that the distribution of funds maximizes the provision of goods and/or services to project beneficiaries. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation. (10 points)
- Use of existing expertise from the recipient country in order to reduce costs and further develop local capacity. (5 points)
- Inclusion of a sustainability strategy that ensures that project improvements will continue after the project ends. (5 points)
- Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable,

and demonstrate progress in achieving project objectives. (5 points)

C. Institutional Qualifications/Past Performance—25 points

• Prior experience in designing and implementing activities in developing countries, especially in Central America, related to strategic planning, outreach and education, capacity building, labor law enforcement, and labor dispute resolution. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) The organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)

• Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.*, government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (10 points)

• Demonstration of strong financial management and internal control systems. (5 points)

D. Experience of Personnel—30 points

• Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.*, manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)

• Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

E. Leveraging of Grant Funding—5 points

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, etc.

F. Suggested Outline for Technical Proposal

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary.

2. Program Description: Goal and Objectives, Background, Technical Approach and Implementation Timetable (Proposed Intervention), Experience of Personnel, Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance, Staffing Pattern and Project Management Organizational Chart, Leveraging of non-Federal Resources.

3. Attachments: Summaries of other relevant organizational experiences, Résumés of key personnel and signed letters of commitment to the project.

Successful proposals submitted in response to this SGA will be incorporated into the text of the grant with the selected applicant(s).

Signed at Washington, DC, this 14th day of July 2003.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–28–P

APPENDIX A

Standard Government Forms

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*:

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

Survey on Ensuring Equal Opportunity for Applicants

Federal Agency Use Only

OMB No. 1225-0083 Exp. 02/28/2006

NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.

Purpose: This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

APPENDIX B

Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

STATUS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. WOKRPLAN STATUS

(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)

[Summarize any Workplan variance and recommended actions]

II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	**Proposed Solutions**	**Actions Taken/Required**

III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

TECHNICAL PROGRESS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

II. MAJOR TRENDS

III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

IV. NEW PROPOSALS (activities, staffing, funding, etc.)

V. LESSONS LEARNED

VI. EXPENDITURES VS. BUDGET

Budget Line Item	Total Budget Amt.	For the Reporting Period			Cumulative (over the life of the project)	
		Planned Expenditures	Actual Expenditures	Balance	Total Expenditures	Balance
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$

[FR Doc. 03–18257 Filed 7–18–03; 8:45 am]
BILLING CODE 4510–28–C

DEPARTMENT OF LABOR

Office of the Secretary

Strengthening the Capacity of the Moroccan Labor Ministry

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA 03–18).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $1.45 million through one or more grants to an organization or organizations to assist the Government of Morocco improve compliance with its labor laws, in particular the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and provide an effective system of transitioning workers to in-demand occupations. Partnerships between more than one organization are eligible and encouraged, in particular with qualified, regionally-based organizations in order to build local capacity, although in such a case a lead organization must be identified.

DATES: The closing date for receipt of applications is Friday, August 22, 2003. Applications must be received by 4:45 p.m. (Eastern Time) at the address below.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–18, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, e-mail address: *harvey.lisa@dol.gov,* tel: (202) 693–4570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The expansion of global trade and investment and the improvement of working conditions and protection of basic worker rights are best understood as mutually reinforcing, and not mutually exclusive objectives. In today's environment of widespread market reforms and economic integration, efficient and fair labor markets are a prerequisite for economic growth, increasing living standards, and promoting employment in the U.S. As political developments, market reforms, and the transition to a global economy bring significant changes to national economies, individual labor market systems need to change accordingly to remain viable and to support their populations. In addition, the inability to manage the development of a relatively open market economy during periods of political and social transition impedes the development of political democracy, social cohesion, and equity.

USDOL/ILAB carries out a worldwide International Cooperation Program that helps address some of these difficulties by working to ensure that the greatest possible number of workers benefit from a more open world economy. The three major initiatives of the International Cooperation Program are:

Improving Economic Opportunity and Income Security for Workers (EOIS)—Under the EOIS initiative, USDOL works to strengthen developing countries' abilities to build and institutionalize social safety net policies and programs needed to improve working conditions and foster economic growth. Projects under this initiative aim to increase employment among targeted groups, improve workplace safety and health, and increase access to social insurance.

Protecting the Basic Rights of Workers (PBRW)—Under the PBRW initiative, USDOL works to implement the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, specifically working towards strengthening the right to freedom of association and collective bargaining, eliminating forced or compulsory labor, and eliminating employment discrimination.

International HIV/AIDS Workplace-based Education Program (IHWEP)—Under the IHWEP initiative, USDOL works to reduce the rate of HIV/AIDS infection through workplace-based prevention and education programs and to improve the workplace environment for workers living with HIV/AIDS. The IHWEP program also works to build the capacity of the tripartite partners to address the long-term impact of HIV/AIDS on labor markets and economic development.

USDOL/ILAB manages its projects in partnership with stakeholders representing the government, employers, workers, and other organizations.

I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Public Law 108–7, 117 Stat. 11 (2003).

II. Application Process

A. Eligible Applicants

Any commercial, international, educational, or not-for-profit organization (including faith-based organizations) with experience effectively implementing projects in the relevant technical field(s) and working with foreign national government ministries, regional and local government entities, employers and employer organizations, workers and labor organizations, and non-governmental and community-based organizations is eligible for this grant(s). All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (see Appendix A). Labor ministries are the primary government entities that will be involved, but projects may also include ministries for education, social affairs, commerce, finance, and those working with special targeted populations such as youth, women, persons with disabilities or minorities. Partnerships of more than one organization are also eligible and encouraged, in particular with qualified regionally-based organizations to further build local capacity, although in such a case a lead organization must be identified. The capability of an applicant, partners, and co-applicants to perform necessary aspects of this solicitation will be determined under Section XI—Review and Selection of Applications for Award.

Please note that to be eligible, grant applicants classified under the Internal Revenue Code as a 501(c)(4) entity (see 26 U.S.C. 501(c)(4)), may not engage in

lobbying activities. According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, Applicants may elect to submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (see Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants.* Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (section III) and the selection criteria (section XI). The application should include the name, address, telephone and fax numbers, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 30 single-sided (8½″ x 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.*, with tab dividers), and all pages shall be numbered. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments, résumés, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified, or it will not be considered. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 pm Eastern Time on Friday, August 22, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before the closing date; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5 pm at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to closing date; or
- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

D. Funding Levels

Up to U.S. $1.45 million is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one organization or several, or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (see section IV).

E. Program Duration

The duration of the project funded by this SGA is up to four (4) years. The start date of program activities will be negotiated upon award of the grant, which will take place no later than September 30, 2003.

III. Statement of Work

USDOL is seeking qualified organizations that will implement, in partnership with USDOL, a project to improve labor law compliance in Morocco and the efficient transitioning of workers to in-demand occupations. Specific project objectives are identified in section III.C. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable and sustainable impact.

Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives. The award of any sub-

contract will be subject to USDOL policies and approval (see section IV).

Note: Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

A. Background and Problem Statement

Morocco's workforce has undergone and continues to experience many changes in response to its changing relationship with the global economy. In 1994, Morocco joined the World Trade Organization (WTO) and in 2000, Morocco began phasing in an association agreement with the European Union (EU), which will eliminate tariffs on industrial products being traded between Morocco and the EU by 2012. With the adoption of an ambitious privatization program in 1993 and the prospect of a free trade agreement with the U.S. in the near future, Morocco is committed to making its economy more competitive internationally.

Although Morocco creates an estimated 200,000 new jobs annually, this is still not enough to absorb the 300,000 new workers that enter the market each year (The Economist Intelligence Unit Country Profile 2003). The relatively high 2.1 percent growth rate in the population insures that the educational, training and employment infrastructure will be challenged to prepare and place new labor market entrants into in-demand jobs. An International Labor Organization (ILO) study in 2000 of the textile industry indicates that one of the industry's major problems is the workers' generally low skill level. About 52 percent of Moroccans over age 15 are illiterate, and this has a direct negative impact on the ability of Moroccan enterprises to adapt to newer and more competitive methods of production.

Major portions of the Moroccan labor code were drafted in the 1930s and need modernization. The Government recently drafted a new labor code designed to promote greater labor market flexibility and facilitate the transition of workers to in-demand occupations, and better protect workers' rights of association and collective bargaining, but government attempts to pass a new labor code have been unsuccessful thus far. The lack of a new labor code has also frustrated efforts to conceive a public unemployment compensation system and ensure health and accidental insurance benefits to workers. There are some indications that a new code will be enacted shortly.

In assessing the constraints to high levels of labor law compliance in Morocco, USDOL has found that they consist of primarily:

- Weak system of enforcing national labor laws, symptomatic of the absence of a national strategy for improving labor law compliance, a lack of clear policies and procedures for conducting labor inspections, underutilization of data from inspections to better target enforcement and outreach resources, and inadequate training of inspectors;
- Lack of awareness of national labor laws among employers, trade union leaders, and workers; and
- Inadequate systems and knowledge to prevent and resolve industrial disputes efficiently.

Morocco's challenges in effectively assisting in the transition of workers to in-demand jobs are based upon the following principal constraints:

- Lack of reliable information on current employer demands for workers;
- Limited options available for existing workers to be retrained for in-demand occupations;
- Inadequate quality of education and training to effectively prepare individuals for in-demand occupations; and
- Scarcity of incentives for employers to invest in training workers or for workers to seek additional education and training.

Assessments of the current status of labor rights and their implementation in Morocco are available in a variety of sources, among them the annual U.S. Department of State Report on Human Rights Practices; the recommendations of the Committee of Experts of the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations; the recommendations of the ILO's Committee on Freedom of Association; and reports of the International Confederation of Free Trade Unions (ICFTU). USDOL/ILAB will post additional background information on its Web site at *http://www.dol.gov/ilab/.*

B. Target Population

Applicants shall target labor ministries, employer organizations and/or individual employers, worker organizations and/or individual workers, tripartite (government, employer, and worker) institutions, and/or educational and training institutions in Morocco as the intended (direct and indirect) beneficiaries of project activities.

C. Objectives

The Grantee(s) will implement, in partnership with USDOL, a project designed to: (a) Improve labor law compliance in Morocco, with particular emphasis on the fundamental principles embodied in the ILO's Declaration on Fundamental Principles and Rights at Work; and (b) efficiently transition workers to in-demand occupations. Given the limited resources available through this solicitation, it is expected that the second objective will be achieved through the demonstration of an approach and/or system to facilitate such transitions.

Contributing to the achievement of these goals are three project objectives (''immediate objectives''):

Immediate Objective 1

Increased knowledge among workers and employers of national labor laws and of the available means to access labor ministry services to enforce the rights established by those laws, in particular:

- The right to freedom of association;
- The right to organize and bargain collectively;
- Prohibition on the use of any form of forced or compulsory labor;
- Labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and
- Legally mandated conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Immediate Objective 2

Strengthen the labor inspection system by training the labor inspectors in the areas of acceptable conditions of work, specifically wage and hour and occupational safety and health.

Immediate Objective 3

Create new or strengthen existing dispute resolution mechanisms within the labor ministries (*e.g.*, mediation, arbitration, alternative dispute resolution).

Immediate Objective 4

Pilot test for possible replication on a national basis an effective model for efficiently transitioning workers impacted by economic restructuring and other adjustments to in-demand occupations.

Relationship to USDOL Program Strategy: By helping to improve labor law compliance and the efficient preparation and placement of workers for in-demand jobs in Morocco, the proposed project supports achievement of USDOL's GPRA goal (3.3b) to, ''Improve living standards and conditions of work for workers in developing and transition countries.''

D. Type of Work To Be Performed/ Activities

The selected Grantee(s) will be responsible for developing a strategy for successfully achieving the stated objectives of the project and addressing the problems identified in the Background and Problem Statement, developing and implementing the major tasks to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary related services.

When developing the strategy and activities, the Applicant should take into consideration the following issues:

- A draft Labor Code has been under discussion by the social partners for over 20 years. Passage of this labor code is expected in the near future.
- The existence of an on-going USDOL–ILO project focusing on industrial relations and social dialogue in Morocco. Coordination between the new project and current project is necessary to avoid duplication of work.
- The recent completion of an USDOL-financed comprehensive needs assessment of the labor administration system that was conducted by the ILO. The assessment is attached as an appendix.
- The importance of Morocco as a strong political and economic ally of the U.S.

E. Expected Outcomes/Project Outputs

By the end of the grant period, the project will have: (a) Improved compliance by employers and workers with national labor laws, in particular those laws which relate to the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work; and (b) pilot-tested an effective approach to efficiently transition workers to in-demand occupations. Applicants are expected to describe in their technical proposal: (a) The strategy that they will adopt to achieve these outcomes within the stated timeframe and available USDOL funds; and (b) the indicators and system of data collection they will use to measure the achievement of these outcomes.

F. Deliverables

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

- Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.
- Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).
- Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal: ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).
- Create a Performance Monitoring Plan (PMP) to establish the data needed to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

G. Special Program Requirements

1. USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

- Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.
- Provide advice and consultation to Grantee(s) on specific program criteria.
- If, based upon the responses to this solicitation and subsequent to the award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.
- Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.
- Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

- Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and distribute wages and material effectively.
- If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.
- Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial costs for having a representative of the

Grantee(s) participate on an evaluation team (*e.g.,* travel, per diem).

• Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the implementing partner travels with a USDOL staff member, the implementing organization will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.

• Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.

• Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication.

IV. Key Personnel And Sub-Contractors

USDOL considers the ''Project Director'' or equivalent to be ''key personnel'' in this project. Project Directors should be fluent in English and either French or Arabic (written and spoken). USDOL expects all key personnel to work full-time on the project.

The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit résumés, curricula vitae, and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, résumés, curricula vitae, and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

Note: Except as specifically provided, USDOL/ILAB acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.,* to avoid competition.

V. Reporting Requirements

All reports (see Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

A. Financial Reports

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, Financial Status Report, to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they shall also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, Federal Cash Transactions Report, on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.,* by April 30, July 30, October 30, and January 30).

B. Technical Reporting Requirements

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization=s ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January–March and July–September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Status Reports are due within 30 days of the end of the reporting period (*i.e.,* by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January–June and July–December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Technical Progress Reports are due within 30 days of the end of the reporting period (*i.e.,* by July 30 and January 30).

C. Instructions for Submitting Reports

All reports shall cite the assigned grant number. The Grantee(s) shall submit one hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Jona Lai, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

Gene Contee, Accountant, Financial Management Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5526, Washington, DC 20210.

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Jona Lai, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling.
- Destination(s).
- Dates of travel.
- Purpose of travel—what they will be doing and why.

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.,* by May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: Although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.,* for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

VII. Acknowledgment of USDOL Funding

A. Acknowledgement on Printed Materials

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal funds for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of the USDOL Logo

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

- The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.
- All documents should include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

VIII. Administrative Requirements

A. General

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.,* Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR part 93—New Restrictions on Lobbying.
- 29 CFR part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.
- 29 CFR part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.
- 29 CFR part 98—Federal Standards for Government wide Debarment and

Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

• 29 CRF part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

B. Sub-Contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928, and 13021 as amended, the Grantee(s) is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

IX. Grant Closeout Procedures

A. Definitions

1. Grant Closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of Completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed Costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Close-Out Procedures

Grants shall be closed out in accordance with the following procedures:

• Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.

• The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.

• Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.

• The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.

• In the case of grants that include matching/in-kind contributions, the Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.

• The Grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 29 CFR part 95.

• In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

XI. Review and Selection of Applications for Award

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

A. The Review Process

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall

submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations are referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.*, progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.*, project car), and personnel (*e.g.*, administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries.

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

B. Technical Approach—45 points

• The extent to which the application sets forth a clear and supportable course of action to: (a) Improve labor law compliance in Morocco, in particular those laws which relate to the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work; and (b) demonstrate a proven approach to efficiently transition workers to in-demand occupations. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)

• Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)

• A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)

• A description of the applicant's approach to expending funds in the most cost-effective method possible in order to achieve the project objectives. The applicant should refer to its submitted budget in explaining how the budgeted funds will be utilized cost-effectively. In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit, at minimum, supporting budget information indicating how the Applicant arrived at estimating the costs of the following items/activities: Salaries and benefits for all key personnel, 2–3 key activities proposed by the Applicant under its project design, and closing the project and meeting all USDOL close-out requirements, as stated in this SGA. The Applicant will be evaluated based on the clear identification of all project costs and efficient and effective allocation of funding. The project budget should clearly demonstrate that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the Applicant in its proposal, management of the project, monitoring and evaluation, and project close-out and that the distribution of funds maximizes the provision of goods and/or services to project beneficiaries. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation. (10 points)

• Use of existing expertise from the recipient country in order to reduce costs and further develop local capacity. (5 points)

• Inclusion of a sustainability strategy that ensures that project improvements will continue after the project ends. (5 points)

• Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable, and demonstrate progress in achieving project objectives. (5 points)

C. Institutional Qualifications/Past Performance—25 points

• Prior experience in designing and implementing activities in developing countries, especially in Morocco, related to strategic planning, outreach and education, capacity building, labor law enforcement, and responsive workforce development policies, institutions, and systems. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) The organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)

• Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.*, government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (10 points)

• Demonstration of strong financial management and internal control systems. (5 points)

D. Experience of Personnel—30 points

• Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.*, manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)

• Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

E. Leveraging of Grant Funding—5 points

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, etc.

F. Suggested Outline for Technical Proposal

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary.
2. Program Description.
   - Goal and Objectives
   - Background.
   - Technical Approach and Implementation Timetable (Proposed Intervention).
   - Experience of Personnel.
   - Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance.
   - Staffing Pattern and Project Management Organizational Chart.
   - Leveraging of non-Federal Resources.
3. Attachments
   - Summaries of other relevant organizational experiences.
   - Résumés of key personnel and signed letters of commitment to the project.

Successful proposals submitted in response to this SGA will be incorporated into the text of the grant with the selected applicant(s).

Dated: Signed at Washington, DC, this 14th day of July, 2003.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–28–P

APPENDIX A

Standard Government Forms

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

Federal Agency Use Only

OMB No. 1225-0083 Exp. 02/28/2006

NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.

Purpose: This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

APPENDIX B

Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

STATUS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. WOKRPLAN STATUS

(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)

[Summarize any Workplan variance and recommended actions]

II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

TECHNICAL PROGRESS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION**:	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

II. MAJOR TRENDS

III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

IV. NEW PROPOSALS (activities, staffing, funding, etc.)

V. LESSONS LEARNED

VI. EXPENDITURES VS. BUDGET

Budget Line Item	Total Budget Amt.	For the Reporting Period			Cumulative (over the life of the project)	
		Planned Expenditures	Actual Expenditures	Balance	Total Expenditures	Balance
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$

[FR Doc. 03–18256 Filed 7–18–03; 8:45 am]
BILLING CODE 4510–28–C

DEPARTMENT OF LABOR

Office of the Secretary

Strengthening Labor Systems in Southern Africa

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA 03–21).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $4.2 million through one or more grants to an organization or organizations to improve labor law compliance in Botswana, Lesotho, Namibia, and Swaziland in order to facilitate their integration into the global economy. Proposals must be regional in scope and respond to the entire Statement of Work as contained in Section III, but applicants will not be penalized for lacking previous experience with regional projects. For example, organizations with experience in only one country will be judged based on the success they achieved in that country and their proposal for how they plan to work successfully throughout the rest of the targeted region. Partnerships between more than one organization are also eligible and encouraged, in particular with qualified, regionally-based organizations in order to build local capacity, although in such a case a lead organization must be identified.

DATES: The closing date for receipt of applications is Friday, August 22, 2003. Applications must be received by 4:45 p.m. (Eastern Time) at the address below.

ADDRESSES: Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html*. Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–21, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, e-mail address: *harvey.lisa@dol.gov*, tel: (202) 693–4570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The expansion of global trade and investment and the improvement of working conditions and protection of basic worker rights are best understood as mutually reinforcing, and not mutually exclusive objectives. In today's environment of widespread market reforms and economic integration, efficient and fair labor markets are a prerequisite for economic growth, increasing living standards, and promoting employment in the U.S. As political developments, market reforms, and the transition to a global economy bring significant changes to national economies, individual labor market systems need to change accordingly to remain viable and to support their populations. In addition, the inability to manage the development of a relatively open market economy during periods of political and social transition impedes the development of political democracy, social cohesion, and equity.

USDOL/ILAB carries out a worldwide International Cooperation Program that helps address some of these difficulties by working to ensure that the greatest possible number of workers benefit from a more open world economy. The three major initiatives of the International Cooperation Program are:

Improving Economic Opportunity and Income Security for Workers (EOIS)—Under the EOIS initiative, USDOL works to strengthen developing countries'' abilities to build and institutionalize social safety net policies and programs needed to improve working conditions and foster economic growth. Projects under this initiative aim to increase employment among targeted groups, improve workplace safety and health, and increase access to social insurance.

Protecting the Basic Rights of Workers (PBRW)—Under the PBRW initiative, USDOL works to implement the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, specifically working towards strengthening the right to freedom of association and collective bargaining, eliminating forced or compulsory labor, and eliminating employment discrimination.

International HIV/AIDS Workplace-based Education Program (IHWEP)—Under the IHWEP initiative, USDOL works to reduce the rate of HIV/AIDS infection through workplace-based prevention and education programs and to improve the workplace environment for workers living with HIV/AIDS. The IHWEP program also works to build the capacity of the tripartite partners to address the long-term impact of HIV/AIDS on labor markets and economic development.

USDOL/ILAB manages its projects in partnership with stakeholders representing the government, employers, workers, and other organizations.

I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Public Law 108–7, 117 Stat. 11 (2003).

II. Application Process

A. Eligible Applicants

Any commercial, international, educational, or not-for-profit organization (including faith-based organizations) with experience effectively implementing projects in the relevant technical field(s) and working with foreign national government ministries, regional and local government entities, employers and employer organizations, workers and labor organizations, and non-governmental and community-based organizations is eligible for this grant(s). All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (see Appendix A). Labor ministries are the primary government entities that will be involved, but projects may also include ministries for education, social affairs, commerce, finance, and those working with special targeted populations such as youth, women, persons with disabilities or minorities. Partnerships of more than one organization are also eligible and encouraged, in particular with qualified regionally-based organizations to further build local capacity, although in such a case a lead organization must be identified. The capability of an applicant, partners, and co-applicants to

perform necessary aspects of this solicitation will be determined under Section XI—Review and Selection of Applications for Award.

Please note that to be eligible, grant applicants classified under the Internal Revenue Code as a 501(c)(4) entity (see 26 U.S.C. 501(c)(4)), may not engage in lobbying activities. According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

B. Submission of Applications

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, Applicants may elect to submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (see Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants*. Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (Section III) and the selection criteria (Section XI). The application should include the name, address, telephone and fax numbers, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise.

To be considered responsive to this solicitation, the application must consist of the above-mentioned separate sections not to exceed 45 single-sided (8½″ x 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. Major sections and sub-sections of the application should be divided and clearly identified (*e.g.*, with tab dividers), and all pages shall be numbered. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in Section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments, résumés, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points.

Upon completion of negotiations, the individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

C. Acceptable Methods of Submission

The grant application package must be received at the designated place by the date and time specified, or it will not be considered. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 p.m. Eastern Time on Friday, August 22, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before the closing date; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5:00 p.m. at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to the closing date; or
- It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

D. Funding Levels

Up to U.S. $4.2 million is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one organization or several, or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (*see* Section IV).

E. Program Duration

The duration of the project funded by this SGA is up to four (4) years. The start date of program activities will be negotiated upon award of the grant, which will take place no later than September 30, 2003.

III. Statement of Work

USDOL is seeking qualified organizations that will implement, in partnership with USDOL, a regional project to increase labor law compliance in Botswana, Lesotho, Namibia, and Swaziland by strengthening the capacity of labor ministries to enforce national labor laws and increasing the knowledge and capacity of employers and workers to apply those laws.

Specific project objectives are identified in Section III.C.

Applicants should submit proposals that are regional in scope and demonstrate the organization's capabilities to implement a project in accordance with the Statement of Work and the selection criteria. Applicants, however, will not be penalized for lacking previous experience working on regional projects. For example, organizations with experience in only one country will be judged based on the success they achieve in that country and their proposal for working successfully throughout the rest of the targeted region. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable and sustainable impact.

Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives. The award of any sub-contract will be subject to USDOL policies and approval (see Section IV).

Note: Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

A. Background and Problem Statement

The governments of Botswana, Lesotho, Namibia, and Swaziland are in the process of strengthening national labor law administration and compliance, particularly those laws related to the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work. These basic labor protections are essential to promoting open economies, higher living standards, and a favorable climate for trade and investment. Each of these countries, however, faces several obstacles that could undermine these objectives. These obstacles include:

- The absence of comprehensive national strategies for improving labor law compliance.
- Inadequate policies, training and procedures for carrying out labor inspections.
- Weak institutional linkages between labor ministries, employers and workers/unions.
- Underutilization of data to strategically target inspections to the most problematic employers and sectors.
- Inefficient administrative systems for resolving labor cases in the courts, which lead to a burdensome backlog of cases.
- Lack of capacity of union officials to effectively represent workers and their interests in legal proceedings.
- Lack of awareness among workers of labor protections.

Assessments of the current status of labor rights and their implementation in southern Africa are available in a variety of sources, among them the annual U.S. Department of State *Report on Human Rights Practices*; the recommendations of the Committee of Experts of the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations; the recommendations of the ILO's Committee on Freedom of Association; and reports of the International Confederation of Free Trade Unions (ICFTU).

B. Target Population

Applicants shall target labor ministries, employer organizations and/or individual employers, worker organizations and/or individual adult workers and youth of legal working age working in non-hazardous activities, and tripartite (government, employer, and worker) institutions in Botswana, Lesotho, Namibia, and Swaziland as the intended (direct and indirect) beneficiaries of project activities. USDOL will work with the Grantee(s) to determine specific target populations depending on an assessment of countries' political will, capacity to absorb resources, and potential to sustain project activities and project impact.

C. Objectives

The Grantee(s) will implement, in partnership with USDOL, a project designed to increase labor law compliance in Botswana, Lesotho, Namibia, and Swaziland by strengthening the capacity of labor ministries to enforce national labor laws and increasing the knowledge and capacity of employers and workers to apply those laws. Contributing to the achievement of these goals are three project objectives (''immediate objectives''):

Immediate Objective 1: Increased knowledge among workers and employers of national labor laws and of the available means to access labor ministry services to enforce the rights established by those laws, in particular:

- The right to freedom of association;
- The right to organize and bargain collectively;
- The prohibition on the use of any form of forced or compulsory labor;
- Labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor;
- Legally mandated conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and
- The legal processes for protecting and enforcing basic worker rights, from complaint intake to resolution.

Immediate Objective 2: Strengthen labor ministry inspection systems to effectively enforce national labor laws.

Immediate Objective 3: Create new or strengthen existing dispute resolution mechanisms within the labor ministries (*e.g.*, mediation, arbitration, alternative dispute resolution)

Relationship to USDOL Program Strategy: By helping to improve labor law compliance in Botswana, Lesotho, Namibia, and Swaziland, the proposed project supports achievement of USDOL's GPRA goal (3.3b), ''to improve living standards and conditions of work for workers in developing and transition countries.''

D. Type of Work To Be Performed/Activities

Applicants are responsible for developing a strategy for successfully achieving the above-stated objectives and addressing the problem(s) identified in the Background and Problem Statement, developing and implementing the major tasks and activities to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary services. USDOL will work with the Grantee(s) to determine the scope of country projects based on an assessment of countries' political will, capacity to absorb resources, and potential to sustain project activities and project impact.

When developing the strategy and activities for each project's objective, the Applicant should take into consideration the need to:

- Work in close collaboration with complementary, on-going projects in the region, such as the ILO *Project to Advance Social Partnership in Promoting Labour Peace in Southern Africa* and the USDOL-funded ILO

project, *Strengthening Labour Administration in Southern Africa.*

• Work closely with ministries of labor, employer associations, and trade unions of the project countries to reach consensus on the project strategy.

• Build upon existing tripartite (*i.e.*, government, employer, and worker) institutions and mechanisms that are critical to dialogue among key sectors of civil society and in developing national positions regarding all aspects of labor policy.

• Develop regional activities to facilitate cooperation among neighboring states regarding labor-related matters, exchange information on best practices, and reinforce on-going efforts to harmonize labor standards within Southern Africa.

E. Expected Outcomes/Project Outputs

By the end of the grant period, the project will have increased labor law compliance in the project countries through: (a) A greater knowledge of national laws, legal processes and their application among employers and workers, (b) the strengthened capacity of labor ministries to effectively enforce labor laws, and (c) the implementation of more effective systems to resolve industrial disputes

Applicants are expected to describe in their technical proposal: (a) The strategy that they will adopt to achieve these outcomes within the stated timeframe and available USDOL funds; and (b) the indicators and system of data collection they will use to measure the achievement of these outcomes (*i.e.*, increased labor law compliance, greater knowledge of national labor laws and their application, and more effective industrial dispute resolution systems), as well as all key outputs of the project.

F. Conditions Precedent

Prior to providing any technical assistance to any project country, the level of political commitment of each government to increase labor law compliance must be demonstrated in a clear and measurable way. Past experience has demonstrated that without the political will of the benefiting institutions to provide the necessary resources and support to effect change, no international project or form of assistance will achieve its stated objectives. Accordingly, applicants are requested to provide in their technical proposal a methodology for assessing the political will of the governments of Botswana, Lesotho, Namibia and Swaziland to increase labor law compliance. Such information will be utilized by USDOL, in consultation with the Grantee(s), for deciding how to allocate project assistance.

G. Deliverables

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

• Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.

• Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).

• Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal: ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).

• Create a Performance Monitoring Plan (PMP) to establish the data needed to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

H. Special Program Requirements

1.USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

• Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.

• Provide advice and consultation to Grantee(s) on specific program criteria.

• If, based upon the responses to this solicitation and subsequent to the award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.

• Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.

• Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

• Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and distribute wages and material effectively.

• If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.

• Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial

costs for having a representative of the Grantee(s) participate on an evaluation team (*e.g.*, travel, *per diem*).

• Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the implementing partner travels with a USDOL staff member, the implementing organization will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.

• Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.

• Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication.

IV. Key Personnel and Sub-Contractors

USDOL considers the following job position(s) to be ''key personnel'' in these projects:

• Project Director (at regional and country levels)

• Country Representatives (staff representing the Grantee in a specific country)

• Consultants hired to work full-time for at least three months.

All key personnel should be fluent in spoken and written English.

USDOL expects all key personnel to work full-time on the project. All key personnel must be fluent in both written and spoken English. The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit résumés, *curricula vitae*, and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, résumés, *curricula vitae,* and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

Note: Except as specifically provided, USDOL/ILAB acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.,* to avoid competition.

V. Reporting Requirements

All reports (see Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

A. Financial Reports

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, *Financial Status Report,* to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they shall also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, *Federal Cash Transactions Report,* on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.,* by April 30, July 30, October 30, and January 30).

B. Technical Reporting Requirements

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization's ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January–March and July–September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan

activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of the report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Status Reports are due within 30 days of the end of the reporting period (*i.e.,* by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January–June and July–December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Technical Progress Reports are due within 30 days of the end of the reporting period (*i.e.,* by July 30 and January 30).

C. Instructions for Submitting Reports

All reports shall cite the assigned grant number. The Grantee(s) shall submit one hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Patrick White, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

Gene Contee, Accountant, Financial Management Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5526, Washington, DC 20210.

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210.

Patrick White, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–5303, Washington, DC 20210.

VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling
- Destination(s)
- Dates of travel
- Purpose of travel—what they will be doing and why

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.,* By May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: Although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.,* for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

VII. Acknowledgment of USDOL Funding

A. Acknowledgement on Printed Materials

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate grant number].''

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all Grantees receiving Federal funds must clearly state:

- The percentage of the total costs of the program or project, which will be financed with Federal money;
- The dollar amount of Federal funds for the project or program; and
- The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. Use of the USDOL Logo

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

- The USDOL logo may be applied to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The Grantee(s) must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the USDOL logo be placed on any item until USDOL has given the Grantee written permission to use the logo on the item.
- All documents should include the following notice: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

VIII. Administrative Requirements

A. General

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.,* Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR Part 93—New Restrictions on Lobbying.
- 29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign

Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

- 29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.
- 29 CFR Part 98—Federal Standards for Government wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).
- 29 CRF Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

B. Sub-Contracts

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. In compliance with Executive Orders 12876 as amended, 13230, 12928, and 13021 as amended, the Grantee(s) is strongly encouraged to provide subcontracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Encumbrance of Grant Funds

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

IX. Grant Closeout Procedures

A. Definitions

1. Grant Closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of Completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed Costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Close-Out Procedures

Grants shall be closed out in accordance with the following procedures:

- Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.
- The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.
- Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.
- The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.
- In the case of grants that include matching/in-kind contributions, the Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.
- The Grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 29 CFR Part 95.
- In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

XI. Review and Selection of Applications for Award

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

A. The Review Process

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will

constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations are referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.,* progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.,* project car), and personnel (*e.g.,* administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries.

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

B. Technical Approach—45 points

- The extent to which the application sets forth a clear and supportable course of action to improve labor law compliance in Botswana, Lesotho, Namibia, and Swaziland by strengthening the capacity of labor ministries to enforce national labor laws and increasing the knowledge and capacity of employers and workers to apply those laws, including through labor dispute resolution. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)
- Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)
- A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)
- A description of the applicant's approach to expending funds in the most cost-effective method possible in order to achieve the project objectives. The applicant should refer to its submitted budget in explaining how the budgeted funds will be utilized cost-effectively. In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit, at minimum, supporting budget information indicating how the Applicant arrived at estimating the costs of the following items/activities: Salaries and benefits for all key personnel, 2–3 key activities proposed by the Applicant under its project design, and closing the project and meeting all USDOL close-out requirements, as stated in this SGA. The Applicant will be evaluated based on the clear identification of all project costs and efficient and effective allocation of funding. The project budget should clearly demonstrate that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the Applicant in its proposal, management of the project, monitoring and evaluation, and project close-out and that the distribution of funds maximizes the provision of goods and/or services to project beneficiaries. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation. (10 points)
- Use of existing expertise from the recipient country in order to reduce costs and further develop local capacity. (5 points)
- Inclusion of a sustainability strategy that ensures that project improvements will continue after the project ends. (5 points)
- Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable, and demonstrate progress in achieving project objectives. (5 points)

C. Institutional Qualifications/Past Performance—25 points

- Prior experience in designing and implementing activities in developing countries, especially in Southern Africa, related to strategic planning, outreach and education, capacity building, labor law enforcement, and labor dispute resolution. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) the organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)
- Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.,* government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (10 points)
- Demonstration of strong financial management and internal control systems. (5 points)

D. Experience of Personnel—30 points

- Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.,* manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)
- Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

E. Leveraging of Grant Funding—5 points

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, etc.

F. Suggested Outline for Technical Proposal

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary
2. Program Description
   - Goal and Objectives
   - Background
   - Technical Approach and Implementation Timetable (Proposed Intervention)
   - Experience of Personnel
   - Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance
   - Staffing Pattern and Project Management Organizational Chart
   - Leveraging of non-Federal Resources
3. Attachments:
   - Summaries of other relevant organizational experiences
   - Résumés of key personnel and signed letters of commitment to the project

Successful proposals submitted in response to this SGA will be incorporated into the text of the grant with the selected applicant(s).

Signed at Washington, DC, this 14th day of July 2003.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–28–P

APPENDIX A

Standard Government Forms

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*:

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State	H. Independent School Dist.
B. County	I. State Controlled Institution of Higher Learning
C. Municipal	J. Private University
D. Township	K. Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Previous Edition Usable

Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

Survey on Ensuring Equal Opportunity for Applicants

Federal Agency Use Only

OMB No. 1225-0083 Exp. 02/28/2006

NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.

Purpose: This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

APPENDIX B

Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

STATUS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. WOKRPLAN STATUS

(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)

[Summarize any Workplan variance and recommended actions]

II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	**Proposed Solutions**	**Actions Taken/Required**

III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

TECHNICAL PROGRESS REPORT FORMAT

PROJECT #:	**COUNTRY/PROJECT NAME:**	
FUNDING:	**PROJECT DURATION:**	**EVALUATION DATES:** Mid-term: Final:
DATE SUBMITTED:	**REPORTING PERIOD:**	**CONTACT:**
PROJECT OBJECTIVES: Development Objective: Immediate Objective(s): Sub Immediate Objective(s):		

I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

II. MAJOR TRENDS

III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

Problems	Proposed Solutions	Actions Taken/Required

IV. NEW PROPOSALS (activities, staffing, funding, etc.)

V. LESSONS LEARNED

VI. EXPENDITURES VS. BUDGET

Budget Line Item	Total Budget Amt.	For the Reporting Period			Cumulative (over the life of the project)	
		Planned Expenditures	Actual Expenditures	Balance	Total Expenditures	Balance
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$
	$	$	$	$	$	$

[FR Doc. 03–18258 Filed 7–18–03; 8:45 am]
BILLING CODE 4510–28–C

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before September 4, 2003. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–3120. e-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–03–12, 4 items, 2 temporary items). Records relating to reporting terrorist threats, including reports, report updates, and dissemination data. Also included are electronic copies of records created using electronic mail and word processing that relate to terrorist threats, terrorist attacks, and anti-terrorist activities. This schedule authorizes the agency to apply the proposed disposition instructions to records regardless of medium. Recordkeeping copies of files relating to anti-terrorism programs and terrorist incidents and attacks are proposed for permanent retention.

2. Department of Commerce, Office of the Secretary (N1–40–03–2, 22 items, 18 temporary items). Records of the Office of the General Counsel, including attorney's working files, litigation case files, Freedom of Information Act files, administrative correspondence, contract review case files, legislation case files, and records relating to inventions. Also included are electronic versions of files proposed for disposal as well as electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such files as legal program subject correspondence, legislative histories, and confirmation hearing records.

3. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–02–4, 10 items, 7 temporary items). Records of the Office of Coastal Resource Management, including such files as supporting materials associated with coastal zone management program documents and coastal non-point pollution control program files, records relating to consistency reviews of Federal regulations, and program administrative guidance. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such files as coastal zone management program documents, program change files, and coastal non-point pollution control program files.

4. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–02–5, 18 items, 14 temporary items). Data, documentation, inputs, and outputs associated with the Specimen Database and the Program Funding Database, inputs and outputs associated with the National Benthic Infaunal Database and the Estuarine Living Marine Resource

Database, grants working files, and electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are data and system documentation associated with the National Benthic Infaunal Database and the Estuarine Living Marine Resource Database.

5. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–03–8, 6 items, 5 temporary items). Records of the damage assessment and restoration program relating to actions taken to support or implement natural resource restoration activities. Included are copies of restoration post-settlement records, such as grants, contracts, reports, and permit clearances in textual, photographic, and microfilm formats. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention is the official record set of post-settlement administrative records, which includes records documenting determinations made regarding the planning, implementation, and monitoring of individual restoration projects.

6. Department of Defense, National Imagery and Mapping Agency (N1–537–03–16, 2 items, 2 temporary items). Records management surveys and office file plans. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of Health and Human Services, Office of the Secretary (N1–468–03–1, 12 items, 6 temporary items). Records of the Secretary's Advisory Committee on Regulatory Reform, including such records as notes on logistical planning for meetings and hearings, subcommittee background information and routine communications, and files relating to the preparation of the committee's final report. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of committee organization and formation documents, meeting agendas, transcripts, testimony, briefings, recommendations, public comments, official publications, notices, and the committee's final report to the Secretary.

8. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances (N1–412–01–10, 3 items, 3 temporary items). Toxic Substances Control Act tracking and control records pertaining to the handling and use of confidential business information. Also included are electronic copies of records created using electronic mail and word processing.

9. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances (N1–412–03–13, 4 items, 3 temporary items). Paper and microfilmed copies (excluding recordkeeping copies) of correspondence, documents relating to incidents that have adverse effects, and reports of water contamination. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of these files are proposed for permanent retention.

10. General Accounting Office, Office of General Counsel (N1–411–03–1, 1 temporary item). Documents that identify individuals who have supplied sensitive information to the agency and have been given an assurance of confidentiality.

11. National Archives and Records Administration, Office of Records Services—Washington, DC (N2–26–03–1, 1 temporary item). Records accumulated by the Coast Guard, 1973–1984, consisting of strip charts containing data used to ensure the accuracy of the Omega radio navigation system. Records were previously accessioned into the National Archives but lack historical value.

12. National Archives and Records Administration, Agency-wide (N1–64–03–6, 9 items, 9 temporary items). Records relating to Web site operations such as security logs, search engine logs, reference documentation, and design and testing files. Also included are electronic copies of documents created using electronic mail and word processing.

13. Small Business Administration, Office of Capital Access (N1–309–03–7, 10 items, 10 temporary items). Inputs, outputs, system documentation, and master files of the Investment Division Participating Securities Database, which contains information concerning Small Business Investment Company participating securities. Also included are electronic copies of documents created using electronic mail and word processing.

14. Small Business Administration, Office of Hearings and Appeals (N1–309–03–8, 6 items, 6 temporary items). Master files, outputs, and other records associated with an electronic system used for tracking appeals of decisions made by program offices. Also included are electronic copies of documents created using electronic mail and word processing.

15. Small Business Administration, Office of Business Development (N1–309–03–9, 11 items, 9 temporary items). Records associated with the Certification Tracking System, which is used for tracking applications by firms seeking certification as a Small Disadvantaged Business. Included are inputs, outputs, backups, and electronic copies of documents created using electronic mail and word processing. The master data file and system documentation are proposed for permanent retention.

Dated: July 14, 2003.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 03–18423 Filed 7–18–03; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Study of IMLS Funded Digital Collections and Content, Submission for OMB Review; Comment Request

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice of Requests for New Information Collection Approval.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this proposed form, which applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Public and Legislative Affairs, Mamie Bittner at (202) 606–8339. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

DATES: Comments must be received by August 20, 2003. The OMB is particularly interested in comments which:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: For a copy of the form contact: Mamie Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 510, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act; Public Law 104–208. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. In the National Leadership Grant Programs, IMLS funds the digitization of library and museum collections.

This study is determine the feasibility of using the Open Archives Initiative (OAI) Metadata Harvesting Protocol to aggregate and provide integrated item-level search access to the digitization projects funded by the Institute of Museum and Library Services through the National Leadership Grant Program.

Agency: Institute of Museum and Library Services.

Title: Study of IMLS Funded Digital Collections and Content.

OMB Number: none.

Agency Number: 3137.

Frequency: Various.

Affected Public: museums and libraries that created digital collections with IMLS funding.

Number of Respondents: 154 plus 15 interviews.

Estimated Time Per Respondent: various.

Total Burden Hours: 146.25 (over three years).

Total Annualized capital/startup costs: n/a.

Total Annual Costs: $3,123.13.

FOR FURTHER INFORMATON CONTACT: Comments should be sent to office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: July 8, 2003.

Mamie Bittner,

Director Public and Legislative Affairs.

[FR Doc. 03–18438 Filed 7–18–03; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–08631]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of a License Amendment of U.S. Nuclear Regulatory Commission Byproduct Material License No. 32–14048–04; U.S. Environmental Protection Agency

I. Summary

The U.S. Nuclear Regulatory Commission (NRC) is considering amending Byproduct Material License No. 32–14048–04 to authorize the release of one of the licensee's facilities in Research Triangle Park, North Carolina for unrestricted use and has prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in support of this action.

The NRC has reviewed the results of the final survey of the Environmental Protection Agency facility in Research Triangle Park, North Carolina, and has performed an in-process inspection and confirmatory survey. The Environmental Protection Agency (EPA) was authorized by NRC from June 6, 1972, to the present to use radioactive materials for research and development purposes at various sites in the Research Triangle Park area in North Carolina. The main isotopes of interest are carbon 14, cadmium 109, natural uranium, and tritium. By letter dated November 11, 1999, the EPA notified the NRC of its plans to vacate the Environmental Research Center (ERC). In January 2001, the EPA published a Final Finding of No Significant Impact and Programmatic Assessment for Remediation and Decontamination of EPA's Research Triangle Park, North Carolina facilities. The EPA has conducted surveys of the facility and determined that the facility meets the license termination criteria in Subpart E of 10 CFR part 20. The NRC staff has evaluated the EPA's request, results of the survey and submitted documentation, has performed an in-process inspection and confirmatory survey, and has developed an EA in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact on human health and the environment for the proposed licensing action.

II. Environmental Assessment

Introduction

The EPA has requested release, for unrestricted use, of their building located at 86 T.W. Alexander Drive in Research Triangle Park, North Carolina, as authorized for use by NRC License No. 32–14048–04. This license was issued on June 6, 1972, and amended periodically since that time. NRC-licensed activities performed at the ERC were limited to laboratory procedures typically performed on bench tops and in hoods. No outdoor areas were affected by the use of licensed materials. Licensed activities ceased in February 2003, with the exception of the performance of surveys to determine the final status of the facility which were concluded in May 30, 2003. Based on the licensee's historical knowledge of the sites and the condition of the facility, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. The licensee surveyed the facility and provided documentation that the facility meets the license termination criteria specified in Subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.'' NRC staff performed an in-process inspection and confirmatory survey.

Proposed Action

The proposed action is to amend NRC Radioactive Materials License No. 32–14048–04 to release the ERC located at 86 T.W. Alexander Drive in Research Triangle Park, North Carolina, for unrestricted use. By letter dated June 26, 2003, the EPA provided survey results which demonstrate that the ERC is in compliance with the radiological criteria for license termination in Subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.'' These results were confirmed during an in-process inspection performed by NRC staff.

Purpose and Need for the Proposed Action

The purpose of the proposed action is to release the ERC located at 86 T.W. Alexander Drive in Research Triangle Park, North Carolina, for unrestricted use and to amend the EPA license to remove this facility as an authorized location of use. This will allow the EPA to discontinue leasing the building. The need for the proposed action is to comply with NRC regulations and the Timeliness Rule. NRC is fulfilling its

responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for release of facilities for unrestricted use that ensures protection of the public health and safety and environment.

Alternatives to the Proposed Action

The only alternative to the proposed action of amending the license and release of the ERC for unrestricted use is no action. The no-action alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10 CFR 30.36), which requires licensees to decommission their facilities when licensed activities cease. The licensee does not plan to perform any activities with licensed materials at this location. Maintaining the area under a license would reduce options for future use of the property and cause the EPA to continue leasing a building for which it has no more use.

The Affected Environment and Environmental Impacts

The NRC staff has reviewed the survey results provided by the EPA to demonstrate compliance with 10 CFR 20.1402 license termination criteria and the EPA's published EA and FONSI. Based on its review, and on the results of the NRC inspection and confirmatory survey, the staff has determined that the affected environment and environmental impacts associated with the decommissioning of the EPA's ERC are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities'' (NUREG–1496). The staff also finds that the proposed decommissioning of the EPA's ERC is in compliance with 10 CFR 20.1402, the radiological criteria for unrestricted use.

The ERC is a multilevel facility constructed of concrete-reinforced steel, with a brick exterior and flat roof. It contains 253,390 net square feet of space and consists of buildings, greenhouses, storage sheds, cooling towers, storage tanks, groundwater monitoring wells, air-conditioning units, parking lots, and property related articles. Radioactive materials were primarily used in laboratories on lab benches and within fume hoods. The ERC is located within a portion of Durham County with covenants in place that specify that only research be conducted within the facilities located therein.

Licensed material has been disposed of or transferred to the licensee's new facility with the one exception of a sea/land cargo box containing packaged radioactive waste containers. The license will not be amended until this container has been transferred to the EPA's new facility. The licensee's documentation indicates that no contamination exists above the limits for unconditional release. All of these activities were performed as authorized by the operating license.

Agencies and Persons Contacted and Sources Used

This EA was prepared by NRC Staff using information provided by the EPA. The North Carolina Department of Environment and Natural Resources (NCDENR) was contacted for comment by the EPA and responded by letter dated January 11, 2000. No opposition to the project was noted. The North Carolina Department of Cultural Resources was also contacted by the EPA and responded by letter dated February 11, 2000, with no comment on the project. According to the National Register Information System and the Durham County Historic Inventory, neither of the subject facilities are registered as historic structures or historical areas, and no areas of historical value appear to exist within a 1-mile radius of the ERC.

Conclusion

Based on its review, the NRC staff has concluded that the proposed action complies with 10 CFR part 20. NRC has prepared this EA in support of the proposed license amendment to release the ERC for unrestricted use. On the basis of the EA, NRC has concluded that the environmental impacts from the proposed action are expected to be insignificant and has determined that preparation of an environmental impact statement for the proposed action is not required.

List of Preparers

Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, Health Physicist.

List of References

1. NRC License No. 32–14048–04, Docket No. 030–08631 inspection and licensing records.

2. EPA. ''Advance Notice of Program Change'' Letter dated from J. Morris to NRC dated November 22, 1999.

3. EPA. ''Site Characterization/Final Status Report'' dated June 26, 2003.

4. Title 10 Code of Federal Regulations Part 20, Subpart E, ''Radiological Criteria for License Termination.''

5. **Federal Register** Notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, ''Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination.''

6. Booz-Allen & Hamilton. ''Finding of No Significant Impact For Remediation And Decontamination Of U.S. Environmental Protection Agency's Research Triangle Park, North Carolina Facilities'' dated January 2001. (ML031000189)

7. North Carolina Department of Environment and Natural Resources. ''Rare Species, High Quality Communities, and Significant Natural Heritage Areas at Three EPA Sites At Page Road and I–40 and Alexander Drive, RTP, Durham County, North Carolina'' Letter from S. Reece Giles to Booz-Allen & Hamilton, dated January 11, 2000.

8. North Carolina Department of Cultural Resources. ''Section 106 of the National Historic Preservation Act'' Letter from D. Brook to Booz-Allen & Hamilton dated February 11, 2000.

9. NRC Inspection Report No. 32–14048–04/2001–001, March 3–7, 2003. (ML030930159)

III. Finding Of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant impact on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

IV. Further Information

The references listed above are available for public inspection and may also be copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents are also available for public review through ADAMS, the NRC's electronic reading room, at: *http://www.nrc.gov/reading-rm/adams.htlm.* Any questions with respect to this action should be referred to Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, U. S. Nuclear Regulatory Commission, Region II, Suite 23T85, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8931. Telephone 404–562–4739.

Dated at Atlanta, Georgia the 7th day of July, 2003.

For The U.S. Nuclear Regulatory Commission.

Douglas M. Collins,

Director, Division of Nuclear Materials Safety, Region II.

[FR Doc. 03–18412 Filed 7–18–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–35160]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of a License Amendment of U. S. Nuclear Regulatory Commission Byproduct Material License No. 45–25483–01; Richemont North America, Inc.

I. Summary

The U.S. Nuclear Regulatory Commission (NRC) is considering terminating Byproduct Material License No. 45–25483–01 to authorize the release of the licensee's facilities in Winchester, Virginia, for unrestricted use and has prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in support of this action.

The NRC has reviewed the results of the final survey of the Richemont North America facility in Winchester, Virginia. Richemont North America was authorized by the NRC from August 31, 1999, until the present to use manufactured watch dials and hands containing luminous paint activated with tritium for the manufacture and repair of timepieces. In 2002, Richemont North America ceased operations with licensed materials at the Winchester, Virginia site, and requested that the NRC terminate the license. Richemont North America has conducted surveys of the facility and determined that the facility meets the license termination criteria in Subpart E of 10 CFR part 20. The NRC staff has evaluated Richemont North America's request and the results of the surveys, performed a confirmatory survey, and has developed an EA in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact on human health and the environment for the proposed licensing action.

II. Environmental Assessment

Introduction

Richemont North America has requested release, for unrestricted use, of their building located at 202 North Loudoun Street, in Winchester, Virginia, as authorized for use by NRC License No. 45–25483–01. License No. 45–25483–01 was issued on August 31, 1999, and amended periodically since that time. NRC-licensed activities performed at the Winchester, Virginia site were limited to the repair, service and repair of returned timepieces and the receipt and application of timepiece self-luminous parts typically performed on bench tops. No outdoor areas were affected by the use of licensed materials. Licensed activities ceased completely in June 2002 and the licensee requested release of the facilities for unrestricted use. Based on the licensee's historical knowledge of the site and the condition of the facilities, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. The licensee surveyed the facility and provided documentation that the facility meets the license termination criteria specified in subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

The Proposed Action

The proposed action is to terminate NRC Radioactive Materials License No. 45–25483–01 and release the licensee's facilities at 202 North Loudoun Street in Winchester, Virginia, for unrestricted use. By letter dated September 30, 2002, Richemont North America provided survey results which demonstrate that the Winchester, Virginia facility is in compliance with the radiological criteria for license termination in subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

Purpose and Need for the Proposed Action

The purpose of the proposed action is to release the building located at the 202 North Loudoun Street in Winchester, Virginia, for unrestricted use and to terminate the Richemont North America materials license. This will allow Richemont North America to stop leasing the building. The need for the proposed action is to comply with NRC regulations and the Timeliness Rule. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for release of facilities for unrestricted use that ensures protection of the public health and safety and environment.

Alternatives to the Proposed Action

The only alternative to the proposed action of terminating the license and releasing the Winchester, Virginia facility for unrestricted use is no action. The no-action alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10 CFR 30.36), which requires licensees to decommission their facilities when licensed activities cease. The licensee does not plan to perform any activities with licensed materials at this location. Maintaining the areas under a license would also reduce options for future use of the property and require Richemont North America to continue leasing office space for which it has no use.

The Affected Environment and Environmental Impacts

Richemont North America leased office space in a Wachovia Bank building in downtown Winchester, Virginia. The building was of brick construction, the offices encompassed the second floor. The building is surrounded by other small business buildings.

The NRC staff has reviewed the surveys performed by Richemont North America to demonstrate compliance with the 10 CFR 20.1402 license termination criteria. Based on its review, the staff has determined that the affected environment and environmental impacts associated with the decommissioning of the Richemont North America facility are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities'' (NUREG–1496). The staff also finds that the proposed release for unrestricted use of the Richemont North America facility is in compliance with 10 CFR 20.1402, ''Radiological Criteria for Unrestricted Use''. The NRC has found no other activities in the area that could result in cumulative impacts.

Agencies and Persons Contacted and Sources Used

This EA was prepared entirely by the NRC staff. The U.S. Fish and Wildlife Service was contacted for comment and responded by letter dated January 16, 2003, with no opposition to the action. The Virginia Department of Historic Resources was also contacted and had no comment.

Conclusion

Based on its review, the NRC staff has concluded that the proposed action complies with 10 CFR part 20. NRC has prepared this EA in support of the proposed license termination to release the Richemont North America facility located at 202 North Loudoun Street in Winchester, Virginia, for unrestricted use. On the basis of the EA, NRC has concluded that the environmental impacts from the proposed action are not expected to be significant and has determined that the preparation of an environmental impact statement for the proposed action is not required.

List of Preparers

Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, Health Physicist.

List of References

1. NRC License No. 45–25483–01 inspection and licensing records.
2. Richemont. ''Request to terminate license'' Letter from J. Brown to NRC dated September 30, 2003. (ML020870095)
3. Title 10 Code of Federal Regulations part 20, subpart E, ''Radiological Criteria for License Termination.''
4. **Federal Register** notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, ''Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination.''
5. U.S. Fish and Wildlife Service. ''Richemont North America, Inc. Termination of Byproduct Materials License, #2806, Frederick County, Virginia,'' Letter from K. Mayne to NRC dated January 16, 2003.
6. NRC. NRC Inspection Report No. 45–25483–01/02–01, dated November 26, 2002. (ML023300524)
7. NRC. NUREG–1757 ''Consolidated NMSS Decommissioning Guidance,'' Final Report dated September 2002.
8. NRC. NUREG–1496 ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' Final Report dated July 1997.

III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant impact on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

IV. Further Information

The references listed above are available for public inspection and may also be copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents are also available for public review through ADAMS, the NRC's electronic reading room, at: *http://www.nrc.gov/reading-rm/adams.htlm.*

Any questions with respect to this action should be referred to Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region II, Suite 23T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8931. Telephone 404–562–4739.

Dated at Atlanta, Georgia the 7th day of July, 2003.

For the U.S. Nuclear Regulatory Commission.

Douglas M. Collins,

Director, Division of Nuclear Materials Safety, Region II.

[FR Doc. 03–18410 Filed 7–18–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–17451]

Environmental Assessment and Finding of No Significant Impact Related to Issuance of a License Amendment of U.S. Nuclear Regulatory Commission Byproduct Material License No. 52–19336–01; Wittnauer Worldwide, L.P.

I. Summary

The U.S. Nuclear Regulatory Commission (NRC) is considering terminating Byproduct Material License No. 52–19336–01 to authorize the release of the licensee's facilities in Cayey, Puerto Rico, for unrestricted use and has prepared an Environmental Assessment and Finding of No Significant Impact in support of this action.

The NRC has reviewed the results of the final survey of the Wittnauer Worldwide facility in Cayey, Puerto Rico. Wittnauer Worldwide was authorized by the NRC from June 30, 1980, until the present to use manufactured watch dials and hands containing luminous paint activated with tritium for the manufacture and repair of timepieces. In August 2001, Wittnauer Worldwide ceased operations with licensed materials at the Cayey, Puerto Rico site, and requested that the NRC terminate the license. Wittnauer Worldwide has conducted surveys of the facility and determined that the facility meets the license termination criteria in subpart E of 10 CFR part 20. The NRC staff has evaluated Wittnauer Worldwide's request and the results of the survey, and has developed an EA in accordance with the requirements of 10 CFR part 51. Based on the staff evaluation, the conclusion of the EA is a Finding of No Significant Impact on human health and the environment for the proposed licensing action.

II. Environmental Assessment

Introduction

Wittnauer Worldwide has requested release for unrestricted use, of their building located at the Rincon Industrial Park, Road 735, Km. 2.3, in Cayey, Puerto Rico, as authorized for use by NRC License No. 52–19336–01. License No. 52–19336–01 was issued on June 30, 1980, and amended periodically since that time. NRC-licensed activities performed at the Cayey, Puerto Rico site were limited to the repair, service and repair of returned timepieces and the receipt and application of timepiece self-luminous parts typically performed on bench tops. No outdoor areas were affected by the use of licensed materials. Licensed activities ceased completely in August 2001 and the licensee requested release of the facilities for unrestricted use. Based on the licensee's historical knowledge of the site and the condition of the facilities, the licensee determined that only routine decontamination activities, in accordance with licensee radiation safety procedures, were required. The licensee surveyed the facility and provided documentation that the facility meets the license termination criteria specified in subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

The Proposed Action

The proposed action is to terminate NRC Radioactive Materials License No. 52–19336–01 and release the licensee's facilities in Cayey, Puerto Rico, for unrestricted use. Wittnauer Worldwide's report dated March 2003 provided survey results which demonstrated that the Cayey, Puerto Rico facility is in compliance with the radiological criteria for license termination in Subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.''

Purpose and Need for the Proposed Action

The purpose of the proposed action is to release the building located at the Rincon Industrial Park, Road 735, Km. 2.3, in Cayey, Puerto Rico, for unrestricted use and to terminate the Wittnauer Worldwide materials license. This will allow Wittnauer Worldwide to stop leasing the building. The need for the proposed action is to comply with NRC regulations and the Timeliness Rule. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for release of facilities for unrestricted use that ensures protection of the public health and safety and environment.

Alternatives to the Proposed Action

The only alternative to the proposed action of amending the license and releasing the Wittnauer Worldwide building for unrestricted use is no action. The no-action alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10

CFR 30.36), which requires licensees to decommission their facilities when licensed activities cease. The licensee does not plan to perform any activities with licensed materials at this location. Maintaining the area under a license would reduce options for future use of the property and cause Wittnauer Worldwide to continue leasing a building for which it has no more use.

The Affected Environment and Environmental Impacts

The Wittnauer building is a one story brick building. Work with radioactive materials was done on work benches located within several rooms in the building. Watch parts and finished watches were stored in a safe. The building is located within an industrial park.

The NRC staff has reviewed the surveys performed by Wittnauer Worldwide to demonstrate compliance with the 10 CFR 20.1402 license termination criteria and has performed a confirmatory survey. Based on its review and the results of the confirmatory survey, the staff has determined that the affected environment and environmental impacts associated with the decommissioning of the Wittnauer Worldwide facility are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities'' (NUREG–1496). The staff also finds that the proposed release for unrestricted use of the Wittnauer Worldwide facility is in compliance with 10 CFR 20.1402, ''Radiological Criteria for Unrestricted Use.'' The NRC has found no other activities in the area that could result in cumulative impacts.

Agencies and Persons Contacted and Sources Used

This Environmental Assessment was prepared entirely by the NRC staff. The U.S. Fish and Wildlife Service was contacted for comment and responded by letter dated October 16, 2002, with no opposition to the action. The Puerto Rico State Historic Preservation Office was also contacted and responded by letter dated March 11, 2003, with no opposition.

Conclusion

Based on its review, the NRC staff has concluded that the proposed action complies with 10 CFR part 20. NRC has prepared this EA in support of the proposed license termination to release the Wittnauer Worldwide facility located at the Rincon Industrial Park, Road 735, Km. 2.3, in Cayey, Puerto Rico, for unrestricted use. On the basis of the EA, NRC has concluded that the environmental impacts from the proposed action are not expected to be significant and has determined that the preparation of an environmental impact statement for the proposed action is not required.

List of Preparers

Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, Health Physicist.

List of References

1. NRC License No. 52–19336–01 inspection and licensing records.
2. Wittnauer. ''Termination of License'' Letter from F. Pagan to NRC requesting license termination and transmittal of survey results, dated January 2, 2002. (ML020070510)
3. Radiation Safety & Control Services, Inc. ''Remediation, Decontamination and Final Status Survey to Support Release of Facilities for Unrestricted Use and License Termination,'' Final status survey report prepared by Frederick P. Straccia, CHP, dated March 2003.
4. NRC Inspection Report No. 52–19336–01/2003–002, dated April 8, 2003. (ML031060565)
5. Title 10 Code of Federal Regulations part 20, subpart E, ''Radiological Criteria for License Termination.''
6. **Federal Register** notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, ''Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination.''
7. U. S. Fish and Wildlife Service. ''Request for comments regarding endangered wildlife, plant, and marine life resources at a site in Puerto Rico'' Letter from C. Diaz to NRC, dated October 16, 2002. (ML022950292)
8. Puerto Rico State Historic Preservation Office. ''SHPO: 09–26–02–03 Wittnauer Worldwide, L.L.P., Rinco Industrial Park, PR #735, KM 2.3, Cayey, Puerto Rico'' Letter from E. Torregrosa de la Rosa to NRC, dated January 24, 2003. (ML030350437)

III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant impact on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

IV. Further Information

The references listed above are available for public inspection and may also be copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents are also available for public review through ADAMS, the NRC's electronic reading room, at: *http://www.nrc.gov/reading-rm/adams.htlm.*

Any questions with respect to this action should be referred to Orysia Masnyk Bailey, Materials Licensing/Inspection Branch 1, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region II, Suite 23T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8931. Telephone 404–562–4739.

Dated at Atlanta, Georgia the 7th day of July, 2003.

For the U.S. Nuclear Regulatory Commission.

Douglas M. Collins,

Director, Division of Nuclear Materials Safety, Region II.

[FR Doc. 03–18411 Filed 7–18–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 144th meeting on July 29–31, 2003, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, July 29, 2003, NRC Auditorium, Two White Flint North, Rockville, Maryland

9:30 a.m.–9:40 a.m.: Opening Statement (Open)—The Chairman will open the meeting and turn it over to the Working Group chairman who will state the Workshop objectives and provide a session overview.

Working Group on Performance Confirmation Plans for the Proposed Yucca Mountain High-Level Waste Repository (Open)

The purposes of the working group are (1) To increase ACNW's technical knowledge of plans to develop and conduct performance confirmation (PC) work for the proposed Yucca Mountain repository, (2) to understand NRC staff expectations for performance confirmation, (3) to review examples of performance confirmation work being planned, (4) to identify aspects of performance confirmation that may warrant further study, and (5) to complement the previous working group session on performance assessment.

9:40 a.m.–10:40 a.m.: Keynote Presentation: What Should Be Measured During Performance Confirmation? How Will These Measurements Enhance Confidence by Confirming Predicted Repository Behavior? (Open)—The Committee will hear views on performance confirmation by a distinguished expert.

10:55 a.m.–11:45 a.m.: Introduction to Performance Confirmation (NRC's Expectations Regarding Content of PC Plans in a License Application) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC's Office of Nuclear Material Safety and Safeguards (NMSS), Division of Waste Management (DWM), regarding the content of Performance Confirmation Plans in a License Application.

11:45 a.m.–12:15 p.m.: Introduction to Performance Confirmation (Open)—The Committee will hear a presentation by a representative from DOE regarding the Performance Confirmation.

1:15 p.m.–2:45 p.m.: Decision Analysis Process Used to Develop a Performance Confirmation Program (Open)—The Committee will hear a presentation by a representative from DOE regarding the decision analysis process used to develop a Performance Confirmation Program.

3 p.m.–4:40 p.m.: Elements of a Performance Confirmation Program—A Presentation of DOE's Selected Program and Its Components (Open)—The Committee will hear a presentation by a representative from DOE regarding the elements of a Performance Confirmation Program.

4:55 p.m.–5:30 p.m.: Documentation and Further Development of the Performance Confirmation Program—A Presentation on Possible Changes in the Next Revision of DOE's PC Plan (Open)—The Committee will hear a presentation by a representative from DOE regarding possible changes in the next revision of DOE's Performance Confirmation Plan.

5:30 p.m.–6 p.m.: Public Comments (Open)—The Committee will hear comments from the public.

Wednesday, July 30, 2003, NRC Auditorium, Two White Flint North, Rockville, Maryland

Working Group on Performance Confirmation Plans for the Proposed Yucca Mountain High-Level Waste Repository (Open) (Continued)

8:30 a.m.–8:35 a.m.: Opening Statement (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–9:30 a.m.: NRC's Risk Insights Initiative and its Impact on Review of Performance Confirmation Plans (Open)—The Committee will hear a presentation by a representative from NRC's NMSS/DWM regarding the risk insights initiative and its impact on review of Performance Confirmation Plans.

9:30 a.m.–10 a.m.: NRC's Acceptance Criteria in the Yucca Mountain Review Plan for Review of Performance Confirmation (Open)—The Committee will hear a presentation by a representative from NRC's NMSS/DWM regarding the acceptance criteria in the Yucca Mountain Review Plan for Review of Performance Confirmation.

10:15 a.m.–12:15 p.m.: Presentations by Representatives of the State of Nevada, several affected Counties, the Las Vegas Paiutes, and the Electric Power Research Institute (Open)—The Committee will hear presentations by and hold discussions with representatives of the State of Nevada, several affected counties, the Las Vegas Paiutes, and EPRI regarding Performance Confirmation.

1:15 p.m.–2 p.m.: Research Perspective on Long-Term Testing for Performance Confirmation—Development of an Integrated Ground-Water Monitoring Strategy (Open)—The Committee will hear a presentation by a representative of the NRC's Office of Nuclear Regulatory Research regarding long-term testing for Performance Confirmation.

2 p.m.–4:55 p.m.: Panel and Committee Discussion Working Group Roundtable (Open)—The Panel and the Committee will further discuss today's topics.

4:55 p.m.–6:15 p.m.: Preparation of ACNW Report (Open)—Discussion of principal points in a proposed ACNW report on the Performance Confirmation Working Group.

Thursday, July 31, 2003, Conference Room 2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Statement (Open)—The Chairman will make opening remarks regarding the conduct of today's sessions.

8:35 a.m.–9:30 a.m.: Risk-Informed Regulation for NMSS: Status Report and Plan for Future Work (Open)—Briefing by and discussions with representatives of the NRC NMSS Risk Task Group regarding the current status of risk-informed regulation for NMSS and the plan for future work.

9:30 a.m.–10 a.m.: Summer Intern Project (Open)—The ACNW summer intern will update the Committee on the status of her project titled ''Assessing Model Uncertainty in Performance Assessment.''

11 a.m.–11:45 a.m.: ACNW September Retreat (Open)—Members will finalize plans for the Committee's September retreat which is scheduled during the 145th meeting (September 16–18, 2003).

11:45 a.m.–12:15 p.m.: Committee Visit to Yucca Mountain (Open)—The Committee will finalize plans for the Yucca Mountain Site visit scheduled for the 147th meeting (November 18–20, 2003).

1:15 p.m.–2:30 p.m.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss proposed topics for the ACNW meeting with the NRC Commissioners which is scheduled for Thursday, October 23, 2003, between 10 a.m. and 12 Noon.

2:30 p.m.–5:45 p.m.: Preparation of ACNW Reports (Open)—The Committee will discuss proposed ACNW reports.

5:45 p.m.–6:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63459). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 7:30 a.m. and 4 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415–8066), between 7:30 a.m. and 3:45 p.m. ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: July 15, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–18414 Filed 7–18–03; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request submission to the Office of Management and Budget (OMB Control Number 0420–0533).

SUMMARY: Pursuant to the paperwork Reduction Act of 1981 (44 USC, Chapter 35), the Peace Corps has submitted to the Office of Management and Budget (OMB) a request for approval of information collections, OMB Control Number 0420–0533, the Peace Corps Crisis Corps Volunteer Application Form. This is a renewal of an active information collection. The initial **Federal Register** notice was published on April 23, 2003, Volume 68, No. 78, p. 20035 for 60 days. Also available at GPO access: *wais.access.gpo.gov.* No comments, inquiries, or responses to the notice were received. A copy of the information collection may be obtained from Mr. Dan Sullivan, Director of the Crisis Corps, Peace Corps, 1111 20th Street, NW., Room 7305, Washington, DC 20526. Mr. Sullivan may be contacted by telephone at 202–692–2250. Comments on the form should also be addressed to the attention of the Desk Officer for the Peace Corps, Office of Management and Budget, NEOB, Washington, DC 20503. Comments should be received on or before August 20, 2003.

The purpose of this information collection is necessary to recruit qualified Volunteers to serve in the Peace Corps' Crisis Corps Program. The information provided in the application is used by Crisis Corps staff to perform initial screening for potential candidates for specific Crisis Corps assignments. The purpose of this notice is to allow for public comment on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Information Collection Abstract

Title: Peace Corps' Crisis Corps Volunteer Application Form.

Need for and Use of This Information: The Peace Corps' Crisis Corps Volunteer Application Form is completed by previous Peace Corps Volunteers; known as Returned Peace Corps Volunteers (RPCVs). The RPCVs apply to serve in the Crisis Corps after successfully completing their Peace Corps service. The Peace Corps' Crisis Corps Application is completed by applicants for Crisis Corps assignments to provide basic information concerning technical and language skills, and availability for Crisis Corps assignments. The application form from the RPCVs is used to perform initial screenings for potential candidates for specific Crisis Corps assignments. The Crisis Corps is an exciting Peace Corps Program that utilizes RPCVs to help communities overseas recover and rebuild in the aftermath of natural disasters and humanitarian crises. There are no other means of obtaining the required data. The Crisis Corps is working toward an electronic application; this version is not available at this time. The Crisis Corps Program fulfills the first and second goals of the Peace Corps as required by Congressional legislation.

Respondents: Returned Peace Corps Volunteers (RPCVs).

Respondents Obligation to Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 54 hours.

b. *Annual record keeping burden:* 0 hours.

c. *Estimated average burden per response:* 5 minutes.

d. *Frequency of response:* One time.

e. *Estimated number of likely respondents:* 650.

f. *Estimated cost to respondents:* $1.97.

This notice is issued in Washington, DC on July 11, 2003.

Gopal Khanna,

Chief Information Officer.

[FR Doc. 03–18433 Filed 7–18–03; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps

ACTION: Notice of public use form review request submission to the Office of Management and Budget (OMB Control Number 0420–0001).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 USC, Chapter 35), the Peace Corps has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection, OMB Control Number 0420–0001, the National Agency Questionnaire for Peace Corps Volunteer Background Investigation. This is a renewal of an active information collection. The initial **Federal Register** notice was published on April 23, 2003, Volume 68, No. 78, p. 20036 for 60 days. Also available at GPO Access: *wais.access.gpo.gov.* No comments, inquiries or responses to the notice were received. A copy of the information collection may be obtained from Ms. Mada McGill, Peace Corps, Volunteer Recruitment and Selection CHOPS, 1111 20th Street, NW., Room 6402, Washington, DC 20526. Ms. McGill may be contacted by telephone at 202–692–1886. Comments on the form should also be addressed to the attention of Desk Officer for the Peace Corps, Office of Management and Budget, NEOB, Washington, DC 20503. Comments should be received on or before August 20, 2003. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary

for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information

Information Collection Abstract

Title: National Agency Questionnaire for Peace Corps Volunteer Background Investigation

Need For and Use of This Information: The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation is necessary to screen information from Federal sources about Peace Corps applicants who meet the minimum qualifications for service. Information provided by the investigation will be used by the Peace Corps' Office of Placement in order to make a final determination as to an applicant's/trainee's suitability for service. The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation supports the first goal of the Peace Corps as required by Congressional legislation.

Respondents: Potential Volunteers and Trainees

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 2,500 hours.

b. *Annual record keeping burden:* 1,360 hours.

c. *Estimated average burden per response:* 15 minutes.

d. *Frequency of response:* One time.

e. *Estimated number of likely respondents:* 10,000.

f. *Estimated cost to respondents:* $4.59.

At this time, responses will be returned by mail.

This notice is issued in Washington, DC on July 11, 2003.

Gopal Khanna,

Chief Information Officer.

[FR Doc. 03–18434 Filed 7–18–03; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–25; SEC File No. 270–482; OMB Control No. 3235–0540.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17a–25 (17 CFR 240.17a–25) requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, the rule also requires broker-dealers to submit, and keep current, contact person information for electronic blue sheets (''EBS'') requests. The Commission uses the information for enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 14,000 electronic blue sheet requests per year. Accordingly, the annual aggregate hour burden for electronic and manual response firms is estimated to be 1,820 hours and 525 hours, respectively. In addition, the Commission estimates that it will request 1,400 broker-dealers to supply the contact information identified in Rule 17a–25(c) and estimates the total aggregate burden hours to be 350. Thus, the annual aggregate burden for all respondents to the collection of information requirements of Rule 17a–25 is estimated at 2,695 hours.

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 control number.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, Room 10102, 450 Fifth Street, NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18399 Filed 7–18–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rules 17h–1T and 17h–2T; SEC File No. 270–359; OMB Control No. 3235–0410.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below. The Code of Federal Regulation citations to this collection of information are the following rules: 17 CFR 240.17h–1T and 17 CFR 240.17h–2T.

Rule 17h–1T requires a broker-dealer to maintain and preserve records and other information concerning certain entities that are associated with the broker-dealer. This requirement extends to the financial and securities activities of the holding company, affiliates and subsidiaries of the broker-dealer that are reasonably likely to have a material impact on the financial or operational condition of the broker-dealer. Rule 17h–2T requires a broker-dealer to file with the Commission quarterly reports and a cumulative year-end report concerning the information required to be maintained and preserved under Rule 17h–1T.

The collection of information required by Rules 17h–1T and 17h–2T is

necessary to enable the Commission to monitor the activities of a broker-dealer affiliate whose business activities is reasonably likely to have a material impact on the financial and operational condition of the broker-dealer. Without this information, the Commission would be unable to assess the potentially damaging impact of the affiliate's activities on the broker-dealer.

There are currently 166 respondents that must comply with Rules 17h–1T and 17h–2T. Each of these 166 respondents require approximately 10 hours per year, or 2.5 hours per quarter, to maintain the records required under Rule 17h–1T, for an aggregate annual burden of 1,660 hours (166 respondents × 10 hours). In addition, each of these 166 respondents must make five annual responses under Rule 17h–2T. These five responses require approximately 14 hours per respondent per year, or 3.5 hours per quarter, for an aggregate annual burden of 2,324 hours (166 respondents × 14 hours). In addition, there are approximately seven new respondents per year that must draft an organizational chart required under Rule 17h–1T and establish a system for complying with the Rules. The staff estimates that drafting the required organizational chart requires one hour and establishing a system for complying with the Rules requires three hours, thus requiring an aggregate of 28 hours (7 new respondents × 4 hours). Thus, the total compliance burden per year is approximately 4,012 burden hours (1,660 + 2,324 + 28).

Written comments are invited on: (a) 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; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: July 7, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18400 Filed 7–18–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48180; File No. PCAOB–2003–03]

Public Company Accounting Oversight Board; Order Approving Proposed Rules Relating to Registration System

July 16, 2003.

I. Introduction

On May 8, 2003, the Public Company Accounting Oversight Board (''Board'' or ''PCAOB'') filed with the Securities and Exchange Commission (''Commission'') proposed rules PCAOB–2003–03 pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (''Act''). Notice of the proposal was published in the **Federal Register** on June 11, 2003.[1] The Commission received sixteen comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rules.

II. Description

Section 102 of the Act prohibits any person that is not a registered public accounting firm from preparing or issuing an audit report with respect to any ''issuer,'' as that term is defined in the Act, or from participating in preparation or issuance of any such report. In order to enable public accounting firms to comply with this registration requirement, the Board has proposed rules to establish a registration system. The registration system consists of eight rules (PCAOB Rules 2100 through 2106, and 2300), as well as definitions that would appear in Rule 1001, and a registration form (PCAOB Form 1).

Under the Act, the registration requirement is effective 180 days after the date on which the Commission makes its determination under 101(d) of the Act that the Board is capable of carrying out its responsibilities under the Act. The Commission made this determination on April 25, 2003, which means that domestic public accounting firms that wish to prepare or issue, or participate in the preparation or issuance of, audit reports with respect to any issuer must register with the Board by October 22, 2003.[2]

The proposed registration form requires disclosure of information concerning the applicant and its associated accountants, and about the applicant's audit clients that file reports with the Commission. Applicants must pay a fee to cover the costs of processing and reviewing registration applications, the amount of which will be announced by the Board prior to commencing acceptance of registration applications. Within 45 days of receiving an application, the Board must (1) approve the application, (2) issue a written notice of a hearing, or (3) request more information from the prospective registrant.

Although the Board has authority under the Act to exempt, with the approval of the Commission, non-U.S. public accounting firms, in whole or in part, from any of the Board's requirements under the Act, the Board decided that its proposed registration rules would apply to non-U.S. public accounting firms that prepare or furnish audit reports with respect to ''issuers'' or that play a substantial role in the preparation or furnishing of these reports. In response to concerns expressed by foreign regulators, accounting firms and others about the impact of the Board's proposed rules on non-U.S. accounting firms, the Board made several accommodations prior to submitting its proposed rules to the Commission.

These accommodations include (1) reducing the scope of information required by the registration form, (2) allowing firms to withhold certain information on the form if they can demonstrate that providing the information would conflict with non-U.S. law (by providing an English copy of the non-U.S. law, a legal opinion that submitting the information would violate the law, and an explanation of the applicant's efforts to seek consents or waivers to eliminate the conflict), and (3) allowing non-U.S. firms an additional six months to register with the PCAOB.[3]

Pursuant to the Act, registered public accounting firms must file annual reports with the Board and are subject to the Board's oversight through its inspection, investigation and

[1] Securities Exchange Act Release No. 47990 (June 5, 2003); 68 FR 35016 (June 11, 2003).

[2] As discussed below, the Board's proposal would give foreign public accounting firms an additional 180 days (*i.e.,* until April 19, 2004) to register.

[3] The Board held a public roundtable meeting on March 31, 2003, at which various foreign regulators, accounting firms, and professional organizations, as well as representatives of U.S. institutional investors, discussed the ramifications of the registration of non-U.S. accounting firms.

disciplinary programs. The proposed rules that are approved by this order address only the Board's registration requirements for public accounting firms, and do not address the reporting or other requirements that will be imposed on registered firms or the manner in which the Board will exercise its oversight authority under the Act.

III. Summary of Comment Letters

The Commission received sixteen comment letters regarding the proposed registration system. Eight of these letters were from foreign governments and professional groups, and their comments related primarily to the impact of the proposal on non-U.S. accounting firms.[4] Seven of the letters were from major accounting firms and the SEC Practice Section of the American Institute of Certified Public Accountants (''AICPA/SECPS'').[5] and one letter was from the National Association of State Boards of Accountancy (''NASBA'')

Most of the letters from foreign governments and professional groups commended the Board on its accommodations for non-U.S. accounting firms, although they continued to express a desire for complete exemption from registration and oversight by the PCAOB. Most commenters in this group were of the view that registration in the United States would be costly, duplicative and burdensome. They expressed concern about the scope of the information requested in the registration form, about their perception that some of the information requested (*e.g.,* general consents to cooperate with Board requests for information) went beyond registration and into the realm of oversight, and about their perception of the burden on small firms of complying with the proposal and the resulting risk of further consolidation in the accounting profession. Several of these commenters expressed concern about the confidentiality of information submitted to the Board. Many commenters in this group requested that the registration requirement be delayed, both to permit firms to complete their registration applications and to give the Board's foreign counterparts time to develop or enhance their own registration and oversight regimes and agree with the Board on ways to reduce the need for PCAOB registration and oversight.

The letters from the AICPA/SECPS and the six largest accounting firms operating in the United States raised concerns about the scope of information requested by the PCAOB's proposed registration form and requested clarification of several issues. Among other things, the commenters in this group expressed concern about the confidentiality of information submitted to the Board, the scope of certain definitions such as ''associated person'' and ''associated entity,'' the manner of obtaining the Board's proposed relief from submitting information that would violate non-U.S. law, and the differences in SEC and Board requirements for fee disclosure. Several of the commenters in this group noted that the Board's broad requirement that applicants consent to cooperate with any request of the Board for testimony or documents should be subject to established privileges, such as the attorney-client privilege, and constitutional protections against self-incrimination. Commenters also objected to the Board's request for information about legal proceedings, particularly criminal proceedings, which were not related to audits. Many of the commenters in this group suggested that the Board and the Commission permit ''provisional'' registration in order to avoid disruption in the delivery of audit services. These commenters expressed concern that even if applicants make a good faith effort to comply, they might not be able to obtain all required information (or respond to Board requests for supplemental information) by the October 22, 2003 deadline, and that the Board may have difficulty in processing information by that date, even if it is submitted in time.

The NASBA letter requested that the Board cooperate with state boards of accountancy in their regulatory role, and suggested several ways in which the Board and the Commission might support state regulatory bodies.

IV. Discussion

Title I of the Act assigns the Board the formidable task of designing and implementing a registration and oversight system within a relatively short period of time. The investor protection goals of the Act justify the need for prompt action, but the importance of the Board's task and its potential impact on the public securities markets demand that it be undertaken in a thoughtful and reasoned manner. After careful review of the Board's proposed registration system, the Commission finds that it is consistent with the requirements of the Act and the securities laws and is necessary and appropriate in the public interest and for the protection of investors.[6]

A. Impact on Non-U.S. Accounting Firms

The Board has taken an important step in its mandate under the Act by proposing rules regarding registration of non-U.S. audit firms that prepare, issue, or play a substantial role in the preparation or issuance of, audit reports relating to U.S. public companies. This step has raised concerns in the international community, and the Board has made efforts to address those concerns, through its roundtable meeting in March, through its public comment process and through meetings and discussions with foreign regulators. In response to these concerns, the Board made significant accommodations in its proposal, especially with regard to non-U.S. accounting firms, including changes eliminating the potential conflicts of law raised by the registration system, narrowing the scope of information to be provided, and extending the deadline for foreign firms to register. This approach is similar to the approach the Commission has taken in implementing other provisions of the Act, by allowing for certain accommodations.

The Board has acknowledge that it is still considering the nature of its oversight, especially with respect to foreign public accounting firms. The Commission encourages the Board to continue its reasoned approach when considering its oversight role, especially with respect to non-U.S. firms. In this regard, we applaud the Board's initiative to work with its foreign counterparts to find ways to accomplish the goals of the Act without subjecting foreign firms to unnecessary burdens or conflicting requirements.

We urge the Board to continue its dialogue with oversight bodies outside the United States in order to try to find ways to reduce administrative burdens and coordinate in areas of common programmatic interest, such as annual reporting, inspections and discipline. We encourage the Board to move expeditiously to determine the nature and scope of its oversight over foreign public accounting firms. The

[4] Letters in this group were submitted by the European Commission, the European Federation of Accountants, the Financial Services Agency of Japan, the Institute of Chartered Accountants in England and Wales, the Instut der Wirtschaftsprüfer and the Wirtschaftsprüferkammer (jointly), the Japanese Institute of Certified Public Accounts, the Swiss State Secretariat for Economic Affairs, and the Swiss Institute of Certified Public Accountants and Tax Consultants.

[5] In addition to the letter submitted by the AICPA/SECPS, letters in this group were submitted by BDO Seidman LLP, Deloitte & Touche LLP, Ernst & Young LLP, Grant Thorton LLP, KPMG and PricewaterhouseCoopers.

[6] Section 107(b)(3) of the Act.

Commission is cognizant that many countries have embarked on ambitious reforms with respect to auditor oversight, and that the International Organization of Securities Commissions has issued a statement noting the basics of robust and effective oversight. Given these developments, we are confident that the Board and its foreign counterparts will make progress in developing workable cooperative arrangements.

B. Other Aspects of the Registration System

Many of the comment letters submitted by accounting firms and professional groups related to specific aspects of the registration form. A continuing theme of many of the comment letters was the desire for clarification of certain definitions, rules and registration form line items. It is not surprising that first-time users of a registration form and those seeking to work through a complex registration system would find areas of ambiguity. We believe that some of the issues raised by commenters in this group can be addressed by the PCAOB through formal or informal interpretations and clarifications, and, in this connection, we understand that the Board is considering the publication of ''Frequently Asked Questions'' and responses. We encourage the Board to use this and other means to assist applicants in complying with the registration rules. We also encourage the Board to review the registration form after the Board has gained more experience with the registration process, to determine whether amendments to the form can be made to make the registration process more efficient.

Finally, with respect to the comments submitted by NASBA, we appreciate the efforts of that organization and its members to work with the PCAOB on the important task of auditor regulation and oversight. We believe that both the Board and state regulatory bodies will benefit from continued close cooperation.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rules are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, that the proposed rules (File No. PCAOB–2002–03) be and hereby are approved.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–18497 Filed 7–18–03; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48176; File No. SR–DTC–2002–19]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change to Establish an Inventory Management System

July 14, 2003.

I. Introduction

On December 19, 2002, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2002–19 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on May 21, 2003.[2] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The industry's prolonged discussions of the development of a new matching model that would promote straight through processing (''STP'') for institutional transactions identified a series of deficiencies in the current processing systems used in settling those transactions.[3] Industry members, particularly members of the Securities Industry Association's Institutional Trade Processing Committee, pressed DTC to develop a series of capabilities which would permit participants to centrally manage their own settlements as a way of furthering STP in the settlement process itself. A working group under the Settlement Advisory Board of The Depository Trust & Clearing Corporation (''DTCC'') assisted in crafting the framework for IMS.

Today, participants control the processing of their institutional deliveries received from a matching utility (such as Omgeo) through DTC's Authorization and Exception system (''ANE''). ANE prevents a delivery from being sent to DTC's processing system without an affirmative authorization from the delivering participant. This affirmative authorization is given either on an item-by-item basis or through a ''global'' authorization. A participant can submit exceptions to explicitly withhold a delivery from processing. Conversely, deliveries from the National Securities Clearing Corporation's (''NSCC's'') Continuous Net Settlement system (''CNS'') are automatically processed unless the participant instructs NSCC otherwise via an exemption. Other deliveries, such as Night Deliver Orders (''NDOs''), along with authorized institutional deliveries and CNS deliveries are processed by DTC at predefined times. All of these transactions may recycle (*i.e.,* pend) in the event of a position deficiency or a problem with system controls. Recycles are processed based on one of two recycle options; a ''First In First Out'' process or a DTC preestablished recycle queue.

Participants generally have sought greater control over the processing of their deliveries than these procedures permit. Therefore, participants have built internal inventory management systems or adopted internal manual procedures that exempt deliveries from automatic processing so that the participants can control the sequence and timing of their deliveries. This has caused the industry to build redundant systems, has increased the number of reclaims, and is contrary to achieving STP.

Implementation of the IMS allows a participant to choose how it wants to authorize its deliveries. The key components of IMS include:

(1) New authorization capabilities (which replace the ANE system) that allow participants to stage transactions for automated settlement;

(2) A new ''profiling'' system that allows participants greater control over the timing and order of their deliveries using predefined profiles, based on transaction type and asset class, to eliminate today's frequent direct intervention in the settlement process that inhibits STP;

(3) Capabilities permitting the linkage of transactions so particular receive

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 47826 (May 9, 2003), 68 FR 27876.

[3] The present U.S. system has evolved over time in different ways for different instruments, participants, and marketplaces. While the current system has met the needs of the industry well, the result is an intricate web of processing steps that are not standardized and are quite complex and inflexible. Many participants manage their processing with late-cycle interventions such as (a) withholding or ''exempting'' trades from more automatic processes, subsequently intervening in the system to reintroduce the transaction when they are ready to process it and (b) reversing or ''reclaiming'' problem transactions before or after settlement has occurred. These practices late in the settlement cycle disrupt automated processing and contribute to the incidence of fails, which creates costs and risks for participants and for the system as a whole.

transactions are associated with particular deliveries;[4] and

(4) Controls permitting the retention of failed deliveries for the following settlement day that eliminates participants' need to reinput failed delivery instructions.

Using IMS, a participant can choose to authorize its deliveries either actively or passively. In the active mode, deliveries will not be processed unless an authorization is sent. In the passive mode, deliveries will be immediately authorized upon receipt. Authorizations and exemptions can be on a trade-for-trade basis or a global basis.

To provide flexibility and options, a participant will be able to create authorization profiles for the following asset classes: equity, municipal debt, corporate debt, and money market instruments. Within each asset class, a participant will be able to choose either the active or passive authorization mode as the default for different transaction types.[5] For example, for the asset class equities, a participant could choose to use active mode authorization for matched institutional deliveries and passive mode authorization for CNS deliveries.

All IMS features will be optional. Participants can continue to process their deliveries as they do today if they so wish. Participants will be able to migrate to any or all of the IMS features that they deem valuable. As a result of IMS, participants will be able to centrally manage their own settlements and achieve higher levels of straight through processing.

IMS will be implemented in two phases. Phase I, which includes (1) the new authorization capabilities that replace ANE, (2) the warehousing facility, [6] and (3) the reintroduction of dropped deliveries,[7] is scheduled to begin in July 2003. Phase II, which includes an optional customized delivery and recycle profile,[8] is scheduled to be implemented in December 2003.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[9] The Commission finds that DTC's proposed rule change is consistent with this requirement because it provides for an automated, centrally managed system whereby DTC's participants will have the ability to better manage and control the order and timing of their deliveries. Consequently, the proposed rule change should help reduce the number of late-in-the-day, manual interventions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2002–19) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18393 Filed 7–18–03; 8:45 am]

BILLING CODE 8010–01–P

[4] Such a linkage will permit customers to associate securities they expected to receive with specific securities they expected to deliver so that they no longer need to exempt a delivery until the receive providing the securities for it has been processed. Securities Exchange Act Release No. 48007 (June 10, 2003), 68 FR 35744 (order approving DTC Transaction Look-Ahead Process).

[5] In Phase I, authorization modes can be assigned for the following transaction types: (1) Institutional deliveries from a matching utility; (2) CNS; (3) NDOs; (4) Reintroduced drops; and (5) ACATS auto deliveries.

[6] The IMS warehouse feature will store delivery instructions on its database and will direct these deliveries into the processing system as NDOs that are due to settle on the appropriate settlement day.

[7] ''Dropped'' deliveries are deliveries from the previous day that were not completed. Under this option, ''drops'' will be retained and reintroduced into the system for processing on the following day. Participants using this service will have the option of having drops automatically resubmitted or of having the system require a reauthorization of dropped delivery instructions before resubmitting.

[8] DTC will file another proposed rule change for Commission approval before implementing Phase II.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48175; File No. SR–PCX–2003–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes in Marketing Fees

July 14, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the PCX has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to expand its marketing fee program to include all options, and also proposes to make other changes to the program as specified below. The text of the proposed rule change is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of those statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In July 2000, the Exchange adopted a payment-for-order-flow program under which it imposes a fee on market maker transactions in designated equity option issues as set forth in a Schedule of Rates.[3] Under the program, the PCX collects and segregates the fee proceeds by trading post and makes the funds available to Lead Market Makers (''LMMs'') for their use in attracting orders in the options traded at the posts. The LMMs use the funds to make payments to broker-dealers for the orders they direct to the PCX. Currently, the LMMs determine the specific terms governing the orders that qualify for payment and the amounts to be paid. The LMMs make their determinations in whatever manner they believe is most likely to be effective in attracting order flow to the PCX in the options traded at the LMMs' assigned posts. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43290 (September 13, 2000), 65 FR 57213 (September 21, 2000).

Exchange assesses the marketing fee as set forth in a separate Schedule of Rates.

The Exchange seeks to modify its program for all option issues traded on the PCX, except for the Nasdaq-100 Tracking Index (''QQQ''), in the following ways:

Issues Subject to Program: Currently, the PCX's marketing fee program applies only to option issues that the PCX has classified as a top 250 issue. The PCX seeks to expand the program to include all equity option issues traded on the PCX, irrespective of its rank by volume across exchanges.

Transaction Fee: Currently, an LMM may suggest that the Exchange charge a marketing charge at a rate of $0.00, $0.25, $0.50, $0.75 or $1.00 per contract. The PCX proposes to change the fee by assessing a flat $0.60 rate per contract side on all equity options except for the QQQ options.

Scope of Transactions Subject to Program: Currently, the Exchange assesses a payment for order flow fee on all transactions other than market maker-to-market maker transactions. The PCX proposes to modify its program to collect marketing fees on only those transactions of LMMs and market makers involving customer orders from firms that accept payment for directing their orders to the PCX (''payment-accepting firms''). Under this proposal, an LMM will continue to be solely responsible for negotiating payment for order flow arrangements with payment-accepting firms. Although transactions involving firms that do not accept payment for their orders are not subject to the fee, the PCX notes that that LMMs and market makers would have no way of identifying prior to execution whether a particular order is from a payment-accepting firm or from a firm that does not accept payment for its order flow.

Treatment of QQQ Options: The Exchange intends to continue to collect a $1.00 per-contract marketing fee for the QQQ options and to assess this fee on all QQQ transactions except for market maker-to-market maker transactions. The PCX notes that these are the current terms of its marketing fee program with respect to QQQ options.

The Exchange believes that the proposed changes to its marketing fee program are consistent with the Act in that they would serve to enhance the competitiveness of the PCX and its members. Accordingly, the PCX believes that this proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act,[4] which requires the rules of an exchange be designed to remove impediments to, and to perfect the mechanism of, a free and open market and a national market system. The Exchange also believes that the proposal furthers the objectives of section 11A(a)(1) of the Act,[5] which reflects the findings of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers among exchange markets.

2. Basis

The Exchange believes that this proposal is consistent with section 6(b) of the Act,[6] particularly section 6(b)(4) of the Act,[7] in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose 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

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the PCX, and therefore it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2) thereunder.[9] At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the 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 20549–0609. 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 PCX. All submissions should refer to File No. SR–PCX–2003–30 and should be submitted by August 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18394 Filed 7–18–03; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78k–1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Office of the Deputy Secretary

[Public Notice—4404]

Removal of the Restriction on the Use of United States Passports for Travel To, In, or Through Iraq

The Deputy Secretary of State has decided to revoke the restriction on the use of U.S. passports for travel to, in, or through Iraq set forth in Public Notice 4283 of February 25, 2003 (68 FR 8791), as amended by Public Notice 4337 of April 16, 2003 (68 FR 18722), as further amended by Public Notice 4366 of May 15, 2003 (68 FR 26371). Effective upon signature of this Public Notice, United States passports are valid for travel to, in or through Iraq.

Conditions in Iraq remain hazardous for U.S. travelers. Persons considering travel to Iraq should consult the travel warnings available on the State Department's Bureau of Consular Affairs Web site, *http://travel.state.gov* prior to finalizing travel plans.

The Public Notice is effective upon signature.

Dated: July 14, 2003.

Richard Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 03–18466 Filed 7–18–03; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments and Notice of Public Hearing Concerning China's Compliance With WTO Commitments

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing concerning China's compliance with its WTO commitments.

SUMMARY: The interagency Trade Policy Staff Committee (TPSC) will convene a public hearing and seek public comment to assist the Office of the United States Trade Representative (USTR) in its preparation of its annual report to the Congress on China's compliance with the commitments that it made in connection with its accession to the World Trade Organization (WTO).

DATES: Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as a copy of their testimony, by noon, Friday, September 5, 2003. Written comments are due by noon, Wednesday, September 10, 2003. A hearing will be held in Washington, DC, on Thursday, September 18, 2003.

ADDRESSES: *Submissions by electronic mail:*

FR0082@ustr.gov (notice of intent to testify and written testimony); and *FR0083@ustr.gov* (written comments).

Submissions by facsimile: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395–6143.

The public is strongly encouraged to submit documents electronically rather than by facsimile. (*See* requirements for submissions below.)

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments or participation in the public hearing, contact Gloria Blue, (202) 395–3475. All other questions should be directed to Terrence J. McCartin, Director of Monitoring and Enforcement for China, (202) 395–3900, or David L. Weller, Assistant General Counsel, (202) 395–3581.

SUPPLEMENTARY INFORMATION:

1. Background

China became a member of the WTO on December 11, 2001. In accordance with section 421 of the U.S.-China Relations Act of 2000 (Pub. L. 106–286), USTR is required to submit, by December 11 of each year, a report to Congress on China's compliance with commitments made in connection with its accession to the WTO, including both multilateral commitments and any bilateral commitments made to the United States. In accordance with section 421, and to assist it in preparing this year's report, the TPSC is hereby soliciting public comment. Last year's report is available on USTR's Internet Web site at *http://www.ustr.gov/regions/china-hk-mongolia-taiwan.*

The terms of China's accession to the WTO are contained in the Protocol on the Accession of the People's Republic of China (including its annexes) (Protocol), the Report of the Working Party on the Accession of China (Working Party Report), and the WTO Agreement. The Protocol and Working Party Report can be found on the Department of Commerce Web page, *http://www.mac.doc.gov/China/WTOAccessionPackage.htm,* or on the WTO Web site, *http://www.docsonline.wto.org* (document symbols: WT/L/432, WT/MIN(01)/3, WT/MIN(01)/3/Add.1, WT/MIN(01)/3/Add.2).

2. Public Comment and Hearing

USTR invites written comments and/or oral testimony of interested persons on China's compliance with commitments made in connection with its accession to the WTO, including, but not limited to, commitments in the following areas: (a) Trading rights; (b) import regulation (*e.g.*, tariffs, tariff-rate quotas, quotas, import licenses); (c) export regulation; (d) internal policies affecting trade (*e.g.*, subsidies, standards and technical regulations, sanitary and phytosanitary measures, trade-related investment measures, taxes and charges levied on imports and exports); (e) intellectual property rights (including intellectual property enforcement); (f) services; (g) rule of law issues (*e.g.*, transparency, judicial review, uniform administration of laws and regulations) and status of legal reform; and (h) other WTO commitments. Persons submitting written comments should identify the commitments discussed therein by listing one or more of these categories on the first page of the comments.

Written comments must be received no later than noon, Wednesday, September 10, 2003.

A hearing will be held on Thursday, September 18, 2003, in Room 1, 1724 F Street, NW., Washington, DC 20508. If necessary, the hearing will continue on the next day.

Persons wishing to testify orally at the hearing must provide written notification of their intention by noon, Friday, September 5, 2003. The notification should include: (1) The name, address, and telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the commitments at issue and, as applicable, the product(s) (with HTSUS numbers), service sector(s), or other subjects to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC.

All documents should be submitted in accordance with the instructions in section 3 below.

3. Requirements for Submissions

In order to facilitate prompt processing of submissions, USTR strongly urges and prefers electronic (e-mail) submissions in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile.

Persons making submissions by e-mail should use the following subject line: ''China WTO'' followed by (as appropriate) ''Written Comments,'' ''Notice of Testimony,'' or ''Testimony.'' Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC–'', and the file name of the public version should begin with the characters ''P–''. The ''P–'' or ''BC–'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments, notices of testimony, and testimony will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top

of each page, including any cover letter or cover page, and must be accompanied by a nonconfidential summary of the confidential information. All public documents and nonconfidential summaries shall be available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the file may be made by calling (202) 395–6186. Appointments must be scheduled at least 48 hours in advance.

General information concerning USTR may be obtained by accessing its Internet Web site: *http://www.ustr.gov.*

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 03–18467 Filed 7–18–03; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–294]

WTO Dispute Settlement Proceeding Regarding Offsets to Calculated Dumping Margins for Instances of Non-Dumping

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on June 12, 2003, the United States received from the European Communities (''EC'') a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding offsets to calculated dumping margins for instances of non-dumping. The EC asserts that various U.S. statutes, regulations, methodologies and determinations are inconsistent with Articles 1, 2.4, 5.8, 9.3, 9.5, 11, 18.3 and 18.4 of the Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade 1994 (''AD Agreement''), Articles VI:1 and VI:2 of the General Agreement on Tariffs and Trade 1994 (''GATT 1994''), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before August 28, 2003, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0080@ustr.gov,* with ''Dumping Margin Offset'' in the subject line, or (ii) by fax to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the EC

With respect to the measures at issue, the EC's request for consultations refers to the following:

- The Tariff Act of 1930, in particular sections 751, 771(35)(A) and 771(35)(B);
- The implementing regulations of the U.S. Department of Commerce (''DOC''), 19 CFR Part 351, in particular section 351.414(c)(2);
- The methodology of the DOC for determining the dumping margin in investigations on the basis of the comparison of a weighted average normal value with a weighted average export price;
- The methodology of the DOC for determining the dumping margin in reviews;
- The determinations of dumping by the DOC, the determinations of injury by the U.S. International Trade Commission (''ITC''), and the DOC notices for the imposition of the antidumping duty in the following investigations: [1]
- Certain hot-rolled carbon steel from the Netherlands, DOC Case No. A–421–807, ITC Case No. A–903;
- Stainless steel bar from France, DOC Case No. A–427–820, ITC Case No. A–913;
- Stainless steel bar from Germany, DOC Case No. A–428–830, ITC Case No. A–914;
- Stainless steel bar from Italy, DOC Case No. A–475–829, ITC Case No. A–915;
- Stainless steel bar from the United Kingdom, DOC Case No. A–412–822, ITC Case No. A–918; and
- The final results of the administrative reviews by the DOC in the following proceedings: [2]
- Industrial nitrocellulose from France, DOC Case No. A–427–009, 66 FR 54213 (Oct. 26, 2001);
- Industrial nitrocellulose from the United Kingdom, DOC Case No. A–412–803, 67 FR 77747 (Dec. 19, 2002);
- Stainless steel plate in coils from Belgium, DOC Case No. A–423–808, 67 FR 64352 (Oct. 18, 2002);
- Certain pasta from Italy, DOC Case No. A–475–818, 66 FR 300 (Jan. 3, 2002), amended 67 FR 5088 (Feb. 4, 2002);
- Certain pasta from Italy, DOC Case No. A–475–818, 68 FR 6882 (Feb. 11, 2003);
- Stainless steel sheet and strip in coils from Italy, DOC Case No. A–475–824, 67 FR 1715 (Jan. 14, 2002);
- Stainless steel sheet and strip in coils from Italy, DOC Case No. A–475–824, 68 FR 6719 (Feb. 10, 2003);
- Granular polytetrafluoenthylene [*sic*] from Italy, DOC Case No. A–475–703, 67 FR 1960 (Jan. 15, 2002);
- Granular polytetrafluoenthylene [*sic*] from Italy, DOC Case No. A–475–703, 68 FR 2007 (Jan. 15, 2003);
- Stainless steel sheet and strip in coils from France, DOC Case No. A–427–814, 67 FR 6493 (Feb. 12, 2002), amended 67 FR 12522 (March 19, 2002);
- Stainless steel sheet and strip in coils from France, DOC Case No. A–427–814, 67 FR 78773 (Dec. 26, 2002), amended 68 FR 4171 (Jan. 28, 2003);
- Stainless steel sheet and strip in coils from Germany, DOC Case No. A–428–825, 67 FR 7668 (Feb. 20, 2002), amended 67 FR 15178 (March 29, 2002);
- Stainless steel sheet and strip in coils from Germany, DOC Case No. A–428–825, 68 FR 6716 (Feb. 10, 2003);
- Ball bearings from France, DOC Case No. A–427–801, 67 FR 55780 (Aug. 30, 2002);

[1] For the precise EC description of these determinations and notices, including the dates of publication in the **Federal Register**, *see* Annex I of the EC's consultation request, which is available on the WTO Web site's document distribution facility as document ''WT/DS294/1''.

[2] For the precise EC description of these final results, see Annex II of the EC's consultation request, which is available on the WTO Web site's document distribution facility as document ''WT/DS294/1''.

• Ball bearings from Italy, DOC Case No. A–475–801, 67 FR 55780 (Aug. 30, 2002);

• Ball bearings from the United Kingdom, DOC Case No. A–412–801 (Aug. 30, 2002).

With respect to the claims of WTO-inconsistency, the EC request for consultations refers to the following:

• In new investigations, the comparison of export prices and normal values on a weighted average to weighted average basis without any offset for instances of non-dumping;

• In reviews, the comparison of export prices and normal values on a weighted average to transaction basis and without any offset for instances of non-dumping in circumstances other than those specified in Article 2.4.2. of the AD Agreement;

• The impact of not offsetting calculated dumping margins with instances of non-dumping in the determination of ''dumped imports'' in the injury investigation;

• The determination of dumping margins above the *de minimis* level as a result of the absence of an offset to calculated dumping margins for instances of nondumping, and the consequent imposition, continuation or collection of an antidumping duty; and

• With respect to the investigations and administrative reviews identified above, the level of the dumping margins determined in the absence of an offset to calculated dumping margins for instances of non-dumping.

Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0080@ustr.gov,* with ''Dumping Margin Offset (DS294)'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page of the submission; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–294, Dumping Margin Offset (DS294)) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 03–18464 Filed 7–18–03; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–296]

WTO Dispute Settlement Proceeding Regarding Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) From Korea

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on June 30, 2003, the United States received from the Republic of Korea a request for consultations under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') regarding the U.S. countervailing duty (''CVD'') investigation on dynamic random access memory semiconductors (''DRAMS'') from Korea. Korea asserts that existing and future determinations made in this investigation, as well as related U.S. laws and regulations, are inconsistent with Articles 1, 2, 10, 11, 12, 14, 17, 22, and 32.1 of the Agreement on Subsidies and Countervailing Measures (''SCM Agreement''), and Articles VI:3 and X:3 of the General Agreement on Tariffs and Trade 1994 (''GATT 1994''). USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before August 28, 2003, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0084@ustr.gov*, with ''Korea DRAMS (DS296)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the address above, in accordance with the requirements for submission set out below.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional

opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by Korea

With respect to the measures at issue, Korea's request for consultations refers to the following:

- The affirmative preliminary CVD determination by the U.S. Department of Commerce (''DOC''), 68 FR 16766 (April 7, 2003);
- The affirmative final CVD determination by the DOC, 68 FR 37122 (June 23, 2003);
- The affirmative preliminary injury determination by the U.S. International Trade Commission (''USITC''), 67 FR 79418 (December 27, 2002);
- Any subsequent determinations that may be made during the USITC's injury investigation in *DRAMS and DRAM Modules from Korea* (Inv. No. 701–TA–431); and
- The related laws and regulations, including section 771 of the Tariff Act of 1930 and 19 CFR 351.

With respect to the claims of WTO-inconsistency, Korea's request for consultations refers to the following:

- The DOC failed to demonstrate the existence of a financial contribution by the Government of Korea.
- The DOC failed to examine each separate alleged government measure at issue in the investigation.
- The DOC failed to demonstrate that a benefit was conferred on the respondent Hynix Semiconductor Inc., given available market benchmarks.
- The ''creditworthy,'' ''equityworthy,'' and other analysis required by section 771(5) of the Tariff Act of 1930 and 19 CFR 351.
- Section 771(5) and (5A) of the Tariff Act of 1930 and 19 CFR 351 impose and the DOC applied an improper burden of proof on respondents and, in turn, the DOC did not base its decisions on affirmative, objective, and verifiable evidence.
- The DOC did not base its decision to initiate its CVD investigation on sufficient evidence.
- The DOC conducted various verification meetings over the explicit objection of the Government of Korea.
- The DOC imposed provisional measures based on a flawed analysis of financial contribution, benefit, and other factual and legal issues.
- The DOC failed to provide all relevant information on the matters of fact and law and reasons for its determinations.
- The DOC failed to conduct its investigation and make determinations in accordance with fundamental substantive and procedural requirements.

The consultation request does not refer to any WTO-inconsistent action by the USITC, nor does it refer to any WTO-inconsistencies with respect to those provisions of U.S. laws and regulations dealing with injury determinations in CVD investigations.

Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0084@ustr.gov,* with ''Korea DRAMS (DS296)'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person:

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page of the submission; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–296, Korea DRAMS) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 03–18465 Filed 7–18–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2003–15660]

Notice of Request for Renewal of a Currently Approved Information Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this notice announces the Department of Transportation's (DOT's) intention to request an extension for a currently approved information collection.

DATES: Comments on this notice must be received by September 19, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number OST–2003–15660] by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

• Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Luther Dietrich, Office of the Secretary, Office of Aviation Analysis, X–53, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1046.

SUPPLEMENTARY INFORMATION:

Title: Air Carrier's Claim for Subsidy and Air Carrier's Report of Departures Flown in Scheduled service.

OMB Control Number: 2106–0044.

Type of Request: Extension for a currently approved information collection.

Abstract: In 14 CFR 271 of its Aviation Economic Regulations, the Department provided that subsidy to air carriers for providing essential air service will be paid to the carriers monthly, and that payments will vary according to the actual amount of service performed during the month. The reports of subsidized air carriers of essential air service performed on the Department's Forms 397, ''Air Carrier's Report of Departures Flown in Scheduled Service'', and 398, ''Air Carrier's Claim for Subsidy,'' establish the fundamental basis for paying these air carriers on a timely basis. Typically, subsidized air carriers are small businesses and operate only aircraft of limited size over a limited geographical area. The collection permits subsidized air carriers to submit their monthly claims in a concise, orderly, easy-to-process form, without having to devise their own means of submitting support for these claims.

The collection involved here requests only information concerning the subsidy-eligible flights (which generally constitute only a small percentage of the carriers' total operations) of a small number of air carriers. The collection permits the Department to timely pay air carriers for providing essential air service to certain eligible communities that would not otherwise receive scheduled passenger air service.

Respondents: Small air carriers selected by the Department in docketed cases to provide subsidized essential air service.

Estimated Number of Respondents: 21.

Total Annual Responses: 816.

Estimated Total Burden on Respondents: 4,176 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper functioning of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

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.

Issued in Washington, DC on July 15, 2003.

Randall D. Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 03–18495 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket Nos. OST–03–15138 and OST–03–15139]

Application of Aviation Concepts, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (order 2003–7–18).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Aviation Concepts, Inc., fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than July 29, 2003.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–03–15138 and OST–03–15139 and addressed to the Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Lawyer, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1064.

Dated: July 14, 2003.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–18380 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Presque Isle County/Rogers City Airport, Rogers City, Michigan

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the exchange of the airport property. The proposal consists of one parcel totaling approximately 5.28 acres. Current use and present condition is undeveloped vacant land. The land was originally sold to the County from Bradley Reality Company, December 27, 1935. There are no impacts to the airport by allowing the airport to dispose of the property. The proposed land will be exchanged for school district property needed to meet the Object Free Area requirements

for the runway. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 20, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Swann, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–613, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: 734–229–2945; FAX Number: 734–229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Presque Isle County/Rogers City Airport, Rogers City, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Rogers City, County of Presque Isle, Michigan, and described as follows: Commencing at the east one-quarter corner of section 22, town 35 north, range 5 east, Presque Isle County, state of Michigan, described as: Thence S87°57′57″ W 1342.14 feet to the point of beginning; thence S 01°05′26″ E along the east one-eighth line of said section 1166.49 feet; thence S87°53′41″ W 197.40 feet; thence N01°05′24″ W 1166.73 feet; thence N87°57′57″ E 197.39 feet to the point of beginning. Said parcel contains approximately 5.28 acres.

Issued in Romulus, Michigan on June 2, 2003.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 03–18385 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on July 22–24, 2003 from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036–5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 meeting. The agenda will include:

- July 22:
  - Working Groups 1 through 3 meet all day
- July 23:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary, Review Open Action Items)
  - Report from Program Management Committee on SC–202 recommended revisions to Terms of Reference
  - Review and update of EUROCAE WG58 Activities
  - Review Working Group (WG) Progress and Identify Issues for Resolution (will continue into second day as required)
  - Working Group 1 (PEDs characterization, test, and evaluation)
  - Updated Project Management template information
  - Structure, outline, intended contents of work group's data report
  - Preliminary or summary list of devices type/categorizations
  - Grouped by frequencies used, modulation type, power, etc.
  - Prioritized device categories for Phase 1 document
  - Equipment needs or other support required
  - Working Group 2 (Aircraft test and analysis)
  - Updated Project Management template information
  - Structure, outline, intended contents of work group's data report
  - Plan for aircraft test
  - What has to be determined to be already existing and useable data
  - Needs for airplane availability
  - Equipment needs or other support required
- July 24:
  - Continue Plenary Session
  - Review of Working Group (WG) Progress and Identify Issues for Resolution
  - Working Group 3 (Aircraft systems susceptibility)
  - Updated Project Management template information
  - Structure, outline, intended contents of work group's data report
  - Definition of systems susceptibility presentation format
  - Prioritized list of on-aircraft systems to identify ''most critical'' victim systems
  - Summary of timeframe for data availability
  - Testing requirements identified, plan for initial susceptibility testing
  - Specific data required from WG1 and WG2 testing or evaluation of existing data
  - Working Group 4 (Risk assessment, practical application, and final documentation)
  - Updated Project Management template information
  - Structure, outline, intended contents of work group's data report
  - First cut or current plan for what guidance, and identify where the gaps are that should be addressed in SC–202 report
  - Preliminary requests for data from other WGs (what data is needed first)
  - Issues identified for resolution by several Working Groups
  - Testing of aircraft receiver false-alarm and missed-detection susceptibilities to Ultra Wide Band emissions as done by NASA and airlines team
  - How to address the intermodulation issue
  - How to address the multiple-PED issue
  - Additional items as identified during working-group report-out
  - Assignment/Review of Future Work
  - Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–18383 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 172: Future Air-Ground Communications in the Very High Frequency (VHF) Aeronautical Data Band (118–137 MHz)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 172 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 172: Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz).

DATES: The meeting will be held July 16–17, 2003 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, SW., Washington, DC 20036; Telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 172 meeting. The agenda will include:

- July 16:
- Opening Plenary Session (Welcome and Introductory Remarks, Review of Agenda, Review Summary of Previous Meeting).
- Convene Working Group-3 (WG–3), resolve final review and comments (FRAC), to draft Change 1 to DO–271A, VHF Digital Link Mode 3 Minimum Operational Performance Standard (MOPS).
- July 17:
- Reconvene WG–3 as necessary to continue with the resolution of FRAC comments to draft Change 1 to DO–271A VDL Mode 3 MOPS.
- Convene WG–2, time permitting, to entertain white papers and actions regarding the development of Version B of the DO–224A, Signal-in-Space Minimum Aviation Communications Including Compatibility with Digital Voice.
- Convene Plenary-Approve draft Change 1 to DO–271A VDL 3 MOPS to forward to RTCA Program Management Committee.
- Review relevant activities:
- International Civil Aviation Organization (ICAO) Aeronautical Mobile; Communications Panel work;
- NEXCOM activities;
- EUROCAE WG–47 status and issues; and
- Others as appropriate.
- Closing Plenary Session (Other Business, Date and Place of Next Meeting, Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on June 19, 2003.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–18384 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Boulder, Broomfield, and Jefferson Counties, CO

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed transportation improvement project in Boulder, Broomfield, and Jefferson Counties, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Shaun Cutting, Senior Operations Engineer, FHWA, Colorado Division, 555 Zang Street, Room 250, Lakewood, CO, 80228, Telephone: (303) 969–6730 extension 369. Mr. William McDonnell, Project Engineer, Colorado Department of Transportation Region 6, 2000 South Holly Street, Denver, Colorado 80222, Telephone: (303) 757–9914.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Colorado Department of Transportation (CDOT), will prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for an improved connection between the western terminus of the Northwest Parkway in Broomfield County and the SH 58, I–70, or C–470 freeway systems to the south in Jefferson County. This connection is considered necessary to address the need for system linkage, to provide for existing and projected transportation demand, to improve safety, and to enhance modal interrelationships, within the Northwestern Quadrant of the Denver Metropolitan Area:

Alternatives under consideration include but are not limited to (1) taking no action; (2) construction of a new highway alignment; (3) improvement of the existing highway network; (4) improvement of the existing arterial system; (5) transit options; and, (6) expansion to the existing bus system.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public and agency meetings will be held in the project area in January 2004. In addition, public hearings will be held after the publication and issuance of the Draft Environmental Impact Statement and the Final Environmental Impact Statement. Public notice will be given of the time and place of the meetings and hearings. The Draft Environmental Impact Statement and Final Environmental Impact Statement will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Colorado Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: July 14, 2003.

William C. Jones,

Division Administrator, Lakewood, Colorado.

[FR Doc. 03–18349 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2003–15683]

Notice of Receipt of Petition for Decision That Nonconforming 1982 Triumph TSS Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1982 Triumph TSS motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1982 Triumph TSS motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 20, 2003.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1982 Triumph TSS motorcycles are eligible for importation into the United States. The vehicles which Wallace believes are substantially similar are 1982 Triumph TSS motorcycles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. 1982 Triumph TSS motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that non-U.S. certified 1982 Triumph TSS motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1982 Triumph TSS motorcycles are identical to their U.S. counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars,* and 122 *Motorcycle Brake Systems.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the existing headlamp and rear tail lamp envelope with compliant components, and installation of compliant front amber reflectors and rear red reflectors.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S. model speedometer calibrated in miles per hour.

The petitioner states that when the vehicle has been brought into conformity with all applicable Federal motor vehicle safety standards, a certification label that meets the requirements of 49 CFR part 567 will be affixed to the front of the motorcycle frame.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 14, 2003.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 03–18494 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–15621; Notice 1]

Accuride Corporation Receipt of Application for Decision of Inconsequential Noncompliance

Accuride Corporation (Accuride) has determined that approximately 1,053 Extra Service Wheels, produced between May 27, 2003, and May 31, 2003, do not meet certain requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, ''Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Accuride has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The noncompliant wheels, produced by Accuride at its Erie, Pennsylvania plant and machined at the Accuride plant in Cuyahoga Falls, Ohio, do not have a ''DOT–T'' stamp on the rims. The symbol ''DOT'' and the designation, which indicates the source of the rims', published nominal dimensions, in this case ''T'' were inadvertently not marked on the wheels.

Accuride believes that the omission of the ''DOT–T'' marking is inconsequential to safety as the omission in no way affects the performance of the wheel and does not otherwise compromise safety. All other information markings required by FMVSS No. 120 are correctly marked.

Interested persons are invited to submit written views, arguments, and data on the application described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: August 20, 2003.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 15, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–18496 Filed 7–18–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 634X)]

CSX Transportation, Inc.—Abandonment Exemption—in Monroe County, IN

On July 1, 2003, CSX Transportation, Inc. (CSXT) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 2.95-mile line of railroad, in CSXT's Western Region, Great Lakes Division, extending from milepost 00Q–219.55 to milepost 00Q–222.50, in Bloomington, Monroe County, IN. The line traverses United States Postal Service Zip Codes 47402 and 47404, and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 17, 2003.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 11, 2003. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 634X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Natalie S. Rosenberg, Counsel, 500 Water Street—J150, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before August 11, 2003.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days after the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://WWW.STB.DOT.GOV.*

Decided: July 14, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–18432 Filed 7–18–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 14, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 20, 2003 to be assured of consideration.

Departmental Offices/Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0022.
Form Number: CDFI 0006.
Type of Review: Extension.
Title: Technical Assistance Component, CDFI Program.
Description: The CDFI Fund provides grants to be used to acquire technical assistance to increase the capacity of community development financial institutions (CDFIs) or proposed CDFIs to serve underserved target markets.
Respondents: Not-for-profit institutions, Business or other for-profit.
Estimated Number of Respondents: 80.
Estimated Burden Hours Per Respondent: 55 hours.
Frequency of Response: Other (application submission only).
Estimated Total Reporting Burden: 4,400 hours.
Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220. *OMB Reviewer:* Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Treasury PRA Clearance Officer.
[FR Doc. 03–18431 Filed 7–18–03; 8:45 am]
BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 8830

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8830, Enhanced Oil Recovery Credit.

DATES: Written comments should be received on or before September 19, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:
Title: Enhanced Oil Recovery Credit.
OMB Number: 1545–1282.
Form Number: 8830.
Abstract: Internal Revenue Code section 43 allows taxpayers to elect a tax credit of 15% of the qualified oil recovery costs paid or incurred during the year. The credit is phased out as the reference price of crude oil for the prior year exceeds $28 per barrel. Form 8830 is used by taxpayers to compute the credit.
Current Actions: There are no changes being made to the form at this time.
Type of Review: Revision of a currently approved collection.
Affected Public: Business or other for-profit organizations, and individuals or households.
Estimated Number of Respondents: 3,623.
Estimated Time Per Response: 9 hours, 16 minutes.
Estimated Total Annual Burden Hours: 33,622.
The following paragraph applies to all of the collections of information covered by this notice:
An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2003.

Glenn Kirkland,
IRS Reports Clearance Officer.
[FR Doc. 03–18469 Filed 7–18–03; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8586

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8586, Low-Income Housing Credit.

DATES: Written comments should be received on or before September 19, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, at (202) 622–3179, or *Larnice.Mack@irs.gov,* or Internal Revenue Service, Room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:
Title: Low-Income Housing Credit.
OMB Number: 1545–0984.
Form Number: 8586.
Abstract: Internal Revenue Code section 42 permits owners of residential rental projects providing low-income housing to claim a tax credit for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit

and by the IRS to verify that the correct credit has been claimed.

Current Actions: The order of Part II, Tax Liability Limit, was revised for this form. Section 501 of Public Law 106–170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed in Part II to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 10 was added to show the sum of the regular tax before credits and the alternative minimum tax.

Type of Review: Revision of a currently approved collection.

Affected Public: Individual or households, and business or other for-profit organizations.

Estimated Number of Response: 168,137.

Estimated Time Per Respondent: 13 hrs., 45 minutes.

Estimated Total Annual Burden Hours: 2,311,884.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–18482 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–MISC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–MISC, Miscellaneous Income.

DATES: Written comments should be received on or before September 19, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Miscellaneous Income.

OMB Number: 1545–0115.

Form Number: 1099–MISC.

Abstract: Form 1099–MISC is used by payers to report payments of $600 or more of rents, prizes and awards, medical and health care payments, nonemployee compensation, and crop insurance proceeds, $10 or more of royalties, any amount of fishing boat proceeds, certain substitute payments, golden parachute payments, and an indication of direct sales of $5,000 or more.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for profit organizations, individuals or households, not-for-profit institutions, farms, Federal government, and state, local or tribal governments.

Estimated Number of Respondents: 77,317,951.

Estimated Time Per Recordkeeper: 16 min.

Estimated Total Annual Burden Hours: 21,649,027.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2003.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–18483 Filed 7–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for applications for assistance under the Life Safety Code grant component of VA's Homeless Providers Grant and Per Diem Program. This Notice contains information concerning the program, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus two completed collated copies) for assistance under the VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Field Office by 4 p.m. Eastern Time on August 20, 2003. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at *http://www.va.gov/homeless/page.cfm?pg=3* or call the Grant and Per Diem Program at 202–273–8443 or (toll-free) 1–877–332–0334.

For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the interim final rule published in the **Federal Register** on March 19, 2003, Sections 61.0 through 61.82.

Submission of Application: An original completed and collated grant application (plus two copies) must be submitted to the following address: VA Homeless Providers Grant and Per Diem Field Office, 10770 N. 46th Street, Suite C–100, Tampa, Florida 33617. Applications must be received in the Grant and Per Diem Field Office by the application deadline. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Victor Harris, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; 202–273–8443 or Tampa Field Office (toll-free) 1–877–332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program for eligible capital grantees who received a previous grant under section 3 of the Homeless Veterans Comprehensive Service Act of 1992 (Pub. L. 102–590; 38 U.S.C. 7721 note) for construction, renovation, or acquisition of a facility and may seek a Life Safety Code grant solely for renovations to such facility to comply with the Life Safety Code of the National Fire Protection Association.

Public Law 107–95, the Homeless Veterans Comprehensive Assistance Act of 2001, authorizes this program. Funding applied for under this Notice may be used solely for renovations to such facility to comply with the Life Safety Code of the National Fire Protection Association.

Authority: VA's Homeless Providers Grant and Per Diem Program is authorized by Public Law 107–95, section 5(a)(1) the Homeless Veterans Comprehensive Assistance Act of 2001 codified at 38 U.S.C. 2011, 2012, 2061, 2064 and has been extended through Fiscal Year 2005. The program is implemented by the interim final rule codified at 38 CFR 61.0. The interim final rule was published in the **Federal Register** on March 19, 2003, the regulations can be found in their entirety in 38 CFR §§ 61.0 through 61.82. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation: Approximately $3.5 million is available for the Life Safety Code grant component of this program.

Funding Priorities: None.

Application Requirements: The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Selections will be made based on criteria described in the application.

Applicants who are selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Dated: July 14, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–18493 Filed 7–18–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of New System of Records—Enterprising Veterans' Information Center—VA (124VA00VE).

SUMMARY: The Privacy Act of 1974, 5 U.S.C. 522a, requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is adding a new system of records entitled ''Enterprising Veterans' Information Center—VA'' (124VA00VE).

DATES: Comments on the establishment of this new system of records must be received no later than August 20, 2003. If no public comment is received, the new system will become effective August 20, 2003.

ADDRESSES: Written comments concerning the proposed new system of records may be mailed or hand-delivered to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420. Comments may also be faxed to (202) 273–9026, or e-mailed to *OGCRegulations@mail.va.gov.* All relevant material received before August 20, 2003 will be considered. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call for an appointment.

FOR FURTHER INFORMATION CONTACT: Ms. Gail Wegner (00VE), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. The telephone number is (202) 254–0233.

SUPPLEMENTARY INFORMATION: Public Law 106–50 (Section 604) requires, in pertinent part:

''(b) Identification of Small Business Concerns Owned by Eligible Veterans. Each fiscal year, the Secretary of Veterans Affairs shall, in consultation with the Assistant Secretary of Labor for Veterans' Employment and Training and the Administrator of the Small Business Administration, identify small business concerns owned and controlled by veterans in the United States. The Secretary shall inform each small business concern identified under this paragraph that information on Federal procurement is available from the Administrator.''

This new system of records will be used to maintain and access an automated database containing recordings of phone calls coming into the Center for Veterans Enterprise (Center or CVE) and the routing of those calls to the appropriate individuals for action.

The information in this system will be maintained in electronic form. The information in these records will be used within the office for the purpose of supporting the office mission and responding to inquiries coming into the office.

A ''Report of Intention to Publish a **Federal Register** Notice of a New System of Records'' and an advance copy of the new system notice have been provided to the Chairmen of the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs, and the Director, Office of Management and Budget (OMB), as required by provisions of the Privacy Act, and guidelines issued by OMB (61 FR 6428) (1996).

Approved: July 9, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

124VA00VE

SYSTEM NAME:

Enterprising Veterans' Information Center (EVIC)–VA.

SYSTEM LOCATION:

All system records are maintained at the Center for Veterans Enterprise office in VA Headquarters, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system shall record the names and numbers of individuals calling the CVE for advice and assistance, as well as any voice messages.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records will provide integrated customer service for the Center's telephone and operational business communication needs to include, but not limited to, automated switchboard referral to CVE resource partners and automated electronic mail responses and referrals. It shall record the names and numbers of individuals calling the CVE for advice and assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 106–50, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records maintained by the system will be used within the Center for Veterans Enterprise to manage communications from veterans and other individuals seeking assistance from the Center in establishing new businesses or enhancing existing businesses or seeking information on business opportunities for veterans.

COMPATIBILITY OF THE ROUTINE USES:

The Privacy Act permits disclosure of information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information is collected. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs; to provide a benefit to VA; or because disclosure is required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The EVIC will operate on equipment located at VA's Center for Veterans Enterprise located in Washington, DC. Data backups will reside on appropriate media according to normal system back-up plans recommended by the manufacturer. The system will be managed by the Center for Veterans Enterprise in VA Headquarters, Washington, DC.

RETRIEVABILITY:

Records may be retrieved by calling telephone number, date, name, and other data given by the caller that is stored in the database.

SAFEGUARDS:

The system and all files will be physically located in a locked room within CVE offices. Access to the building is controlled by access card during non-duty hours and by guard service during duty hours. Access to CVE offices is via a receptionist during duty hours and by physical key entry during non-duty hours.

Access to the system is via user-id/password restricted to authorized administrators only. Overall policy, within VA, regarding issuance of user-ids and passwords is formulated in VA by the Office of Information and Technology, Washington, DC.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with the records disposal authority approved by the Archivist of the United States, the National Archives and Records Administration, and published in Agency Records Control Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Center for Veterans Enterprise (00VE), 810 Vermont Avenue, NW., Washington, DC 20420.

RECORDS ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records may access the records via the Internet, or submit a written request to the system manager.

CONTESTING RECORD PROCEDURES:

An individual who wishes to contest records maintained under his or her name or other personal identifier may write or call the system manager. VA's rules for accessing records and contesting the contents and appealing initial agency determinations are published in regulations set forth in the Code of Federal Regulations. *See* 38 CFR 1.577, 1.578.

RECORD SOURCE CATEGORIES:

Records contained in EVIC will be created from information provided by persons voluntarily contacting the Center for Veterans Enterprise and by caller-id information supplied via the local telephone carrier.

[FR Doc. 03–18492 Filed 7–18–03; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 68, No. 139

Monday, July 21, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Adminstration

14 CFR Part 39

[Docket No. 2003–CE–23–AD; Amendment 39–13173; AD 2003–11–14]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–34–200T, PA–34–220T, PA–44–180, and PA–44–180T Airplanes

Correction

In rule document 03–13650 beginning on page 33356 in the issue of Wednesday, June 4, 2003, make the following correction:

§ 39.13 [Corrected]

On page 33358, in § 39.13(d), in the first column, in the table, under the column heading ''Actions'', correct (1) to read as follows:

''(1) Visually inspect any installed aircraft heater fuel pump (model 91E92–1 or model 91E93–1) for leakage.''.

[FR Doc. C3–13650 Filed 7–18–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
July 21, 2003

Part II

Department of Education

Office of Special Education and Rehabilitative Services; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2003.

SUMMARY: This notice announces closing dates, priorities, and other information regarding the transmittal of grant applications for FY 2003 competitions under three programs authorized under part D, subpart 2 of the Individuals with Disabilities Education Act, as amended. The three programs are: (1) Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (4 priorities); (2) Special Education—Technology and Media Services for Individuals with Disabilities (1 priority) and (3) Special Education—Training and Information for Parents of Children with Disabilities (1 priority).

Please note that significant dates for the availability and submission of applications, as well as important fiscal information, are listed in a table at the end of this notice.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the public comment requirements in the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities (*see* section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (*see* section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) If a project maintains a Web site, it must include relevant information and documents in an accessible form.

Page Limit: If you are an applicant, Part III of each application, the application narrative, is where you address the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed in the table at the end of this notice, using the following standards:

- A ''page'' is 8.5″ × 11″ (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if —

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Application Procedures

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Project for Electronic Submission of Applications

In Fiscal Year 2003, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The three programs in this announcement: Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—CFDA 84.326, Technology and Media Services for Individuals with Disabilities—CFDA 84.327, and Training and Information for Parents of Children with Disabilities—CFDA 84.328 are included in the pilot project. If you are an applicant for a grant under any of the three programs in this notice, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Appliyation). Users of e-Application will be entering data on-line while completing their applications. You may not e-mail a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format. When you enter the e-Application system, you will find information about its hours of operation.
- You may submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.
- *Closing Date Extension in Case of System Unavailability:* If you elect to participate in the e-Application pilot for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities Program, the Technology and Media

Services for Individuals with Disabilities Program, or the Training and Information for Parents of Children with Disabilities Program and you are prevented from submitting your application on the closing date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. For us to grant this extension—

1. You must be a registered user of e-Application, and have initiated an e-Application for this competition; and

2. (a) The e-Application system must be unavailable for 60 minutes or more between the hours of 8:30 and 3:30 p.m., Washington, DC time, on the deadline date; or

(b) The e-Application system must be unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 and 4:30 p.m., Washington, DC time) on the deadline date.

The Department must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension you must contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities Program, the Technology and Media Services for Individuals with Disabilities Program, or the Training and Information for Parents of Children with Disabilities Program at: *http://e-grants.ed.gov.*

We have included additional information about the e-Application pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application packages.

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities [CFDA Number 84.326]

Purpose of Program: The purpose of this program is to provide technical assistance and information—through such mechanisms as institutes, regional resource centers, clearinghouses, and programs that support States and local entities in building capacity—to (1) improve early intervention, educational, and transitional services and results for children with disabilities and their families; and (2) address systemic-change goals and priorities.

Eligible Applicants: State educational agencies, local educational agencies, institutions of higher education, other public agencies, nonprofit private organizations, for-profit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) The selection criteria, chosen from the general selection criteria in 34 CFR 75.210. The specific selection criteria for these competitions are included in the application package for these competitions.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Under 34 CFR 75.105(c)(3) we consider only applications that meet one of the following priorities:

Absolute Priority 1—Absolute Priority 1—The IDEA Partnership Project (84.326A)

Background

In 1998 the Department of Education, Office of Special Education Programs (OSEP), funded four projects to support partnerships among national associations and membership organizations so that they could contribute to the successful implementation of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 by making available accurate information on the statute, as well as research-based practices for implementing the statute, to their grass-roots constituencies. Partnerships were funded to meet the needs of four audiences: (1) Families and advocates, (2) policymakers, (3) service providers, and (4) local-level administrators.

Over the last four and a half years, these four projects have made considerable progress building trust between the participating organizations and creating an infrastructure by which member organizations within individual projects could collaborate, share information, and develop activities and products to meet the needs of their constituencies. In addition, through the Partnership Projects' Coordinating Committee, cross-partnership collaborations were initiated that allowed the various constituency groups to share their perspectives and to gain insights on the perspectives of others. This cross-stakeholder communication is essential to successfully address the complex challenges associated with the implementation of both IDEA and No Child Left Behind (NCLB).

Priority

The purpose of this priority is to continue, and further focus, the work of the four Partnership Projects by supporting one partnership among national associations and membership organizations representing all four audiences: (1) Families, (2) policymakers, (3) service providers, and (4) local-level administrators. This partnership project must build upon the relationships and infrastructures created by the four previous partnerships, but must focus its work primarily on activities that are relevant across all four audiences. In addition, activities conducted by this project must be designed to move national-level collaborations down to State and local levels.

Like the previous four projects, this single partnership will be funded as a cooperative agreement, and must inform and provide support to its members in understanding IDEA, including Part C, and NCLB. The project must focus on the effect these two statutes have on the respective roles of its members in improving results for children with disabilities. The project must also provide opportunities for members to engage in meaningful dialogue and problem solving designed to improve the integration of regular and special education.

Applicants may not make financial commitments to any associations or membership organizations in designing this application. These commitments will be negotiated during the first month of the award with final approval by OSEP. The project must:

(a) Form a single partnership among national associations and membership organizations from both regular and special education to meet the collective needs of four audiences:

(1) Policymakers (*e.g.*, associations of chief State school officers, State boards of education, local school boards, State directors of special education, mental health, and children with special health care needs programs, deans of education and special education, department chairs at institutions of higher education, superintendents, governors, State legislators);

(2) Service providers, (*e.g.*, associations of regular and special education teachers, community-based

providers, vocational educators, related service providers, paraprofessionals);

(3) Local-level administrators (*e.g.*, associations of elementary, middle, and secondary school principals; regular and special education administrators; and administrators of private schools); and

(4) Families (*e.g.*, associations of parents and family members of students in general, special education students, and infants with disabilities, and disability organizations representing individuals with disabilities).

(b) Through the project director and other relevant staff of the partnership, collaborate with appropriate OSEP and other federally funded researchers and technical assistance providers, including the parent training and information centers. OSEP supports a number of research programs and technical assistance efforts that produce findings, information, instructional approaches, and products that could bear upon the successful implementation of IDEA. The project must also share information with the OSEP-funded Dissemination Center.

(c) Include information in its application on an assessment it has conducted to identify the needs of partners regarding the implementation of IDEA, including Part C.

(d) Establish an advisory panel that includes representation from each of its member organizations.

(e) Report results of the needs assessment described in its application to the advisory panel during the first three months of the award.

(f) Based on the results of the needs assessment, with input from the advisory panel, develop joint annual plans for training, technical assistance, dissemination, and outreach to reach the partners' grass roots constituencies in an efficient and timely manner. The plans, which must be submitted to OSEP for approval, must address:

(l) How partners intend to reach members at both State and local levels;

(2) How partners will implement research-based practices to effectively implement IDEA, including Part C, and NCLB;

(3) How trainers, who are members of partner organizations, will be compensated for their training time;

(4) How partners will use project funds to supplement their ongoing efforts to improve results for children with disabilities; and

(5) How the project will leverage other resources to support planned activities.

(g) Convene the advisory panel, at a minimum, on a semi-annual basis to assess the implementation of the plan.

(h) With input from the advisory panel, develop strategies to address the fragmentation and facilitate the integration of regular and special education. Examples of such strategies could include, but are not limited to, technical assistance activities designed to help States and districts develop seamless accountability systems.

(i) Create opportunities for the project's member organizations to engage in meaningful dialogue and problem solving designed to identify supports and impediments to improved results for children with disabilities. The project must develop strategies to eliminate the impediments.

(j) Prior to developing any new product, whether paper or electronic, submit for approval a proposal describing the content and purpose of the product to OSEP's Dissemination Center for which OSEP plans to fund this year. However, product development is not a primary function of this project.

(k) When OSEP has funded a technical assistance center in the content area of the proposed product, but no product currently exists that will meet the needs of the project's partners, work with that center to ensure that the content of the product is of the highest quality.

(l) Before submitting a new product to OSEP's Dissemination Center for review, have that product thoroughly reviewed by individuals representing each of the four constituency groups represented in the partnership.

(m) Review the new product for technical accuracy and clarity by vetting through an approach determined in consultation with OSEP.

(n) Establish:

(1) A toll free telephone number;

(2) A Web site with links to other information and technical assistance providers;

(3) A database of products and activities; and

(4) Regular information updates to keep partner organizations abreast of new developments in the law.

(o) Employ an information specialist to answer questions and mail materials upon request.

(p) Make all information products accessible electronically and available in alternative formats.

(q) Conduct an evaluation of project activities that is based on clear, measurable performance objectives that include measures of collaboration and, if possible, are clearly linked to improving results.

(r) Conduct OSEP-specified technical assistance to States. This effort may include participation in: (1) Collaborative Web-based technical assistance activities, (2) coordination of and participation in State-to-State communities of practice, or (3) direct technical assistance to OSEP-specified States through partnerships between OSEP and selected States. Staff time and project resources dedicated to provide technical assistance to OSEP-specified States will be negotiated with OSEP as part of the cooperative agreement within 30 days of the project award (OSEP anticipates that technical assistance to OSEP-specified States could average approximately $40,000 per year. Budgets should be developed with this in mind).

Fourth and Fifth Years of Project

In deciding whether to continue this project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a) for continuation awards.

The Secretary will also consider the following:

(a) The recommendation of a review team consisting of experts selected by the Secretary. The team will conduct its review in Washington, DC during the last half of the project's second year. A project must budget for the travel associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project;

(c) The degree to which the project is making a positive contribution—and its strategies are demonstrating the potential for disseminating significant knowledge to State and local constituencies—to improve collaboration and the implementation of IDEA; and

(d) Evidence of the degree to which the project's activities have contributed to changed practice and improved student outcomes.

Competitive Preference

Within this absolute priority, we will give the following competitive preference points under 34 CFR 75.105(c)(2)(i) to applicants that are otherwise eligible for funding under this priority:

Ten points will be awarded to any application that is submitted from a national association or national membership organization.

Therefore, for purposes of this competitive preference applicants can be awarded a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could receive a maximum possible score of 110 points.

Absolute Priority 2—National Center on Dispute Resolution (84.326D)

Background

Alternative dispute resolution processes such as mediation represent a less costly means of resolving complaints than due process hearings, can help minimize adverse effects on a child's progress in school, and are more apt to foster positive relationships between families and educators than would litigation. In 1998 the Office of Special Education Programs (OSEP) funded a technical assistance center on alternative dispute resolution to give States assistance on mediation and other effective dispute resolution procedures that support the Individuals with Disabilities Education Act (IDEA). This priority follows up on the investment in this area to continue the work of the past five years. For further information on the past work in this area go to *http://www.directionservice.org/cadre.*

Priority

This priority will support a cooperative agreement to continue a national technical assistance center to provide technical assistance on all dispute resolution and complaint management procedures.

The Center's activities must include, but are not limited, to the following:

(a) Providing technical assistance on dispute resolution and complaint management procedures to all States, outlying areas, Freely Associated States, the Bureau of Indian Affairs, and localities, as appropriate, as they implement early intervention services under Part C and educational and related services under Part B of the IDEA including, at a minimum, (1) Conducting annual needs assessments, (2) Developing technical assistance agreements for each entity, and (3) Providing focused technical assistance to States as requested by OSEP.

(b) Conducting an annual survey of States to determine the current status of due process hearings and use of mediation and alternative dispute resolution. The project must:

(i) Maintain a database for collecting and analyzing information from States on the use and outcomes of due process hearings, mediation, mediator training, and alternative dispute resolution procedures.

(ii) Analyze the data and develop reports on trends and patterns related to the use of alternative dispute resolution and other topics as requested by OSEP.

(c) Providing technical assistance to States based on needs identified in the annual needs assessments.

(d) Establishing a mechanism for assessing and synthesizing the research base on alternative dispute resolution. A team of researchers must assist the Center in the analysis and synthesis of the current and emerging research on alternative dispute resolution.

(e) Developing informational exchanges about dispute resolution procedures between the Center and other technical assistance and information dissemination systems.

(f) Coordinating with the Parent Technical Assistance Projects to provide technical assistance to all OSEP-funded parent training and information centers and community parent resource centers on dispute resolution procedures. Evidence of coordination and proposed outcomes of the coordination must be reported to the Federal project officer.

(g) Coordinating with the National Dissemination Center, which OSEP expects to fund this year, to ensure timely and accurate dissemination of dispute resolution information. Evidence of coordination and proposed outcomes of the coordination must be reported to the Federal project officer.

(h) Collaborating and communicating with other OSEP-funded projects such as the Regional Resource Centers, the IDEA Partnership Project, Project Forum, the Access Center, the National Early Childhood Technical Assistance Center and other projects as appropriate. Evidence of collaboration and proposed outcomes of the collaboration must be reported to the Federal project officer.

(i) Maintaining a Web site with relevant information available in both English and Spanish and accessible to individuals with disabilities.

(j) Conducting biennial symposia that identify the unique features of alternative dispute resolution procedures, the strengths of the procedures, potential application of the procedures, and related issues as requested by OSEP.

(k) Preparing and disseminating reports and documents on alternative dispute resolution and related topics as requested by OSEP.

(l) Developing partnerships with relevant programs and organizations to assist with long-term implementation of alternative dispute resolution procedures. At a minimum, partners shall include State Improvement grantees, General Supervision Enhancement grantees, and the National Center for Special Education Accountability Monitoring.

The Center must also:

(a) Prior to developing any new product, whether paper or electronic, submit for approval a proposal describing the content and purpose of the product to the document review board of the National Dissemination Center.

(b) Provide OSEP-specified technical assistance to States. This effort may include the following: (1) Collaborative Web-based technical assistance activities, (2) coordination of and participation in State-to-State communities of practice, and (3) direct technical assistance to OSEP-specified States through partnerships between OSEP and selected States. The Center must plan for assistance to three OSEP identified States per year.

Note: Staff time and project resources dedicated to provide technical assistance to OSEP-specified States will be negotiated with OSEP as part of the cooperative agreement within 30 days of the project award (OSEP anticipates that technical assistance to OSEP-specified States could average approximately $40,000 per year. Budgets should be developed with this in mind).

(c) Establish, maintain, and meet at least annually with an advisory group of persons with complementary expertise on alternative dispute resolution procedures to advise the Center on its technical assistance activities.

(d) Fund as project assistants three doctoral students per year who have concentrations in relevant topics such as special education or conflict resolution.

(e) Evaluate annually the impact of the Center's technical assistance system and its components relative to (1) meeting the assessed needs of States and jurisdictions, (2) meeting the needs of parents, and (3) linkages with other technical assistance and information dissemination systems. The Center must report its evaluation findings annually to the Federal project officer.

(f) Maintain communication with the Federal project officer through monthly phone conversations and e-mail communication as needed. The Center must submit annual performance reports and provide additional written materials as needed for the Federal project officer to monitor the Center's work.

(g) In addition to the 2-day Project Directors' meeting listed in the General Requirements section of this notice, budget for an additional annual 2-day project meeting to attend the Research Project Directors' meeting; two 2-day annual planning meetings; and at least eight 2-day trips annually as requested by OSEP such as Department briefings, Department-sponsored conferences, and other events.

Fourth and Fifth Years of Project

In deciding whether to continue this project for the fourth and fifth years, the

Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary which review will be conducted during the last half of the project's second year in Washington, DC. Projects must budget for the travel associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) Evidence of the degree to which the Center's activities have contributed to a changed practice and improved student outcomes.

Absolute Priority 3—The National Coordination and Dissemination Center To Improve Strategies for the Recruitment and Retention of Qualified Personnel for Children With Disabilities (84.326P)

Background

The National Commission on Teaching for America's Future (NCTAF) and the No Child Left Behind Act (NCLB) emphasize the importance of well-qualified teachers to ensuring student achievement. NCLB, in fact, defines what is required for a teacher to be ''highly qualified'' and establishes deadlines for the employment of highly qualified teachers.

State reported data indicate persistent shortages of special education teachers including large numbers of vacant positions or positions filled by teachers who were not fully certified.

The characteristics of children with disabilities have also changed, adding complexity to the task of providing appropriate services. There are more children who have entered life with marked disabilities, who are expected to continue to thrive, and who require interdisciplinary approaches that provide essential support. Additionally, the cultural and linguistic characteristics of the student population have changed significantly.

In 1998, the Office of Special Education and Rehabilitation Services (OSERS) funded the National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children with Disabilities (Professions Clearinghouse). At one time, clearinghouses took the passive role of providing information to those who requested it, but as national needs changed, a more proactive approach was necessary. The Professions Clearinghouse took the first steps towards this approach by providing technical assistance to several States to help them improve their recruitment and retention plans, and targeting recruitment campaigns toward new populations of potential teachers and related services providers. These technical assistance and support activities need to be extended and additional creative strategies must be designed and implemented so that more highly qualified personnel are available to meet the needs of children with disabilities and their families.

Priority

The purpose of this priority is to fund a cooperative agreement to support a national coordination and dissemination center to enhance the Nation's capacity to recruit, prepare, and retain a highly qualified, diverse work force of early intervention personnel, educators, and related service personnel to improve services and outcomes for infants, toddlers, and children with disabilities. To accomplish this objective, the Center must:

(a) Conduct nationwide outreach activities to encourage individuals, including individuals with disabilities and individuals from diverse cultural and economic backgrounds, to pursue careers in early intervention, special education, and related services, including paraeducators and related services assistants. The Center must develop, implement and maintain comprehensive and coordinated communication campaigns that:

(1) Utilize a wide range of media outlets; and

(2) Are customized to attract individuals from culturally and economically diverse backgrounds, individuals with disabilities, and individuals across a broad age range including mid-career changers.

(b) Assist individuals interested in pursuing a career in early intervention, special education, or related services by helping them to identify positions in high demand and providing information about specific training opportunities appropriate to their needs. The Center must:

(1) Develop and regularly update information on ongoing and emerging areas of personnel need identified by States, LEAs, early intervention service providers, and other entities;

(2) Develop and maintain a comprehensive, up-to-date, easily accessible, database of personnel preparation opportunities available across the country. This database must reflect the full range of preparation opportunities, including both traditional and alternative routes and both professional and paraprofessional programs;

(3) Develop and regularly update information on available trainee financial support including ED-supported financial assistance, Federal loans, and other public and private sources of trainee support; and

(4) Conduct broad-based outreach efforts and establish effective linkages with other information providers to ensure widespread use of the Center services by interested individuals, including individuals with disabilities as well as culturally and linguistically diverse individuals.

(c) Provide assistance to State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), community colleges (CCs), agencies that administer IDEA Part C programs, and other appropriate entities by disseminating information that will help them to improve the quality of professionals and paraprofessionals who serve infants, toddlers, and children with disabilities, including children with limited English proficiency and children from culturally diverse backgrounds. The Center must:

(1) Synthesize, and disseminate information on research-based approaches to professional preparation and career development for special education, related services, and early intervention personnel with a particular focus on evidence-based mentoring and induction strategies to promote personnel retention. In particular, in collaboration with the Urban Special Education Leadership Collaborative, the Center must coordinate activities with urban districts;

(2) Disseminate information on national and State professional certification and licensure standards, with a particular focus on how standards are changing to reflect research-based knowledge and practice and new legal requirements such as those in the Elementary and Secondary Education Act;

(3) Disseminate information on effective strategies for promoting the credentialing of currently practicing personnel who are less than fully qualified for their positions;

(4) In collaboration with appropriate entities, develop and disseminate guidelines for instituting certification standards for paraeducators where such standards do not yet exist; and,

(5) Develop and disseminate periodic highlights or reviews of pressing issues, trends, and emerging research regarding preparation and career development for early intervention, special education, and related services personnel.

(d) Conduct timely updates of all Center information and databases to ensure that information disseminated is accurate and current.

(e) Establish diverse advisory groups to provide recommendations to the Center relative to the activities or products described above and to ensure that all constituency needs are met.

(f) Employ effective technology and multiple strategies of communication for receiving and disseminating current information and research-based practices including, but not limited to, the establishment and maintenance of an easily accessible, user-friendly Web site that ensures seamless links to and from other relevant data and information sources. The Web site must address early intervention and special education professions, including paraeducators; related services careers, including related services assistants; preparation programs across the country, including alternate route programs; research related to the special education workforce; and surveys and links to research relevant to developing and sustaining a diverse, qualified workforce including individuals with disabilities as well as individuals from culturally and linguistically diverse backgrounds.

(g) Establish and maintain effective communication and collaboration with other OSERS-funded projects, such as the OSEP Regional Resource Centers, the IDEA partnership projects, parent information centers, the Center on Personnel Studies in Special Education (COPSSE), the Center for Early Intervention/Early Childhood Special Education Personnel Preparation, the IRIS Center, and other technical assistance and research projects as appropriate.

(h) Conduct and participate in national and regional meetings including dissemination conferences, topical symposia and other meetings on recruitment and retention of qualified personnel as requested by OSEP.

(i) Contract with a third party evaluator to develop and conduct a comprehensive system for evaluating all aspects of the Center's work. The evaluation design must include both formative evaluation elements to identify strategies for improving the Center's work and summative evaluation elements with clearly measurable outcome and impact data.

(j) Submit for approval, prior to developing any new product, whether paper or electronic, a proposal describing the content and purpose of the product to the document review board of OSEP's Dissemination Center which OSEP expects to fund this year.

(k) Provide OSEP-specified technical assistance to States. This effort may include participation in: (1) Collaborative Web-based technical assistance activities, (2) coordination of and participation in State-to-State communities of practice, and (3) direct technical assistance to OSEP-specified States through partnerships between OSEP and selected States. Staff time and project resources dedicated to provide technical assistance to OSEP-specified States will be negotiated with OSEP as part of the cooperative agreement within 30 days of the project award (OSEP anticipates that technical assistance to OSEP-specified States could average approximately $40,000 per year. Budgets should be developed with this in mind).

Fourth and Fifth Years of Project

In deciding whether to continue this project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary which review will be conducted during the last half of the project's second year in Washington, DC. Projects must budget for the travel associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) Evidence of the degree to which the Center's activities have contributed to a changed practice and improved student outcomes.

Absolute Priority 4—Federal Resource Center for Special Education (84.326V)

Background

In 1984 the Office of Special Education Programs (OSEP) established the Federal Resource Center for Special Education (FRC) as a mechanism for ensuring the organized and consistent provision of high quality technical assistance by the OSEP-funded Regional Resource Centers (RRCs). The FRC was designed to coordinate the work of RRCs, identify emerging issues and trends in special education, and assist in linking State-identified needs with appropriate technical assistance providers.

Significant challenges are facing State and local educational agencies, such as: the need to meet the high standards established in the No Child Left Behind Act; a changing and more diverse population of children with disabilities; and persistent shortages in qualified and culturally competent personnel to serve these students. The FRC, through coordinating RRC technical assistance activities and initiatives, is designed to assist States to meet these challenges through strengthening their capacity to include all children with disabilities in high quality instruction that improves performance and prepares all children to leave school equipped for a meaningful life.

Priority

This priority provides support for a cooperative agreement for a coordinating technical assistance center, which shall be called the Federal Resource Center (FRC). The purpose of the FRC is to: (1) Serve as a special education technical assistance center to align the work of the six RRCs with OSEP policy and strategic initiatives; (2) enhance each RRC's capacity to promote systems change initiatives in States through the provision of strategic training and professional development; (3) increase the depth and utility of information in ongoing and emerging areas of priority needs as identified by RRCs and OSEP; (4) support the RRCs' efforts to provide ongoing technical assistance to enhance States' participation in OSEP's Continuous Improvement and Focused Monitoring System (CIFMS); (5) ensure that the RRCs operate in a non-duplicative and efficient manner; and (6) assist with the provision of technical assistance and support to the State Improvement Grant (SIG) program.

Specifically, the FRC project must:

(a) Support the RRCs' efforts to promote improved results for children with disabilities in States, especially those with performance challenges identified through the CIFMS, by providing strategic training, professional development, and technical support. This effort must include: (1) Coordination of communities of practice that target State performance improvement areas identified through the CIFMS; and (2) facilitation of RRCs' technical assistance initiatives including the development of State performance measurement systems that use accurate, valid, and reliable data for program improvement and data-based decisionmaking.

(b) Coordinate RRCs' information services functions to ensure the provision of timely, relevant, and accurate information as requested by States and other entities. The Center must: (1) Consolidate the information services function previously maintained by each RRC by establishing centralized information services; and (2) consolidate individual RRC Web sites into a centralized Web site that will

ensure efficiency across the RRCs and avoid duplicative activities. This effort must include up to one year of planning and must be fully implemented within the next two years.

(c) Develop and maintain mechanisms that support coordinated and non-redundant development and delivery of technical assistance by RRCs within the OSEP-funded technical assistance network. This effort must involve: (1) Facilitating current RRC topical workgroups, such as the workgroup on monitoring, to ensure the RRCs develop consistent technical assistance approaches; (2) coordinating with OSEP's Dissemination Center, which OSEP plans to fund this year, on product development and dissemination; and (3) proactively helping RRCs identify potential areas for collaboration with the National Center for Special Education Accountability Monitoring and other technical assistance centers, to support State improvement initiatives.

(d) Maintain and enhance electronic linkages among RRCs. This must include the development, maintenance, and enhancement of listserves; the technical assistance information system (TAIS) of the RRCs; and other electronic mechanisms.

(e) Coordinate the RRCs' professional development, including planning and conducting meetings for training and coordination activities among RRCs.

(f) Provide technical assistance to the SIG program including: (1) Development and maintenance of a Web site; (2) development and maintenance of a listserve; (3) facilitation of information sharing among projects; (4) providing information, upon request, to individual projects; (5) coordination/support for the annual project directors' meeting; and (6) other assistance as determined by the Project Officer.

(g) Provide support for the Annual OSEP Leadership Conference, the Annual Technical Assistance and Dissemination (TA&D) Conference, and other OSEP activities such as task forces and panels.

(h) Promote improved results for children with disabilities by supporting the development of partnerships that link: (1) RRCs with parent organizations, especially the Parent Training and Information Centers (PTIs), the six Regional Parent Technical Assistance Centers, and the National Parent Technical Assistance Center, which OSEP plans to fund this year, in order to improve collaboration and coordination of effort between the RRCs and the PTIs; and (2) Department of Education and other government agency funded technical assistance and dissemination centers.

(i) Regularly inform OSEP staff of the progress of initiatives that involve multiple RRCs.

(j) Submit for approval to the Document Review Board of OSEP's Dissemination Center a proposal describing the content and purpose of any new paper or electronic product before developing the product.

(k) Support OSEP-specified national initiatives by developing models to be used by RRCs for: (1) Development or enhancement of State and/or local operated technical assistance and dissemination (TA&D) structures that support the dissemination of scientifically based research and best practices; (2) development or enhancement of Web-based technical assistance activities; (3) development or enhancement of systems change strategies; and (4) development or enhancement of State-to-State communities of practice.

Fourth and Fifth Years of Project

In deciding whether to continue this project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary which review will be conducted during the last half of the project's second year in Washington, DC. Projects must budget for the travel associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) Evidence of the degree to which the Center's activities have contributed to a changed practice and improved student outcomes.

Special Education—Technology and Media Services for Individuals With Disabilities [CFDA Number 84.327]

Purpose of Program: To: (1) Improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational media activities designed to be of educational value to children with disabilities; and (3) provide support for some captioning, video description, and cultural activities.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) the selection criteria for this priority are chosen from the EDGAR general selection criteria in 34 CFR 75.210. The specific selection criteria for this competition are included in the application package for this competition.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Eligible Applicants: State and local educational agencies; IHEs; other public agencies; nonprofit private organizations; outlying areas; Freely Associated States; Indian tribes or tribal organizations; and for-profit organizations.

Priority

Under 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority—Research on Educational Captioning (84.327H)

This priority supports innovative research on the use of various approaches to captioning in specific settings such as educational, recreational, or home settings. Research must study the educational effects of captioning on enhancing the reading or literacy skills of deaf and hard of hearing children in kindergarten through grade 12.

Media and technologies explored or used by a project may include, but are not limited to (1) realtime captioning (remote or on-site); (2) voice writing; and (3) media and multi-media technologies such as interactive videodiscs, CD–ROMs, and DVDs.

Projects must—

(a) Identify specific approaches and settings that would be investigated;

(b) Carry out the research within a conceptual framework that provides a basis for the strategies to be studied, the research design, and target population;

(c) Conduct the research in realistic residential, inclusive schools, community, classroom, home, or other settings, as appropriate; and

(d) Conduct the research using methodological procedures that will produce unambiguous findings regarding the effects of approaches and effects of the interaction among particular approaches, groups of children, and settings.

Special Education—Training and Information for Parents of Children With Disabilities [CFDA Number 84.328]

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive

training and information to help improve results for their children.

Eligible Applicants: Parent organizations, as defined in section 682(g) of IDEA. In order to demonstrate its eligibility to receive a grant, an entity must demonstrate that it is a parent organization under this section. A parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interests of individuals with disabilities and has established a special governing committee meeting the requirements for a board of directors in paragraph (a) and has a memorandum of understanding between this special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

In addition, any parent organization that establishes a special governing committee must demonstrate that the bylaws of its organization allow the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) The selection criteria, chosen from the EDGAR general selection criteria in 34 CFR 75.210. The specific selection criteria for this competition are included in the application package for this competition.

Priority

Under 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority—Parent Training and Information Center for Texas—Region 2 (84.328M)

Background

In Fiscal Year 2002, a competition was held for Parent Training and Information Centers that included awards for Texas. All of the awards made for Texas were made for a period of five years except for the award to serve Region 2 of the State. Because of the quality of applications to serve this region, an award was made for only one year. This priority provides for a competition to continue services in Region 2 for an additional 4 years.

Priority

The purpose of this priority is to support a Parent Training and Information Center in Texas—Region 2. A Parent Training and Information Center must—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the Center, particularly underserved parents and parents of children who may be inappropriately identified, including those who are not identified at all;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decisionmaking processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of IDEA for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(e) Contract with the State educational agency, if the State elects to contract with the Parent Training and Information Center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with section 615(e)(2)(B) and (D) of IDEA;

(f) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA;

(g) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(h) Annually report to the Assistant Secretary on—

(1) The number of parents to whom the Parent Training and Information Center provided information and training in the most recently concluded fiscal year, and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(i) If there is more than one parent center in a particular State, coordinate its activities with the other center or centers to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information for underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A Parent Training and Information Center that receives assistance under this absolute priority may also conduct the following activities—

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as stated in section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants in the development and implementation of the State improvement plan under IDEA.

In addition to the annual Project Directors' meeting included in the ''General Requirements'' section of this notice, a project's budget must include funds to attend a regional Project Directors' meeting to be held each year of the project.

Current funding levels and number of school age children were factors in determining the funding level for this grant. OSEP identifies the Regions in Texas by using the educational services breakdown operational within the State. Applications for this award will be accepted to fund one parent center in

Region 2 only. Region 2 includes the following counties: Aransas, Atascosa, Bandera, Bee, Boxer, Brezoria, Brooke, Calhoun, Cameron, Chambers, Colorado, Dewitt, Dimmit, Duval, Fort Bond, Frio, Galveston, Gollad, Harris, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kerr, Kinney, Kisberg, La Salle, Lavaca, Liberty, Live Oak, Malagorda, Maverik, McMullen, Medina, Nueces, Real, Refugio, San Patricio, Staarr, Uvalde, Victoria, Waller, Webb, Wharton, Wilson, Willsoy, Zapata, and Zavala.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 2003

CFDA number and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated available funds	Maximum award (per year)*	Project period	Page limit	Estimated number of awards
84.326A The IDEA Partnership Project.	07/21/03	08/20/03	09/19/03	$2,000,000	$2,000,000	Up to 60 mos	70	1
84.326D National Center on Dispute Resolution.	07/21/03	08/20/03	09/19/03	500,000	500,000	Up to 60 mos	70	1
84.326P The National Coordination and Dissemination Center to Improve Strategies for the Recruitment and Retention of Qualified Personnel for Children with Disabilities.	07/21/03	08/20/03	09/19/03	500,000	500,000	Up to 60 mos	70	1
84.326V Federal Resource Center for Special Education.	07/21/03	08/20/03	09/19/03	800,000	800,000	Up to 60 mos	70	1
84.327H Research on Educational Captioning.	07/21/03	08/20/03	09/19/03	360,000	180,000	Up to 36 mos	50	2
84.328M Parent Training and Information Center for Texas—Region 2.	07/21/03	08/20/03	09/19/03	432,085	432,085	Up to 48 mos	50	1

*We will reject any application that proposes a budget exceeding the maximum award for a single budget period of 12 months.
Note: The Department of Education is not bound by any estimates in this notice.

For Applications Contact: If you want an application for any competition in this notice, contact Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify the competition by the appropriate CFDA number.

FOR FURTHER INFORMATION CONTACT: If you want an additional information about any competition in this notice, contact the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8207.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the Grants and Contracts Services Team under **FOR FURTHER INFORMATION CONTACT**. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice (except for the Research and Innovation to Improve Services and Results for Children with Disabilities Program) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for these programs.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo/nara/index.html.*

Program Authority: 20 U.S.C. 1405, 1461, 1485, and 1487.

Dated: July 16, 2003.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 03–18485 Filed 7–18–03; 8:45 am]

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Federal Register

Monday,
July 21, 2003

Part III

Environmental Protection Agency

40 CFR Part 136

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Ambient Water; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–7529–7]

RIN 2040–AD71

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Ambient Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By today's action, EPA approves test methods for the analysis of Escherichia coli (*E. coli*), enterococci, Cryptosporidium and Giardia in fresh ambient water matrices. In addition, EPA approves test methods for the analysis of enterococci in marine ambient water matrices. The test methods approved in today's rule have been published by the following organizations: EPA, American Public Health Association, American Water Works Association, Water Environment Federation, Association of Official Analytical Chemists International, and American Society for Testing and Materials, or commercial vendors. EPA's approval of these methods will help States, Tribes, communities, and environmental laboratories better assess public health risks from microbiological pollutants.

DATES: This regulation is effective August 20, 2003. The incorporation by reference of these methods is approved by the Director of the Federal Register on August 20, 2003. For judicial review purposes, this final rule is promulgated as of 1 p.m. (Eastern time) on August 4, 2003 as provided at 40 CFR 23.2.

FOR FURTHER INFORMATION CONTACT: Robin K. Oshiro, Engineering and Analysis Division (4303T), Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or call (202) 566–1075 or E-mail at *oshiro.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Potentially Regulated Entities

EPA Regions, as well as States, Tribes, and Territories authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits to implement the technology-based and water quality-based requirements of the Clean Water Act (CWA). Forty five States and one Territory are currently authorized to issue NPDES permits. EPA retains permit issuance authority in non-authorized jurisdictions. NPDES permitting authorities make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has ''approved'' (*i.e.*, promulgated through rulemaking) standardized testing procedures for a given pollutant, the NPDES permitting authority must specify one of the approved testing procedures or an approved alternate test procedure for the measurements required under the permit. Although EPA is including test methods for four biological pollutants in 40 CFR 136.3, it recommends their use for ambient water quality monitoring only. EPA is not approving these test methods for effluent matrices. Therefore, EPA expects entities operating under an NPDES permit would be affected by the promulgation of these ambient methods only where their permit specifies ambient monitoring requirements for the specified parameters.

EPA developed and recommended ambient recreational water quality criteria for *E. coli* and enterococci bacteria and is considering criteria for Cryptosporidium and Giardia. The States, Territories, and Tribes may adopt these criteria into their water quality standards and may issue water quality-based permits that require monitoring for these pollutants in ambient waters. If the NPDES permitting authority requires ambient water monitoring in the permit for the specified parameters, dischargers could be affected by the standardization of testing procedures in this rulemaking. Generally, the permitting authority requires the use of methods approved at 40 CFR part 136 for compliance with such monitoring requirements. If no approved methods are available at 40 CFR part 136, then the permitting authority has discretion to specify the use of suitable methods.

In addition, when a State, Territory, or authorized Tribe provides certification of Federal licenses under the CWA section 401, approved testing procedures generally must be used where applicable. Categories and entities that may be regulated include:

Category	Examples of potentially regulated entities
State, Territorial and Indian Tribal Governments.	States, Territories, and Tribes authorized to administer the NPDES permitting program.
Municipalities	Publicly-owned treatment works with ambient monitoring requirements for the specified parameters in their NPDES permits.
Industry	Industrial facilities with ambient monitoring requirements for the specified parameters in their NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility or organization is regulated by this action, you should carefully examine the applicability criteria in parts 122 and 136 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2002–0010. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is

202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section B.1.

3. *Copies of Consensus Standards.* Copies of the consensus standards may be obtained from the Docket (see section B.1.). Copies of the consensus standards may also be obtained from the following sources, depending on the standard. Copies of final methods published by American Society for Testing and Materials (ASTM) are available for a nominal cost through ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. Copies of ''Standard Methods'' are available for a nominal cost from the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005. Copies of Association of Official Analytical Chemists International (AOAC) methods are available for a nominal cost from the Association of Official Analytical Chemists International, 481 N. Frederick Ave., Suite 500, Gaithersburg, MD 28077.

I. Statutory Authority

Today's rule is promulgated pursuant to the authority of sections 303(c), 304(a), 304(h), and 501(a) of the Clean Water Act (CWA or ''the Act''), 33 U.S.C. 1314(a), 1314(h), 1361(a). Section 303(c) of the Act establishes the basis for the current water quality standards program. This section requires EPA to review and approve or disapprove State-adopted water quality standards. Section 304(a) of the Act requires the EPA Administrator to develop and publish water quality criteria associated with specific ambient water uses. When these criteria are adopted as State water quality standards under section 303(c), they become the enforceable maximum acceptable levels of pollutants in ambient waters. Section 304(h) of the Act requires the EPA Administrator to ''promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act.'' Section 501(a) of the Act authorizes the Administrator to ''prescribe such regulations as are necessary to carry out his functions under this Act.'' EPA publishes CWA analytical method regulations at 40 CFR part 136.

II. Background

A. The Role of Methods for Biological Pollutants

To fulfill the CWA's mandate to maintain ''fishable and swimmable'' waters, EPA develops ambient water quality criteria based on a scientific assessment of the relationship between pollutant concentrations and environmental and human health effects. Ambient water refers to any fresh, marine, or estuarine surface water used for recreation, propagation of fish, shellfish, or wildlife, agriculture, industry, navigation, or as source water for drinking water facilities. Ambient water quality criteria become enforceable water quality standards when adopted by State, Territorial, Tribal, and local governments and approved by EPA.

For bacterial pollution in ambient water designated for recreational use, EPA has developed water quality criteria for *E. coli* in freshwater and for enterococci in both freshwater and marine waters (51 FR 8012, March 7, 1986). There are a number of zoonotic diseases of concern to humans (diseases transferred from animals to humans) if ambient waters are contaminated with fecal material from non-human animal species. *E. coli* species are a subset of the coliform bacteria group that is part of the normal intestinal flora of humans and animals and are direct indicators of fecal contamination from these sources in water. Enterococci, which include *Enterococcus faecalis* and *Enterococcus faecium,* are enteric bacteria used to indicate fecal contamination and the possible presence of pathogens in water. Based on previous EPA guidance, total and fecal coliform bacteria are included in many water quality standards as indicators of bacterial contamination (EPA, 1976). More recent epidemiological studies (Cabelli 1983, Dufour 1984) described in Ambient Water Quality Criteria for Bacteria—1986 (EPA, 1986a), indicate that *E. coli* and enterococci show a direct correlation with swimming-associated gastrointestinal illness rates, while fecal coliforms do not. As the concentration of *E. coli* and/or enterococci increase(s), the illness rates also increase. Thus, using these indicators as part of the bacterial water quality standards will enhance the protection of human health and the environment.

In addition to bacterial pollution, EPA is concerned about waterborne parasites and developed test methods for *Cryptosporidium* and *Giardia* in freshwater. These waterborne parasites have been found to be the causative agent of human gastroenteritis in some contaminated waters and are responsible for cases of severe and widespread human illness when present in drinking water supplies as a result of contamination of source waters. Because one of the designated uses of some ambient waters may be use of the water body as a drinking water source, EPA may develop ambient water quality criteria for *Cryptosporidium* and *Giardia* in the future. EPA would expect to use the test methods discussed in this action to support these future criteria. By doing so, EPA desires to promote consistency in the methods used for these future criteria to ensure that the data collected are of good quality and are comparable for all freshwater. EPA also wishes to make these methods available for use by the States for general risk assessments.

By today's action, EPA is promulgating test methods for *E. coli,* enterococci, *Cryptosporidium,* and *Giardia* for use in freshwaters, and enterococci for use in marine waters. Promulgation of the bacterial methods supports the use of *E. coli* and enterococci as indicators of fecal contamination in addition to fecal coliform indicators in State, Territorial, Tribal, and local water quality-based monitoring. States may use the test methods for *Cryptosporidium* and *Giardia* for different monitoring purposes, such as evaluating surface water occurrence of these organisms and the associated watershed vulnerability for waterbodies designated as potential drinking water sources.

This rule provides uniform methodology to assist State, Territorial, Tribal, and local implementation of water quality standards, ambient water monitoring programs, and public notification programs to reduce public health risks posed by biological pollutants in ambient water. Today's rule supports several EPA initiatives: The Beaches Environmental Assessment Closure and Health (BEACH) Program, the Beach Action Plan (EPA–600–R–98–079), the Beach Watch Program, the

Beaches Environmental Monitoring for Public Access and Community Tracking (EMPACT) Program (EPA 905–R–98–002), and the Water Quality Criteria and Standards Plan (EPA–822–R–98–003). Additionally, this rule is expected to satisfy requests from governments, regulated entities, and environmental laboratories that EPA publish analytical test procedures that were evaluated through interlaboratory validation for enumerating *E. coli,* enterococci, *Cryptosporidium,* and *Giardia* in ambient waters.

As previously noted, EPA developed water quality criteria for enterococci in both freshwater and in marine waters. Today's action approves methods for measuring enterococci in both freshwater and marine waters. EPA has not developed marine criteria for *E. coli, Cryptosporidium,* and *Giardia* because these pollutants do not generally survive in marine conditions. Thus, EPA has not identified any programmatic need to promulgate methods for these pollutants in marine waters.

EPA is aware of the importance of having methods for measuring these pollutants in wastewater effluent. The Agency does not currently have validated methods for use in this matrix and thus was unable to propose any such methods with the methods for ambient waters. The Agency is currently in the process of trying to validate *E. coli* and enterococci methods for use with wastewater effluent and plans to propose them by the end of 2004.

B. Summary of Proposed Rule

EPA published a proposed rule in the **Federal Register** on August 30, 2001 (66 FR 45811) to amend 40 CFR part 136, ''Guidelines Establishing Test Procedures for the Analysis of Pollutants,'' by approving several analytical test procedures for enumerating the bacteria *Escherichia coli (E. coli)* and enterococci and the protozoans *Cryptosporidium* and *Giardia* in ambient water. The proposal described a suite of Most Probable Number (MPN) (*i.e.*, multiple-tube, multiple-well) and membrane filter (MF) methods for enumerating *E. coli* and enterococci bacteria in ambient water, and improved filtration/immunomagnetic separation/fluorescent antibody methods for *Cryptosporidium* and *Giardia* protozoans. These test methods were proposed for use by States, Territories, and Tribes, for use in water quality monitoring programs.

A summary of the major comments to the proposal is presented in Section V.

III. Summary of Final Rule

EPA is approving the use of test methods for *E. coli,* enterococci, *Cryptosporidium*, and *Giardia* for ambient fresh water quality monitoring. In addition, EPA is approving the use of test methods for enterococci for ambient marine water quality monitoring. Although EPA believes that these methods are appropriate for ambient water quality monitoring, the Agency has not determined that these methods are acceptable for application to matrices other than ambient waters.

Today's action promulgates the test methods described in the proposed rule (66 FR 45811, August 30, 2001) for the analysis of *E. coli,* enterococci, *Cryptosporidium*, and *Giardia* in ambient water. For *E. coli,* approved methods include most probable number methods (LTB→EC–MUG, ONPG–MUG) and membrane filtration methods (mENDO→NA–MUG, LES–ENDO→NA–MUG, mFC→NA–MUG, mTEC agar, Modified mTEC agar, MI agar, m-ColiBlue 24 broth). For enterococci, approved methods include most probable number methods (Azide-Dextrose/PSE/BHI, MUG) and membrane filtration methods (mE→EIA agar, mEI agar). For *Cryptosporidium*, EPA approves Methods 1622 and 1623. For *Giardia*, EPA approves Method 1623.

The proposed rule indicated that EPA intended to issue guidance on the assessment of method comparability in conjunction with the final rule. In the record for today's rule, EPA is making available the latest version of the guidance document, EPA *Microbiological Alternate Test Procedure (ATP) Protocol for Drinking Water, Ambient Water, and Wastewater Monitoring Methods, Guidance* (EPA–821–B–03–004). The guidance is a result of the Agency's desire to develop a guidance document to describe the process for seeking EPA approval of alternate test procedures (ATPs) for microbiological methods or new microbiological methods for use in monitoring drinking water, ambient water, and wastewater. Under EPA's ATP program, any person may apply for approval of the use of an ATP or new method to test for a regulated analyte. EPA anticipates that the standardized ATP procedures described in the guidance should generally expedite the approval of ATPs and encourage the development of innovative methods for compliance monitoring under the National Pollution Discharge Elimination System (NPDES) permit program. In addition to the ATP process, the guidance describes the process for conducting side-by-side method comparisons and for conducting quality control (QC) acceptance criteria-based method studies for EPA-designated reference methods with QC acceptance criteria. The guidance document serves as a supplement to the ATP program requirements specified at 40 CFR 136.4, 136.5, and 141.27. The guidance document may be revised in the future based on comments received from persons using the guidance, as appropriate.

IV. Changes From the Proposed Rule

A. Revision of Method Titles

To ensure consistency with other EPA microbiological methods, EPA revised some of the EPA methods' titles and added some method numbers. The technical content of these methods did not change from the versions of the methods included in the proposed rule. Specifically, EPA adopted the following modified titles:

- Method 1103.1: *Escherichia coli (E. coli)* in Water by Membrane Filtration using membrane-Thermotolerant *Escherichia coli* Agar (mTEC)
- Method 1106.1: Enterococci in Water by Membrane Filtration using membrane-Enterococcus-Esculin Iron Agar (mE-EIA)
- Method 1600: Enterococci in Water by Membrane Filtration using membrane-Enterococcus Iron Agar (mEI)
- Method 1603: *Escherichia coli (E. coli)* in Water by Membrane Filtration using Modified Membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC)
- Method 1604: Total Coliforms and *Escherichia coli* (E. coli) in Water by Membrane Filtration using a Simultaneous Detection Technique (MI Medium)

B. Colisure

EPA included this method in the proposal because it anticipated that new validation data for ambient waters would be provided to the Agency prior to this final rule. EPA requested such data from the manufacturer, but the manufacturer declined to conduct the study. Therefore EPA declines to approve this method and did not include it in today's final rule.

C. Table II Protozoan Test Holding Time

The proposal incorrectly indicated that the maximum sample holding time for the protozoan tests (*Cryptosporidium* and *Giardia*) was 72 hours. This has been changed to the correct holding time of 96 hours, as indicated in the Methods, which were included in the docket for the proposal. The correct

holding time of 96 hours is clearly indicated in the Methods and can be found on page 10, section 8.2.1 of the April 2001 versions of Method 1622 and Method 1623.

Although footnote 17 of the proposal inaccurately stated the technique for calculating holding time, the underlying methods themselves described this technique correctly. The footnote has been corrected to indicate that holding time is properly calculated from the time of sample collection to elution for samples shipped to the laboratory in bulk and calculated from the time of sample filtration to elution for samples filtered in the field.

V. Response to Major Comments

EPA encouraged public participation in this rulemaking and requested comments on the methods proposed for *E. coli,* enterococci, *Cryptosporidium*, and *Giardia*. EPA also requested any data that would support comments on specific test methods. Fourteen stakeholders provided comments addressing over 25 issues. These stakeholders included four laboratories, seven regulatory authorities, and three industries/industry groups.

The following sections summarize major comments received on the proposed rule and EPA's response. The complete Response to Comments document can be found in the Docket for today's final rule.

A. E. coli and Enterococci Methods for Wastewater Analysis

Several commenters requested that the methods for *E. coli* and enterococci be approved for the analysis of wastewater samples. Since these methods were not validated in wastewater, they are not approved for use in that matrix. EPA is in the process of validating methods for the analysis of *E. coli* and enterococci in wastewater and plans to propose test methods for these bacterial indicators by the end of 2004.

B. Cryptosporidium and Giardia Methods for Wastewater and Biosolids Analysis

Several comments advocated the use of EPA Method 1622 and 1623 for the analysis of wastewater and biosolids samples; other comments requested that EPA modify and approve the methods for use in those matrices. EPA has not validated these methods for those uses. Thus this final rule applies only to ambient water. If EPA develops water quality criteria for *Cryptosporidium* and *Giardia* at a future time, EPA may validate EPA Methods 1622 and/or 1623 for use in the NPDES Program.

C. Limitations of Determinative Technique of Proposed Cryptosporidium and Giardia Methods and Potential for False Positives

Several comments expressed concern regarding the subjectivity and limitations of the immunofluorescence assay (IFA)-based determination procedure in EPA Methods 1622 and 1623 and the related potential for false positives. EPA acknowledges that IFA relies on analyst training and experience for reliable results. However, EPA Methods 1622 and 1623 provide the analyst with three microscopy tools to aid in the identification of potential target particulates during microscopic examination. The methods provide detailed, progressive criteria for determining whether a particulate is a *Cryptosporidium* oocyst or a *Giardia* cyst based on the use of these tools and include the use of immunomagnetic separation (IMS) as the sample cleanup procedure to minimize the transfer of non-target particulates to the slide. Nonetheless, the inherent technical judgement involved in the determinative step in EPA Methods 1622 and 1623, combined in some cases with interfering materials and/or cross-reactivity of the antibody stain, may still lead to false positives or false negatives. Although other determinative techniques that are currently under development have the promise of providing less-subjective assessments of the presence of *Cryptosporidium* oocysts and *Giardia* cysts in a sample, these techniques are not yet validated and are therefore not yet appropriate for EPA approval for ambient water monitoring. Extensive details on the performance of EPA Methods 1622 and 1623, including inter- and intra-laboratory precision and recovery of the methods at multiple laboratories and on a variety of ambient water types (*i.e.*, validation), are provided in the Results of the Interlaboratory Validation Study of EPA Method 1622 (EPA–821–R–01–027), the Results of the Interlaboratory Validation Study of EPA Method 1623 (EPA–821–R–01–028) and the Implementation and Results of the Information Collection Rule Supplemental Surveys (EPA–815–R–01–003), which were included in the docket for the proposal. Given the robustness of the validation procedure, the Agency is confident that although the IFA technique requires specialized training, overall, the methods will provide for valid *Cryptosporidium* and *Giardia* precision and recovery for use in ambient waters.

D. Application of Performance-Based Measurement System (PBMS) Concept to EPA Methods 1622 and 1623

Several commenters recommended that the performance of alternate antibody reagents be evaluated for EPA Methods 1622 and 1623 using a quantitative PBMS approach. EPA agrees with the comments, and considers the PBMS Tier 2 validation approach described in Methods 1622 and 1623, Section 9, to be appropriate for antibody stains and IMS. However, EPA does not believe that the PBMS Tier 2 validation approach is adequate to assess the comparability of methods with different determinative techniques, such as comparing a polymerase chain reaction (PCR)-based method to an IFA-based method. Use of a different determinative technique is generally considered to be a different method, rather than a modified version of a method because it is usually very difficult to compare methods that use different determinative techniques. For example, the filtration/IMS/IFA technique employed in Methods 1622 and 1623 differs considerably from genetic tests because the former measures the infective form of *Cryptosporidium* and *Giardia*, while the latter measures genetic material (DNA or RNA). Similarly, the membrane filtration method for bacteria differs from an MPN method for bacteria because the former is a direct quantitative method, whereas the latter employs a qualitative statistical index rather than an actual enumeration of the number of organisms present in the sample. An appropriate approach for these comparisons would be to perform side-by-side tests. This approach is outlined in the draft guidance document, EPA Microbiological Alternate Test Procedure (ATP) Protocol for Drinking Water, Ambient Water, and Wastewater Monitoring Methods, Guidance (EPA–821–B–03–004).

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the

economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action promulgates new test methods for *E. coli*, enterococci, *Cryptosporidium*, and *Giardia* for use in ambient water monitoring programs. If the regulating authority replaces the indicator organism from fecal coliforms to one of the bacterial organisms (*E. coli* or enterococci) and the relevant NPDES permit requires ambient water monitoring, then the permittee would be required to use one of these approved methods for these organisms. Currently, permittees generally are not required to monitor for *Cryptosporidium* or *Giardia* because EPA has not developed water quality criteria for these protozoans. Burden means that the total time, effort, or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the U.S. Small Business Administration definitions at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This regulation promulgates testing procedures for the measurement of *E. coli* and enterococci bacteria, and *Cryptosporidium* and *Giardia* protozoa in ambient water. EPA anticipates that the methods will be used by some State regulatory authorities for evaluating attainment of water quality standards or ambient monitoring requirements. EPA NPDES regulations do not require monitoring of ambient water conditions in NPDES permits. In a few instances, ambient water monitoring requirements may be included in an EPA-issued permit where site-specific circumstances warrant. EPA regulations, do however, require NPDES permittees to use EPA-approved test methods for all monitoring data reported to the Agency (40 CFR 122.21). Consequently, to the extent that an NPDES permit requires monitoring and reporting of ambient water for *E. coli*, enterococci, *Cryptosporidium*, or *Giardia*, EPA approval of these test methods arguably may impose costs on NPDES permit holders, including small entities. EPA is unaware, however, of any EPA-issued NPDES permits that currently require monitoring of ambient water for such pollutants. Hence, EPA does not expect approval of these methods to impose any additional costs as a result of their applicability to EPA issued permits. As noted above, EPA's NPDES regulations do not require monitoring of ambient water conditions. Consequently, to the extent that a State requires such monitoring, those requirements are imposed under State, rather than Federal, authority. Because States have the discretion not to require such monitoring, any increased costs to small entities arising from use of the methods approved by EPA today that are imposed as a result of State law are not attributable to this regulation.

Nonetheless, EPA evaluated these potential costs to determine whether EPA approval of the methods will have a significant impact on a substantial number of small entities. As previously noted, States may require ambient water monitoring to evaluate attainment of water quality standards. A few States currently require NPDES permit holders to monitor ambient waters. Thus, some NPDES permittees are already testing ambient water for these parameters. The impact of using EPA approved methods for such dischargers may represent little or no increased burden since, for these permittees, the replacement of fecal coliforms with *E. coli* or enterococci would simply require different methods.

The small entities that might be affected by this rule include small governmental jurisdictions that have publicly-owned treatment works (POTWs) and small businesses with water quality-based discharge permits. The average costs for total and fecal coliform were comparable to those for *E. coli* and enterococci ($35) because the analytical procedures generally employ similar techniques, media, equipment, and require comparable laboratory time and effort. Some States are already using the methods for *E. coli* and enterococci in State ambient water quality monitoring programs. This rule would formalize current practice in those States. Furthermore, EPA expects that any modest potential increase in costs for enterococci analyses will be reduced once the promulgated methods are broadly implemented by environmental laboratories and State water quality monitoring programs.

EPA also reviewed the costs for testing for *Cryptosporidium* and *Giardia*. The costs for Methods 1622 and 1623 analysis of *Cryptosporidium* and *Giardia* range from $400 to $500 for each sample (with matrix spikes being assessed as individual samples) for each method. Because of the relatively high costs, EPA does not anticipate that these test methods will be used for daily or ongoing monitoring, but they may be used for program-specific occurrence assessments.

The purpose of this rule is only to make these methods available to States, Tribes, and municipalities that may want to use them for ambient water monitoring. The costs associated with *Cryptosporidium* and *Giardia* analysis would not be a Federally-mandated cost, but rather would emanate from a State's adoption of ambient monitoring requirements or other identified needs such as evaluation of Best Management Practices (BMPs) or downstream impacts of wastewater treatment plant effluents or other identified needs. The inclusion of these test methods in 40 CFR 136.3 is intended to make these test methods available to States and others for use in water quality monitoring programs. While monitoring for these protozoans may be beneficial since these organisms may be ingested from recreational and source waters, EPA is not establishing any compliance monitoring requirements for these pollutants. Therefore, EPA believes that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, Tribal, and local governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for the notification of potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate for State, Tribal, and local governments or the private sector that may result in expenditures of $100 million or more for State, Tribal, and local governments, in the aggregate, or the private sector in any one year. This rule makes available testing procedures for *E. coli*, enterococci, *Cryptosporidium*, and *Giardia* that may be used by a State, Territorial, Tribal or local authority for compliance with water quality standards or ambient monitoring requirements when testing is otherwise required by these regulatory authorities. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed above, under the Regulatory Flexibility Act, the economic impact on small entities is anticipated to be small. It would not significantly affect them because any incremental costs incurred are small, and it would not uniquely affect them because it would affect entities of all sizes depending upon whether testing for these bacteria or protozoa is otherwise required by a regulatory authority. Further, monitoring for small entities is generally expected to be less frequent than monitoring for larger entities. Thus, today's rule also is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule promulgates new analytical methods for conducting analysis of ambient water for enumeration of *E. coli*, enterococci, *Cryptosporidium*, or *Giardia*. EPA does not, however, require use of these methods under this rule. Thus, Executive Order 13132 does not apply to this rule.

Although Executive Order 13132 does not apply to this rule, EPA did consult with representatives of State and local governments in developing the proposed regulation. In fact, it was State representatives who requested that EPA include test methods for these biological pollutants in 40 CFR 136.3 because they want to use EPA approved test methods for ambient water monitoring. EPA included a number of test methods currently being used by States for these pollutants in today's rulemaking. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials. No significant concerns were raised by commenters about these methods.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's rule promulgates new analytical methods for conducting analysis of

ambient water for enumeration of *E. coli*, enterococci, *Cryptosporidium*, or *Giardia*. EPA does not, however, require use of these methods under this rule. Thus, Executive Order 13175 does not apply to this rule. Moreover, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicited comment on the proposed rule from tribal officials. EPA did not receive comments from Tribal officials. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that 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 the Executive Order because it is not ''economically significant'' as defined in Executive Order 12866. Further, it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995, (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA 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.*, material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA's search of the technical literature revealed several consensus methods appropriate for enumerating *E. coli* and enterococci in ambient waters. Accordingly, methods for *E. coli* and enterococci published by Standard Methods for the Examination of Water and Wastewater, ASTM, and AOAC-International are included for promulgation and are listed in Table IA at the end of this document (*see* footnotes 4, 10, and 11, respectively, for the complete citations). No voluntary consensus standards were found for *Cryptosporidium* or *Giardia*.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 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 the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on August 20, 2003.

List of Subjects in 40 CFR Part 136

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: July 11, 2003.

Linda J. Fisher,

Acting Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

■ 1. The authority citation for part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a), Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

■ 2. Section 136.3 is amended:

■ a. In paragraph (a) by revising Table IA.

■ b. In paragraph (b) by revising references (10), (34), (38) and (39) and adding references (52) through (62).

■ c. In Table II to paragraph (e) by revising entries to the Section labeled ''Table IA—Bacteria Tests,'' to read as follows:

* * * * *

(a) * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
Bacteria:							
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube 3 dilution, or	p. 132 [3]	9221C E [4]				
	Membrane filter (MF) [2], single step.	p. 124 [3]	9222D [4]			B–0050–85 [5]	

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 132 [3]	9221C E [4]				
	MF, single step [6] ..	p. 124 [3]	9222D [4]				
3. Coliform (total), number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 114 [3]	9221B [4]				
	MF [2], single step or two step.	p. 108 [3]	9222B [4]	.....	.....	B–0025–85 [5]	
4. Coliform (total), in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 114 [3]	9221B [4]				
	MF [2] with enrichment.	p. 111 [3]	9222(B+B.5c) [4]				
5. *E. coli*, number per 100 mL [28].	MPN [7,9,15], multiple tube,.		9221B.1/9221F [4,12,14]				
	multiple tube/multiple well,		9223B [4,13]	.....	991.15 [11]	.....	Colilert® [13,17] Colilert-18® [13,16,17]
	MF [2,6,7,8,9] two step, or		9222B/9222G [4,19]				
		1103.1 [20]	9213D [4]	D5392–93 [10]			
	single step	1603 [21] 1604 [22]					
							mColiBue 24 [18]
6. Fecal streptococci, number per 100 mL.	MPN, 5 tube, 3 dilution,	p. 139 [3]	9230B [4]				
	MF [2], or	p. 136 [3]	.....	.....	B–0055–85 [5]		
	Plate count	p. 143 [4]					
7. Enterococci, number per 100 mL.	MPN [7, 9] multiple tube.	.....	9230B [4]				
	multiple tube/multiple well.	.....	.....	D6503–99 [10]	.....	.....	Enterolert® [13,23]
	MF [2,6,7,8,9] two step.	1106.1 [24]	9230C [4]	D5259–92 [10]			
	single step, or	1600 [25]					
	Plate count	p. 143 [3]					
Protozoa:							
8. *Cryptosporidium* [28].	Filtration/IMS/FA ..	1622 [26] 1623 [27]					
9. *Giardia* [28] ..	Filtration/IMS/FA ..	1623 [27]					
Aquatic Toxicity:							
10. Toxicity, acute, fresh water organisms, LC50, percent effluent.	*Ceriodaphnia dubia* acute.	2002.0 [29]					
	Daphnia puplex and *Daphnia magna* acute.	2021.0 [29]					

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
	Fathead Minnow, *Pimephales promelas*, and Bannerfin shiner, *Cyprinella leedsi,* acute.	2000.0 [29]					
	Rainbow Trout, *Oncorhynchus mykiss*, and brook trout, *Salvelinus fontinalis*, acute.	2019.0 [29]					
11. Toxicity, acute, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, LC50, percent effluent.	Mysid, *Mysidopsis bahia*, acute.	2007.0 [29]					
	Sheepshead Minnow, *Cyprinodon variegatus*, acute.	2004.0 [29]					
	Silverside, *Menidia beryllina, Menidia menidia*, and *Menidia peninsulae*, acute.	2006.0 [29]					
12. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent.	Fathead minnow, *Pimephales promelas*, larval survival and growth.	1000.0 [30]					
	Fathead minnow, *Pimephales promelas*, embryo-larval survival and teratogenicity.	1001.0 [30]					
	Daphnia, *Ceriodaphnia dubia*, survival and reproduction.	1002.0 [30]					
	Green alga, *Selenastrum capricornutum*, growth.	1003.0 [30]					
13. Toxicity, chronic, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, NOEC or IC25, percent effluent.	Sheepshead minnow, *Cyprinodon variegatus*, larval survival and growth.	1004.0 [31]					

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
	Sheepshead minnow, *Cyprinodon variegatus*, embryo-larval survival and teratogenicity.	1005.0 [31]					
	Inland silverside, *Menidia beryllina*, larval survival and growth.	1006.0 [31]					
	Mysid, *Mysidopsis bahia*, survival, growth, and fecundity.	1007.0 [31]					
	Sea urchin, *Arbacia punctulata*, fertilization.	1008.0 [31]					

Notes to Table IA:

[1] The method must be specified when results are reported.

[2] A 0.45 ???m membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/8–78/017.

[4] APHA. 1998, 1995, 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 20th, 19th, and 18th Editions. Amer. Publ. Hlth. Assoc., Washington, D.C.

[5] USGS. 1989. U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of Interior, Reston, Virginia.

[6] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[7] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[8] When the MF method has not been used previously to test ambient waters with high turbidity, large number of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[10] ASTM. 2000, 1999, 1996. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. American Society for Testing and Materials. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[11] AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. Association of Official Analytical Chemists International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417.

[12] The multiple-tube fermentation test is used in 9221B.1. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[13] These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme βglucuronidase produced by *E. coli*.

[14] After prior enrichment in a presumptive medium for total coliform using 9221B.1, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 µg/mL of MUG may be used.

[15] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[16] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35°C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[17] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[18] A description of the mColiBlue24'' test, Total Coliforms and *E. coli*, is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[19] Subject total coliform positive samples determined by 9222B or other membrane filter procedure to 9222G using NA–MUG media.

[20] USEPA. 2002. Method 1103.1: *Escherichia coli* (*E. coli*) In Water By Membrane Filtration Using membrane-Thermotolerant *Escherichia coli* Agar (mTEC). U.S. Environmental Protection Agency, Office of Water, Washington D.C. EPA–821–R–02–020.

[21] USEPA. 2002. Method 1603: *Escherichia coli* (*E. coli*) In Water By Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC). U.S. Environmental Protection Agency, Office of Water, Washington D.C. EPA–821–R–02–023.

[22] Preparation and use of MI agar with a standard membrane filter procedure is set forth in the article, Brenner *et al.* 1993. ''New Medium for the Simultaneous Detection of Total Coliform and *Escherichia coli* in Water.'' Appl. Environ. Microbiol. 59:3534–3544 and in USEPA. 2002. Method 1604: Total Coliforms and *Escherichia coli* (*E. coli*) in Water by Membrane Filtration by Using a Simultaneous Detection Technique (MI Medium). U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA 821–R–02–024.

[23] A description of the Enterolert® test may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[24] USEPA. 2002. Method 1106.1: Enterococci In Water By Membrane Filtration Using membrane-Enterococcus-Esculin Iron Agar (mE-EIA). U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA–821–R–02–021.

[25] USEPA. 2002. Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–02–022.

[26] Method 1622 uses filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of *Cryptosporidium.* USEPA. 2001. Method 1622: Cryptosporidium in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA–821–R–01–026.

[27] Method 1623 uses filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of *Cryptosporidium* and *Giardia* oocysts and cysts. USEPA. 2001. Method 1623. Cryptosporidium and Giardia in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA–821–R–01–025.

[28] Recommended for enumeration of target organism in ambient water only.

[29] USEPA. October 2002. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. Fifth Edition. U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA/821/R–02/012.

[30] USEPA. October 2002. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Fourth Edition. U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA/821/R–02/013.

[31] USEPA. October 2002. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Third Edition. U.S. Environmental Protection Agency, Office of Water, Washington DC. EPA/821/R–02/014.

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(10) Annual Book of ASTM Standards, Water, and Environmental Technology, Section 11, Volumes 11.01 and 11.02, 1994, 1996, 1999, and Volume 11.02, 2000 in 40 CFR 136.3, Tables IA, IB, IC, ID, and IE.

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(34) USEPA. October 2002. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. Fifth Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA 821–R–02–012. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Pub. No. PB2002–108488. Table IA, Note 29.

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(38) USEPA. October 2002. Short-Term Methods for Measuring the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Fourth Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–02–013. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Pub. No. PB2002–108489. Table IA, Note 30.

(39) USEPA. October 2002. Short-Term Methods for Measuring the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Third Edition. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–821–R–02–014. Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Pub. No. PB2002–108490. Table IA, Note 31.

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(52) IDEXX Laboratories, Inc. 2002. Description of Colilert®, Colilert-18'', Quanti-Tray®, Quanti-Tray®/2000, Enterolert® methods are available from IDEXX Laboratories, Inc., One Idexx Drive, Westbrook, Maine 04092. Table IA, Notes 17 and 23.

(53) Hach Company, Inc. Revision 2, 1999. Description of m-ColiBlue24® Method, Total Coliforms and *E. coli,* is available from Hach Company, 100 Dayton Ave., Ames, IA 50010. Table IA, Note 18.

(54) USEPA. 2002. Method 1103.1: *Escherichia coli (E. coli)* in Water by Membrane Filtration Using membrane-Thermotolerant *Escherichia coli* Agar (mTEC). U.S. Environmental Protection Agency, Office of Water, Washington D.C. September 2002, EPA–821–R–02–020. Available at NTIS, PB2003–100125. Table IA, Note 20.

(55) USEPA. 2002. Method 1106.1: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus-Esculin Iron Agar (mE-EIA). U.S. Environmental Protection Agency, Office of Water, Washington D.C. September 2002, EPA–821–R–02–021. Available at NTIS, PB2003–100126. Table IA, Note 24.

(56) USEPA. 2002. Method 1603: *Escherichia coli (E. coli)* in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC). U.S. Environmental Protection Agency, Office of Water, Washington, DC September 2002, EPA–821–R–02–023. Available at NTIS, PB2003–100128. Table IA, Note 21.

(57) Brenner *et al.* 1993. New Medium for the Simultaneous Detection of Total Coliforms and *Escherichia coli* in Water. *Appl. Environ. Microbiol.* 59:3534–3544. Available from the American Society for Microbiology, 1752 N Street NW., Washington, DC 20036. Table IA, Note 22.

(58) USEPA. 2002. Method 1604: Total Coliforms and *Escherichia coli (E. coli)* in Water by Membrane Filtration using a Simultaneous Detection Technique (MI Medium). U.S. Environmental Protection Agency, Office of Water, Washington D.C.. September 2002, EPA 821–R–02–024. Available from NTIS, PB2003–100129. Table IA, Note 22.

(59) USEPA. 2002. Method 1600: Enterococci in Water by Membrane Filtration using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI). U.S. Environmental Protection Agency, Office of Water, Washington D.C. September 2002, EPA–821–R–02–022. Available from NTIS, PB2003–100127. Table IA, Note 25.

(60) USEPA. 2001. Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington, DC April 2001, EPA–821–R–01–026.

Available from NTIS, PB2002–108709. Table IA, Note 26.

(61) USEPA. 2001. Method 1623: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency, Office of Water, Washington, DC April 2001, EPA–821–R–01–025. Available from NTIS, PB2002–108710. Table IA, Note 27.

(62) AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417. Table IA, Note 11.

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(e) * * *

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4] (hours)
Table IA—Bacteria Tests:			
1–5 Coliform, total, fecal, and *E. coli*	PP, G	Cool, <10°C, 0.008% $Na_2S_2O_3$[5]	6
6 Fecal *streptococci*	PP, G	Cool, <10° 0.008% $Na_2S_2O_3$[5]	6
7 *Enterocci*	PP, G	Cool, <10° 0.008% $Na_2S_2O_3$[5]	6
Table IA—Protozoa Tests:			
8 *Cryptosporidium*	LDPE	0–8°C	96 [17]
9 *Giardia*	LDPE	0–8°C	96 [17]

* * * * * * *

[1] Polyethylene (P) or glass (G). For bacteria, plastic sample containers must be made of sterilizable materials (polypropylene [PP] or other autoclavable plastic). For protozoa, plastic sample containers must be made of low-density polyethylene (LDPE).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples, each aliquot should be preserved at the time of collection. When use of an automated sampler makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4°C until compositing and sample splitting is completed.

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Transportation Bureau, Department of Transportation, has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric acid (HNO_3) in water solutions of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions of concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analyses and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the samples for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. *See* § 136.3(e) for details. The term ''analyze immediately'' usually means within 15 minutes or less of sample collection.

[5] Should only be used in the presence of residual chlorine.

* * * * * * *

[16] Sufficient ice should be placed with the samples in the shipping container to ensure that ice is still present when samples arrive at the laboratory. However, even if ice is present when the samples arrive, it is necessary to immediately measure the temperature of the samples and confirm that the 4°C temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature can not be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature.

[17] Holding time is calculated from time of sample collection to elution for samples shipped to the laboratory in bulk and calculated from the time of sample filtration to elution for samples filtered in the field.

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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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To award a congressional gold medal to Prime Minister Tony Blair. (July 17, 2003; 117 Stat. 862)

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43-end	(869-048-00099-2)	55.00	July 1, 2002
29 Parts:			
0–99	(869–048–00100–0)	45.00	[8]July 1, 2002
100–499	(869–048–00101–8)	21.00	July 1, 2002
500–899	(869–048–00102–6)	58.00	July 1, 2002
900–1899	(869–048–00103–4)	35.00	July 1, 2002
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–048–00105–1)	42.00	[8]July 1, 2002
1911–1925	(869–048–00106–9)	29.00	July 1, 2002
1926	(869–048–00107–7)	47.00	July 1, 2002
1927–End	(869–048–00108–5)	59.00	July 1, 2002
30 Parts:			
1–199	(869–048–00109–3)	56.00	July 1, 2002
200–699	(869–048–00110–7)	47.00	July 1, 2002
700–End	(869–048–00111–5)	56.00	July 1, 2002
31 Parts:			
0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–048–00113–1)	60.00	July 1, 2002
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–048–00114–0)	56.00	July 1, 2002
191–399	(869–048–00115–8)	60.00	July 1, 2002
400–629	(869–048–00116–6)	47.00	July 1, 2002
630–699	(869–048–00117–4)	37.00	July 1, 2002
700–799	(869–048–00118–2)	44.00	July 1, 2002
800–End	(869–048–00119–1)	46.00	July 1, 2002
33 Parts:			
1–124	(869–048–00120–4)	47.00	July 1, 2002
125–199	(869–048–00121–2)	60.00	July 1, 2002
200–End	(869–048–00122–1)	47.00	July 1, 2002
34 Parts:			
1–299	(869–048–00123–9)	45.00	July 1, 2002
300–399	(869–048–00124–7)	43.00	July 1, 2002
400–End	(869–048–00125–5)	59.00	July 1, 2002
35	(869–048–00126–3)	10.00	[7]July 1, 2002
36 Parts			
1–199	(869–048–00127–1)	36.00	July 1, 2002
200–299	(869–048–00128–0)	35.00	July 1, 2002
300–End	(869–048–00129–8)	58.00	July 1, 2002
37	(869–048–00130–1)	47.00	July 1, 2002
38 Parts:			
0–17	(869–048–00131–0)	57.00	July 1, 2002
18–End	(869–048–00132–8)	58.00	July 1, 2002
39	(869–048–00133–6)	40.00	July 1, 2002
40 Parts:			
1–49	(869–048–00134–4)	57.00	July 1, 2002
50–51	(869–048–00135–2)	40.00	July 1, 2002
52 (52.01–52.1018)	(869–048–00136–1)	55.00	July 1, 2002
52 (52.1019–End)	(869–048–00137–9)	58.00	July 1, 2002
53–59	(869–048–00138–7)	29.00	July 1, 2002
60 (60.1–End)	(869–048–00139–5)	56.00	July 1, 2002
60 (Apps)	(869–048–00140–9)	51.00	[8]July 1, 2002
61–62	(869–048–00141–7)	38.00	July 1, 2002
63 (63.1–63.599)	(869–048–00142–5)	56.00	July 1, 2002
63 (63.600–63.1199)	(869–048–00143–3)	46.00	July 1, 2002
63 (63.1200-End)	(869–048–00144–1)	61.00	July 1, 2002
64–71	(869–048–00145–0)	29.00	July 1, 2002
72–80	(869–048–00146–8)	59.00	July 1, 2002
81–85	(869–048–00147–6)	47.00	July 1, 2002
86 (86.1–86.599–99)	(869–048–00148–4)	52.00	[8]July 1, 2002
86 (86.600–1–End)	(869–048–00149–2)	47.00	July 1, 2002
87–99	(869–048–00150–6)	57.00	July 1, 2002
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136–149	(869–048–00152–2)	58.00	July 1, 2002
150–189	(869–048–00153–1)	47.00	July 1, 2002
190–259	(869–048–00154–9)	37.00	July 1, 2002
260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–048–00157–3)	43.00	July 1, 2002
400–424	(869–048–00158–1)	54.00	July 1, 2002
425–699	(869–048–00159–0)	59.00	July 1, 2002
700–789	(869–048–00160–3)	58.00	July 1, 2002
790–End	(869–048–00161–1)	45.00	July 1, 2002
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–048–00162–0)	23.00	July 1, 2002
101	(869–048–00163–8)	43.00	July 1, 2002
102–200	(869–048–00164–6)	41.00	July 1, 2002
201–End	(869–048–00165–4)	24.00	July 1, 2002
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–048–00167–1)	59.00	Oct. 1, 2002
430–End	(869–048–00168–9)	61.00	Oct. 1, 2002
43 Parts:			
1–999	(869–048–00169–7)	47.00	Oct. 1, 2002
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–048–00171–9)	47.00	Oct. 1, 2002
45 Parts:			
1–199	(869–048–00172–7)	57.00	Oct. 1, 2002
200–499	(869–048–00173–5)	31.00	[9]Oct. 1, 2002
500–1199	(869–048–00174–3)	47.00	Oct. 1, 2002
1200–End	(869–048–00175–1)	57.00	Oct. 1, 2002
46 Parts:			
1–40	(869–048–00176–0)	44.00	Oct. 1, 2002
41–69	(869–048–00177–8)	37.00	Oct. 1, 2002
70–89	(869–048–00178–6)	14.00	Oct. 1, 2002
90–139	(869–048–00179–4)	42.00	Oct. 1, 2002
140–155	(869–048–00180–8)	24.00	[9]Oct. 1, 2002
156–165	(869–048–00181–6)	31.00	[9]Oct. 1, 2002
166–199	(869–048–00182–4)	44.00	Oct. 1, 2002
200–499	(869–048–00183–2)	37.00	Oct. 1, 2002
500–End	(869–048–00184–1)	24.00	Oct. 1, 2002
47 Parts:			
0–19	(869–048–00185–9)	57.00	Oct. 1, 2002
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–048–00187–5)	36.00	Oct. 1, 2002
70–79	(869–048–00188–3)	58.00	Oct. 1, 2002
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48 Chapters:			
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29–End	(869–048–00196–4)	38.00	[9]Oct. 1, 2002
49 Parts:			
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200–399	(869–048–00200–6)	61.00	Oct. 1, 2002

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50 Parts:			
1–17	(869–048–00204–9)	60.00	Oct. 1, 2002
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.